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The Rising of the Ongwehònwe:
Sovereignty, Identity, and Representation
on the Six Nations Reserve

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Abstract of the Dissertation

The Rising of the Ongwehònwe: Sovereignty, Identity and Representation

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This dissertation considers the legal, cultural and political conflicts between the Canadian government and the Six Nations, the Native people of the Grand River Territory. It is a story with colonial roots, but focuses on the twentieth-century with three major episodes detailed in 1924, 1959, and in the early 1970s. The narrative was steeped in the long history of resistance of Six Nations in the face of continued colonial oppression – first, by the British, and then by the settlers of Canada that is ongoing until today. Canada, for example, was notably one of few members of a United Nations committee, along with Australia, to oppose the adoption of a Declaration of the Rights of Indigenous Peoples in 2006. Indigenous groups such as Six Nations represent a threat to Canadian sovereignty, territory and wealth. Indigenous claims concerning land, resources and a quest for self-government place Native peoples on a collision course with Canadian development.

The Six Nations fled to the Grand River territory under the leadership of Chief Joseph Brant following the American Revolution, rekindling the council fire of the ancient Iroquois Confederacy near Brantford, Ontario. Seeking to legally secure both their lands and independence, Six Nations leaders struggled to codify their rights as set forth under the Haldimand Proclamation and the Simcoe Deed. The legal cases that ensued to preserve Six Nations rights to self-government, preservation of the Grand River lands and treaties have been contested in Canadian and international forums by the Confederacy Council of hereditary chiefs. In this endeavor, they were opposed by an Elected Band Council, established as the recognized government for the Reserve in 1924, with the support of the Canadian government and the Royal Canadian Mounted Police.

The struggle for representation, cultural rights and self-government has often set the “Ongwehònwe,” or “real people,” at odds with one another on the Reserve. Yet, I

argue that contrary to academic scholarship, factionalism is not endemic at Six Nations, but rather stems from the nature and workings of the colonial process, as instituted first by the British, and then by the Canadian settlers' society. Through a comprehensive examination of a ninety-year record, I describe the shared meaning, beliefs and pride in the Six Nations as our community's identity, for it was simply too strong to break. Six Nations is now attempting to forge a common message to address the Canadian government with one voice. Six Nations leaders, families and clans have a renewed sense of shared purpose that, I argue, will not be undermined by the Canadian government's power. Presently, there is an ongoing national debate within the community, evoked by a yearning for consensus in Six Nations affairs. It is my contention that consciousness of an Ongwehònwe identity will be instrumental in guiding our people to forge a new relationship with Canada. Six Nations seeks a greater degree of independence and freedom in shaping the future of our community, with power to finally attain our own peoples' visions and aspirations through Native self-government and cultural autonomy.

For my children, Stephen, Susan and Michael.

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Acknowledgments

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This project has been a labor of love and commitment dedicated to the men and women of my immediate and extended family, the community of Six Nations both on and off the Reserve. I have been fortunate to have known many of the heroic individuals in our community who have fought to keep this story alive – both, in our hearts and memories, as well as in the historical record and the public sphere. Not all of these individuals have lived to see this dissertation in its finished form, but my remembrance of each one of them has inspired me to finish. I could not leave this task unfinished for I still heard their voices, telling me to "go and find the records for us…go down there [New York] and tell them about us…" I listened, and I promised to find the Six Nations records in Ottawa about the "Indian Question," to which we had been customarily denied access.

I also took with me on this journey, the memory of Sophie Martin in her long gingham dress at the Border Crossing Celebrations, Dave Hill's wonderful serene smile and Chief Rickard's political energy and zeal -- apparent to me even when I was a little girl. He was an inspiration for everyone from Six Nations to continue the fight for sovereignty and treaty rights. These leaders' inherent dignity, intelligence, humor, sense of honor and simplicity of bearing were hallmarks of my upbringing. Six Nations families often worked through the night with the other members of the Indian Defense League of America in preparation for many of the annual border crossings. This was a formative part of my identity for I knew from the recitation of the oral history at these meetings how and why Six Nations needed to uphold the treaty to keep the border open for our families.

Sitting around Lenora Jameison's table in the '90s, it occurred to me that we were still discussing "the Indian Question," just as my grandparents and aunts and uncles had sat together in discussion "down the Bush," decades earlier. This project began with my interest in the events of 1924, but my focus shifted quickly to find out why Six Nations people still continued to fight for political independence, spiritual and cultural survival as well as voice, generations later. This long struggle called forth from Six Nations a sense of pride and strength of purpose, as well as an imperative to give voice and document our own struggle for survival as a distinct people, despite Canadian indifference to First Nations self-government. The concepts embedded in the Great Law informed our social

and political relations and imbued our community with particular mores. Yet, it was clear that adaptation to a Western, legalistic mentalite of legal briefs and court rulings would become necessary for constructive engagement with Canada. The ongoing struggle to seek consensus through reflection, deliberation and giving voice to all members of the community through a balanced system of gender roles and relations remains visible in the current politics on the reserve – the principles of the League still inform practice. Yet, we still have to remain flexible and adaptive to emergent trends, technologies and modes of expression, to seek a pragmatic "middle ground" with the majority culture, in line with the historic and traditional practices of Six Nations diplomacy for the future of constructive engagement.

When obstacles appeared in my path during the course of this dissertation, I remembered what I had been taught: focus on promulgating awareness of Six Nations culture and history, treaty rights, with dignity and determination. My mother, Norma Ellen Brandel, was the youngest daughter of Joseph and Ellen Martin, from Martin's Corners at Six Nations. She taught me about the achievements of her great-uncle, Oronhyatekha, [Burning Cloud] and how he had journeyed to Oxford for his medicL education. She instilled in me the value of education as a way to open the door to opportunity for Six Nations people, despite the barriers of prejudice. I delivered a paper at Oxford in 2006 that forms the basis of Chapter Fourteen of this dissertation and was able to view Oronhyatekha's portrait and read his correspondence with Sir Henry Acland. It was thrilling to see where he attended college and to marvel at how this young man – who arrived at Acland's door with "four pence" – had forged a life-long friendship with one of the great intellectuals of the period. My mother did not journey to Oxford herself, but she inspired me to go. Whenever I teach elementary school students, college students or graduate students about Six Nations history and culture, I try to carry on her efforts. Because of this research, I have much more insight into her struggle to maintain a Six Nations identity in early twentieth-century Canadian society and I appreciate how much courage it took for her to assert her identity as a Six Nations woman, to claim her birthright, even when she was disavowed by members of her own family. I honor her, now, and hope that she would be proud that I finished this work.

My three children have supported and encouraged me throughout the course of this project and have grown up with an exposure to Six Nations affairs that I hope, will benefit each of them in exploring their own cultural identity and history. I hope that they, too, will gain their rightful status and fulfill their responsibilities as Ongwehònwe.

Part One

Introduction

"Ongwehònwe" is commonly translated by the people of Six Nations Reserve as the "real people," but it refers in a general sense to our people who live together as Indians. In my thesis I will try to illuminate the ways we as Ongwehònwe define ourselves historically as a Native community. I shall attempt to elucidate our complicated politics and explore our contested relations with Euro-Canadian society as transformed through assimilation, during the late nineteenth- and throughout the twentieth-centuries. Our ancient League of the Haudenosaunee, meaning people of the "extended lodge," is often thought to be a mere artifact of history, sundered after the American Revolution. Yet it did not disappear or "go gently into the good night;" it still exists today, though deeply affected by the Native diaspora.[1] A significant part of the League's diplomatic legacy remains vested in the Six Nations Reserve on the Grand River, the place to which Chief Joseph Brant withdrew with his followers and his Loyalist comrades from the Mohawk valley after the fighting. One of the diplomatic traditions of the League, known as the Covenant Chain, an oral tradition linking our people to the British colonials in a relationship of reciprocity, still deeply resonates in Six Nations legal cases and histories. Likewise, the stylized forms of address and the

[1] Our population numbers approximately 18,000 and is scattered mainly across the southeastern provinces of Canada and our former ancestral lands in New York State. Approximately half of our population resides on the reserve around the town of Ohsweken, near Brantford, Ontario. The Six Nations Reserve is located in a rural area of Ontario between Toronto and Hamilton, along the banks of the Grand River. It feels like a sleepy backwater, but it is home to a large number of Native families whose ancestors took shelter there after the American Revolution. Members of the Six Nations include Mohawks, Senecas, Onondagas, Oneidas. Cayugas and Tuscaroras. I am a Cayuga from the extensive Martin clan on the Reserve, for my grandparents on my mother's side were Joseph and Ellen Martin..

language of seventeenth-century League diplomacy echoed in Six Nations oratory throughout the nineteenth- and twentieth-centuries. This language was used explicitly to frame and to distinguish our legal briefs in an effort to establish a Six Nations claim to sovereignty. The concept of sovereignty was variously interpreted as "home-rule" in the 1920s or indigenous self-government in the 1970s, as well as a form of nationhood or perhaps, indigenous state-hood. Lawyers recognized the political significance of this approach and our chiefs used it as a symbol of their power, as well as to underscore the continuity of the League. Cultural symbols such as the wampum belts or strings evoking the continuation of Iroquoian power and diplomacy were also an important dimension of a protracted struggle over self-government at the Six Nations Reserve that is the subject of my dissertation.

The passion that has driven my research into the political affairs of the Six Nations Reserve on the Grand River and the larger issue of Native autonomy was informed by three factors: oral history; legal cases that impacted identity, representation, Native self-government and sovereignty, particularly in regard to citizenship, land-holding, travel and residency; and perhaps, most importantly, the tradition of grassroots, political activism of our Ongwehònwe communities. As a child, I grew up with the spoken language, cultural ceremonies and beliefs of our Reserve, largely through the influence of my mother and our large extended family, arrayed on both sides of the border and scattered throughout a number of settlements. Yet, the strongest markers of Native identity came from innumerable acts of daily resistance of our people, young and old, as they persistently defined themselves Six Nations people as they negotiated the

international border between Canada and the United States, proudly responding "Six Nations" when asked their citizenship to the guards.

Six Nations, known historically as the Iroquois, celebrates the signing of the Jay Treaty of 1794 annually. One of the points negotiated in the agreement involved keeping the border open for movement of the Six Nations throughout their former territories. Native people found their settlements split apart in the aftermath of the American Revolution. The Treaty was to give us a perpetual guarantee of safe, unobstructed passage over the border. It also became a signal marker of identity for us, especially since the policies of both governments increasingly intruded upon our existence as a people. Each time we crossed the bridges, my relatives responded to the query regarding citizenship: "Six Nations Indian," when border guards ask our nationality. Even as a little girl, I understood there was danger in making that response. Often I was told how my mother was singled out, separated from the rest of our family and not allowed to cross the boundary simply because she was a Six Nations Indian, born on the Reserve, but living in the United States. These border disputes were quite common and in several notable instances, such as the Dorothy Goodwin case, were litigated in the United States Federal Courts.[2]

Our Cayuga chief, Deskakeh, one of the principal figures in this dissertation, was active in the struggle for Six Nations border-crossing rights. Immigration laws passed in 1917 and 1924 also kept First Nations people from crossing the border, not only on

[2] Graymont, Barbara, ed., Fighting Tuscarora: The Autobiography of Chief Clinton Rickard, (Syracuse: Syracuse University Press, 1973. Goodwin was a Cayuga Indian who also was taken into custody at the border because Immigration authorities argued she had lost her border-crossing privileges by marrying a non-Indian. See also, "Hearing Renders No Decision in Jay Treaty Case," *Niagara Falls Gazette*, September 16, 1947, 15.

criteria based upon their race and place of birth, but also on the basis of illiteracy.[3] Both the officials of Canada and the United States sometimes even argued that Native people were aliens required to register with the government.[4]

I listened to the accounts of two dignified old chiefs, David Hill and Clinton Rickard, whose voices emerge at several points in this dissertation, as they recounted their experiences. Rickard, a veteran, told how he was jailed for his political protests and resistance to the treatment meted out to Natives.[5] The officials accused him of public drunkenness, even though this dignified, elderly man never drank. His only crime was to protest illegal treatment of Native people at a time when pride in First Nations' culture was not respected, but dishonored.

The institutional and international denial of Native identity and autonomy fueled my curiosity and my quest to understand the history of the Six Nations community. Why were these gentle and kind Indian elders, men and women, such a threat to civil authorities? Why bother to harass this small group of people, intent on simply celebrating their culture and history and traveling to be with their families? Conversely, why were our people so driven to demonstrate their commitment to an ideology, religion and identity that seemed no longer viable for in 1924 the Canadian government had replaced the hereditary Confederacy Council of Chiefs with an elected government. This event was debated constantly throughout Six Nations society and sparked passionate

[3] "Garbed in Picturesque Clothing of Their Ancestors, Indians Celebrate Border Freedom at Falls Gathering," *Niagara Falls Gazette*, July 15, 1928, 17.
[4] "Indians Register As Aliens Under Protest" and "Indians Protest Registration in Full War Regalia: Canadian Born Iroquois Stage Parade in Formal Protest Against Alien Act," *Niagara Falls Gazette*, December 27, 1940, 17.

[5] "Chief Rickard Dedicates Life to Cause of Indian," *Niagara Falls Gazette*, July 30, 1949, 16.

disputes, even within each family, depending upon which side one took on the "Indian question."

There were subtle hints, though, that there were unresolved issues that linked our small nations to a much broader struggle against powerful political interests arrayed against the Indians. Again and again, I was told to listen and remember the names, the events and details linked to the fall day in 1924, when the "Mounties," the Royal Canadian Mounted Police, came riding onto the Reserve. The sight of those figures thundering down the dirt road in their red uniforms on horseback stayed with my cousin until her eighties, for it frightened her so, it sent her scurrying through the bush towards home at Martin's Corners.

The dispossession of the chiefs and the remnant of the ancient Iroquois Confederacy Council that governed our community was a signal event for our people. It was a historic watershed for it brought the biggest and most advanced Reserve in Canada at the time under the heel of the Canadian government. For many Six Nations people this action was insulting and it imposed an illegitimate, though democratically elected, government that is resisted, episodically, to the present day. Although the elected council has remained in power since 1924, its origin has never been forgotten, nor its close ties with Canadian officials, forgiven. The removal of the Confederacy Council became a reified marker of Six Nations identity and resistance, whether one is for or against the elected system. The Council House where the Chiefs once met is occasionally still a battleground, as legal cases challenging the legitimacy of the Elected Council have arisen over the ensuing decades.

Respect for the old hereditary system of chiefs and clan mothers was imbued throughout extended families and was reflected in formation of the political party known as the Mohawk Workers as the removal of the hereditary chiefs appeared imminent. The ideology of this group was voiced at the meetings and events organized by the Longhouses on the Reserve, the Confederacy supporters and later on, in the 1940s, the Indian Defense League of America. Protests were ongoing after the Speaker of the Confederacy Council, Deskaheh, died after returning from his mission to the League of Nations after failing to convince the delegates to help him restore the Six Nations Confederacy Council to power.

Mohawk Workers at Six Nations on the Grand River territory continued to argue that the elected government was not representative of the Reserve. They also charged the Indian Department with corruption for illegally taking Six Nations funds and squandering them on the Grand River Navigation Project. They also charged that those who accepted jobs from the Canadian government such as the Indian agents who sat in on Council meetings and reported on reserve affairs were disloyal to their own people and benefited monetarily from their cooperation. In several cases, the record shows this to be accurate for local superintendents reported on the activities of the Confederacy's supporters directly to the Deputy Secretary of Indian Affairs. The adherents of the hereditary system for the Chiefs continually admonished their supporters and the Mohawk Workers never to vote in any nation's elected system, for it would lead to the loss of Six Nations treaty rights and sovereignty.

An important part of my project was also to explore the complex social relations within the two so-called "factions" at Six Nations. Long a staple of academic analysis of

our reserve, I argue that this simple dichotomy does not reflect the nuanced reality and fluid political and social milieu of our community.[6] First, most of the reserve is populated by descendants of families who have lived there for decades – some since the founding of the Reserve. These extended families are intermarried and one of the markers of Six Nations identity is the formidable genealogical knowledge, held as a point of pride by the elders, particularly clan mothers, who retain knowledge of the clans, extended families and the complex relationships of a small rural community. Each family has supporters of both sides of the "Indian question" within their ranks, as well as people who have alternately supported the Chiefs, then the Elected Council, switching sides on particular issues. Secondly, Six Nations solidarity is characterized by a sense of defensiveness against "outsiders," particularly Canadian officials from the Indian Department. Yet, this solidarity sometimes also extends to exclude our own people, namely, other Six Nations Indians from "off-reserve," as seen from the difficulty of women and their families who have returned after being "warded-off" the reserve by discriminatory Canadian legislation. Nevertheless, solidarity against outsiders tends to create bonds across the political divide within the community between elected councilors and the chiefs. Thus, day-to-day social relationships appear to trump competing political ideologies. Third, the Confederacy Council and the Elected Council are always complicated and evolving, rather than static. For example, issues related to religion, education, diplomacy and local governance, such as the pace of modernization and

[6] The two principal anthropologists who published case studies on the two factions on the reserve, namely, the "non-conservatives" and the "conservatives, were Sally Weaver and Annemarie Shimony, respectively. Shimony worked exclusively with members of the adherents of Longhouse community to record the beliefs and practices of the religion, while Weaver began her career writing about medicine and the political beliefs of the progressive reformers.

adoption of new technology, divided the Confederacy chiefs long before 1924 and continue to divide the elected councilors and chiefs of Six Nations today.

Many of the "traditional" chiefs on the "last" historic Confederacy Council were Christian progressives. Ironically, when Deskaheh, the Cayuga Speaker of the Confederacy Council and the representative of indigenous traditions of the League, traveled to Europe and the League of Nations in the 1920s, he often presented Six Nations' society as a modern Indian nation. Presenting himself as a bearer of Iroquois traditions, he moved back and forth from an exotic figure in beaded buckskin and feathers to a Western gentleman in a business suit. On his European tour Deskaheh pointed out how the Reserve, under the leadership of the Chiefs adapted new technologies and methods while retaining a sense of Native, cultural distinctiveness. Fourth, the charge of factionalism tends to blame the victims of colonialism for not solving problems and "getting along," rather than owning up to a complicated legacy of exploitation and racism that sets marginalized groups' members against one another, as competitors for scarce resources. For my analysis of colonialism I turned to the work of John and Jean Comaroff, in their text, Of Revelation and Revolution, regarding the indigenous people of South Africa, to inform my work. Economic resources for Native populations are doled out through an insulated and isolated hierarchy of officials at the Department of Indian affairs, who tend to look askance at the political and socio-economic struggles of indigenous peoples. The First Nations in Canada are contestants in the Canadian social welfare state and the stakes have grown exponentially since the Six Nations internecine struggle began. Indian Affairs officials function as gate-keepers, overseeing First Nations Band Councils and the indigenous communities. With the growth of the social welfare

state, an inherently conflicted position in its dual roles as both advocate and auditor, the Department is bitterly resisted by Native political leaders eager for self-determination and aboriginal self-government. This battle has been joined by Native nationalists known as "Mohawk Workers," a political group seeking to advance the interests of the Mohawk nation.

As a graduate student, I sought to find the records of this particular story, spanning nearly a century, in the archives. I began by using the oral history posited in my extended family to find the names of the lawyers who handled the first legal cases connected to the disputes and focused the dissertation around significant legal breakpoints. As I searched through the records and began writing, I found that our greatly lauded oral tradition has been significantly clouded and transformed in our communities. No wonder, for our records have been locked away from every-day use, often inaccessible to Natives without academic credentials or government clearance.[7] The historical record that could inform the decisions of present-day leaders and the larger community is not easily or widely available. It could be used as a key element to encourage and invigorate public discourse concerning Six Nations affairs. Similarly our wampum belts were once taken away, displayed in museums, not given to the chiefs who were still capable of interpreting them in subtle ways ethnographers and anthropologists could not. If people are prevented from having access to their historical record you deny them the full potential to envision their imagined future.

[7] I encountered many obstacles in gaining access to the classified records in the Department of Indian and Northern Affairs, for I am not presently living in Canada but the United States. Even though I am a member of Six Nations, the bureaucracy does not recognize that status as valid in accessing classified documents, even with letters of introduction from my universities. The archivists were in contrast, simple wonderful in facilitating the use of the records and understanding the necessity for examining them.

As I searched through the records in Ottawa researching a paper on gender relations, I noticed that in the Parliamentary hearings of the late-twentieth century our own leaders frequently echo, unaware, the cant of the Canadian officials. In research concerning hearings about a particularly infamous, gendered and discriminatory provision of the Indian Act, and its attempted remedy, Bill C-31, I noted in particular a curious position regarding our history. Elected officials of the Six Nations Council erroneously insisted that Iroquoian society was historically organized along patrilineal lines, unwittingly supporting the government position. The boundaries between the official government discourse and Native voices and perspectives, although anchored in the historical record, have often been missed and sometimes displaced by inaccurate data. Misperceptions, gossip and partial accounts, attributed to local sources becomes interwoven as a historical "truth" in the public sphere, which often serves as the only readily accessible usable "memory" on the reserve. While ethnographic authority resting within the Six Nations community as a source for the oral tradition of the Great Law and the conservatism of the Longhouse has fared far better, it would appear, than our claim to historical authority over the long struggle involving the Six Nations Confederacy and the Elected Council. In the quest for self-government and settlement of land claims for Six Nations for both councils to negotiate with Canada, this knowledge was critical. Since the latter struggles were waged for the most part in the courts through archival research and then filing briefs with government agencies and international forums, the Six Nations community often faced barriers and were restricted or discouraged from accessing these public records. Our community's role in the control, production and safe-keeping of historical knowledge has often been largely usurped by the Canadian government, who in

conjunction with the Band Councils, became the official guardians of First Nations' records, along with academic and public repositories. One can easily see that if a Native person brings an inquiry to the local Band office or to Ottawa on a politically contentious matter, they face great difficulty in finding the answers they seek.[8]

Many members of Six Nations have expressed interest in this project, even asking to read particular sections as I write them, since they know that particular part of the story. Yet, the entire narrative encompasses such a long period, with so many litigants and issues that even the local Six Nations historian, George Beaver, was intrigued by pieces of the puzzle he sought to answer. He gave me key details to supplement the written record. Yet, local knowledge often appears to be only loosely connected to documented accounts, so rather than written and oral narratives reinforcing one another and serving as a check for accuracy, oral history is sometimes used with little corroboration. Indeed, in some instances the oral history is borne out. Gossip, myth and inaccurate recollections, however, also contribute to confusion, so it appears difficult to posit a usable past without a substantive narrative accounting.

This political struggle has occupied the community for so long it serves as a crucial key to Six Nations identity and a benchmark in the fight for indigenous self-rule in Canada, but also some leaders argue as an obstruction to political imagination in regard

[8] For example, although I brought letters of introduction from my university to the Department of Indian and Northern Affairs in Ottawa (DIAND), I was refused access to ordinary statistical data on my own Reserve when researching for an academic article. I received a letter stating that even though I have a Six Nations identity card and band number, I am presently living in the United States with no local Canadian address and one must specify a Canadian address to obtain Canadian records. The Six Nations Band Council representative for our own archives on the reserve frankly told me I would never be able to get the information in a timely manner. Individual researchers, particularly in the Historical Claims and Research Centre were wonderfully helpful, though, and mentioned that they have difficulty themselves getting information. The difficulty of access to DIAND records is certainly a deterrent for Native researchers, it would appear.

to addressing current problems. Rather than envisioning new pathways for Six Nations self-government, the bifurcated institutional power struggle of earlier generations largely shapes the present day political landscape. It would seem imperative to have a shared understanding of our past struggles, whichever ideological perspective one supports, in order to move forward. The Six Nations spirit of becoming and renewal to envision the tenets and boundaries of our "imagined community," in the twenty-first century, using Benedict Anderson's phrase, is linked instead to a rather precarious sense of our history. We are perilously close to losing even that understanding in popular culture.[9] It is only through our own efforts that the political landscape will be reconfigured and shaped to address relevant issues and emergent problems under capable leadership.[10]

The public record certainly reflects the imprint of numerous Canadian government officials, such as Duncan Scott, the long-serving Deputy Minister of Indian Affairs, who sought to undermine Six Nations identity and assimilate Native people under the guise of paternalism, Christianity and the mantle of progress. Yet, I found that the record also contains the voices, vision and vices of our Six Nations leaders who have

[9] See for example, "Band Council and Citizens Clash," by Jim Windle, in the *Tekawennake*, August 15, 2007 in which a former elected councilor proclaimed in a community meeting: "…it was the Chiefs themselves who requested the government of Canada come to Six Nations in 1924 and establish an elective system of governance." This gentleman was denounced by a Confederacy supporter for not knowing the history of the incident. "The topic of debate was whose version of the political history of Six Nations of the Grand River was accurate." As archival information is interjected in this debate, it too will be subject to the deconstructive and discursive strategies used by competing ideologues to direct the political discussion, but it will also answer some questions long sought by members of the community.

[10] This is being recognized and confronted by the Confederacy chiefs who are beginning to hold meetings within the community to teach about the Great Law, a task that had formerly been addressed to some degree by Chief Jake Thomas, Cayuga ritualist from Six Nations. Speakers came from Kahnawake to teach and discuss the principles of the Kionarakohwa with the people of Six Nations. The reading was recorded and distributed on DVD's and CDs to the community. See Jim Windle's article, "Great Law Explained in Five-Day Event," in the *Tekawennake*, June 27, 2007. Six Nations people actively participated in the planning and celebration of the Indian Defense League's 80th Border Crossing, keeping alive the alliance Deskaheh forged with Chief Clinton Rickard to "fight for the line" and First Nations sovereignty. See Sandra Muse's article, "Good Turnout for Border Crossing Fundraiser," in the *Tekawennake*, May 2, 2007.

not been elided from its pages, but perhaps have not been given enough prominence. The political and legal struggle they waged has been long and complicated. In order to prepare for the future this history must be carefully opened to Native and Euro-Canadian scrutiny to be studied openly from all political perspectives in the community.

This dissertation is my attempt to find the records of my own Reserve and simply tell, as accurately as I can, the story of the displacement of the hereditary chiefs of the Six Nations Reserve, how the ensuing disputes have roiled our community for decades, and what this history means for our people today, long after the storming of the reserve in 1924. Ongwehònwe, both on and off-reserve, have a vested interest in knowing our leaders' perspectives and insights as they struggled, not only with difficult decisions, but with great ambivalence about strategies of resistance or accommodation toward Canadian policies. I try not to reduce this complex and honorable struggle to Manichean terms, or to employ the tired old dichotomy of factions for it reduces the multi-layered, conflict to a simplistic paradigm. As members of the Reserve already know this struggle has occasionally assumed the shape of a mini-civil war on Grand River Territory because family members took different stands and were ostracized for their decisions. Yet, our Band is made up of related families in a face-to-face community, so disputes have to be put aside in order to function in our small village of Ohsweken and across the region where our relatives have settled. Permanent factions as described in the anthropological literature are a luxury our communities cannot afford, since the Canadian government remains the principal challenge to First Nations.

Several mythic figures of Native resistance were revealed in my research as ordinary, flawed individuals in this history. As I delved into the records I found, not

surprisingly, that several Natives informed on one another to the Canadian government. Occasionally, they switched sides, making decisions in their own self-interest and, sometimes, sought monetary gain or political advantage, as politicians do everywhere. Yet, Six Nations leaders on all sides of the debate also demonstrated remarkable tenacity, persistence and endurance, vouchsafing their faith as leaders of a small, self-assured and hardy Band of Indians on the Grand River, for they were determined to survive as a national entity. As our people say, "down the Bush," most of these leaders were made of "good stuff."

The focus of the dissertation is centered on significant breakpoints within three major periods within the twentieth-century, the 1920s, 1950s and 1970s, easily identified since they coincide with a series of important court cases marking our contentious relationship with the Canadian authorities. Notably, the first section of the dissertation emerges from the late nineteenth-century arguments over progress and education of the Indians. Ironically, the first major challenges to the Confederacy Council come from within the ranks of the League, itself. First, the Mohawks argued for faster adoption of progressive measures such as education and then in turn the Tuscarora, and to a lesser degree, the Delaware, argued for more recognition and a greater voice within the Confederacy Council. As the hereditary Chiefs aged, younger members of the community, perhaps impatient with the pace of change, formed the Warriors' Association.

As the Victorian Era ended, the leadership of the Confederacy Council appeared anachronistic to the new progressive bureaucrats at Indian Affairs as well as to progressive Indians who sought equal treatment with Canadian citizens. Six Nations

members were impatient with the glacial pace of the decision process in the Confederacy Council with its seemingly endless rounds of deliberation. The Chiefs were not unaware of their critics, but were not anxious to make any hasty changes to the structure of the Council for it was a hybrid institution that was forged in some sense as a microcosm of the historic Confederacy. The Council was not an exact replica of the ancient Confederacy, for it had been reconstituted after the move to Grand River following the American Revolution. The Chiefs-in-Council had adapted the institution to reflect the exigencies of removal and exile from their homeland. Tensions between tribes were magnified as a result, particularly with the Delaware and Tuscarora, for instead of the huge swath of territory that was the ancestral homeland of the Six Nations, the original land grant amounted to 674,910 acres.[11] By the mid-twentieth-century the Reserve had shrunk to 45,000 acres after numerous land sales and seizures, including vast tracts of land sold by Joseph Brant himself.[12] Not surprisingly, many of the legal cases that ensued in the twentieth-century began over proposed land cessions as Six Nations leaders fought to hold onto the small territory they had left.

The coming of the First World War also brought great anxiety to the Six Nations Confederacy Council concerning keeping the existing reserve lands under the exclusive control and use of Six Nations Indians. This was a troublesome issue for the Confederacy Council since the Canadian government had hatched a plan following the war for returning soldiers to receive a Settlement, sometimes including aid in the form of

[11] National Archives of Canada, RG 10, Volume 7103, File 113-3-12. "Canada: Memorandum on Legal Status of British North American Indians," Colonial Report, Number 15, p. 7.

[12] See the negotiations Brant pursued to convince Six Nations members, as well as the British representatives, who opposed the sale of an enormous tract of the Haldimand Grant in Kelsay's biography, Joseph Brant: Man of Two Worlds.

a mortgage. This was devised as an aid to soldiers who sought to buy their own farms and make the transition back to civilian life. The Chiefs worried that if the Indian soldiers defaulted on their loans they would lose even more land. The other political cloud appearing on the horizon was the threat of the Canadian government involuntarily enfranchising Native people on reserves that were considered "advanced." Although the Canadian officials continued to deny the plan, the statutes were already part of the Indian Act. Six Nations was certainly thought of as a good candidate for such an action, for it was regarded as progressive. The program called "Indian Advancement" was labeled as Part Two of the Indian Act and was the cornerstone of Canada's assimilation policy.

Perhaps, these issues were only tentatively suggested by officials to get Six Nations people used to the idea of progress and modernity, but it had the effect of polarizing the community. The two issues, namely Soldiers Settlement and the possibility of compulsory enfranchisement, unfortunately, set off decades of animosity between the Confederacy and Canadian officials. The Confederacy Chiefs did not trust the Canadian officials and rather than gradually accelerating the pace of adaptation to modernity and assimilation, the Canadian policies antagonized members of the Confederacy.

Modernity was not merely the sum of a series of enormous changes reflected in communication, transportation and global awareness. As applied to Six Nations society these policies would accelerate not only technological change, but posit and privilege individual consciousness and a rapid movement toward a Euro-Canadian society. This Canadian political agenda of assimilation conflicted with the Six Nations cultural ethos of group survival and solidarity as articulated by the Chiefs-in-Council. The Confederacy

Chiefs sought to control and mitigate the pace, impact and scope of change, but under the critical colonial gaze of the Canadian government, their efforts were viewed as marginal, at best.

For indigenous peoples, modernity holds a special challenge, for modernity reflects the atomization of society, the isolation of the individual from the group, as well as mandating an increased level of productivity from one and all. This concept of individual autonomy at the expense of the group represented an absolute antithesis of Six Nations cultural, political and social norms. Modernity represents a sea change for Six Nations people that pulls apart the bonds of the interdependent tribal society based upon a cultural ethos of belonging to clans, practicing and performing ceremonial roles and fulfilling responsibilities of extended familial relationships, medicine societies, the Longhouse religion and the model of the League itself. Duties also encompass the support and continued creation of the material, spiritual and aesthetic culture supporting the Native life-ways of the community. The mythic power of the League and the Great Law were woven into the fabric of the community, as was the "harmony ethic" on which Six Nations Confederacy Council relied to deliberate and find solutions forged in consensus to settle disputes.[13]

Gender was an incredibly divisive wedge issue between indigenous peoples and Euro-Canadian society. For Canadian progressives, who were attempting to overhaul a "pagan" system based on the leadership of chiefs and clan mothers, the power of women in matriarchal Six Native societies was a sore point. In addition, the Indian Act, the document that set forth the laws governing First Nations people in the Dominion of

[13] See Blood Nation, by Circe Strum, for an application of this terminology in present-day Cherokee society.

Canada after Confederation, defined an Indian in relation to a male, rather than a female. Thus, children adopted the Indian status of the male parent, not the female, regardless of blood quantum. This imposition of European gender conditions completely inverted many First Nations traditions and wrecked havoc with established bloodlines, clans and tribal lineages. This artifact of the colonial process remains a problem for generations of Indians who still are denied First Nations status because of this legacy of gender discrimination and violation of cultural rights. This gendered policy has been the subject of intense protest and litigation at both the national and international levels. Canada found itself subject to the condemnation and censure of international human rights organizations in the late twentieth-century for its interference with Native definitions of identity and status and its pronounced discrimination against Indian women. The Indian Act by which Canada governs indigenous people was also at odds with Canada's own statutes as they evolved, particularly the vaunted Canadian Human Rights Act, passed in 1977 and the Charter of Rights and Freedoms, passed in 1982.

Six Nations leaders were distinguished among other First Nations groups in taking the initiative and appealing to international bodies and foreign governments to apply diplomatic pressure on Canada, since Confederation transferred responsibility for the "British Indians" to the Dominion. They employed the diplomatic practices of the ancient Confederacy in playing one colonial power against another. For example the Confederacy Chiefs prepared numerous petitions to the Crown during their rule and couched their appeals in terms of their historic relationship as allies to try to seek British intervention with Canada on behalf of Six Nations. In addition to direct petitions to the King seeking his intercession in the dispute between Six Nations and the Dominion in

1924, the chiefs sent delegations who personally evoked the metaphor of the "Covenant Chain," linking Britain and Six Nations warriors from the colonial period.[14] The League of Nations was also one of the first venues to which Six Nations turned when the Confederacy Council was displaced in the 1920s.

This diplomatic stroke almost succeeded and the fact that Six Nations leader Deskaheh managed to bring the case to the international delegates was quite remarkable considering the powers arrayed against the Indians. The relative success of this early salvo fueled nearly a century of protests and litigation against the replacement of the Confederacy Council by an ostensibly democratic Elected Council. The representatives of the Confederacy and the Indian Defense League of America repeatedly traveled to New York during the twentieth-century to seek the help of the United Nations delegates and induct foreign leaders as honorary members of the IDLA to elicit their support. The Six Nations press also publicized the remarks of United Nations leaders, such as Eleanor Roosevelt, when she spoke about the rights of indigenous peoples and the need to be concerned with the treatment of minorities including Native Americans in terms of an "international question."[15]

The next major incident involving the Confederacy and Elected Council began in the spring of 1959, when the supporters of the Confederacy chiefs marched and took over the Council House on the reserve, the seat of the government under the hereditary chiefs. The legal dispute that followed involved the proposed sale of three acres of the reserve by

[14] For the explication of the multi-faceted description of the Covenant Chain and its significance in the diplomacy of the Iroquois League during the colonial era, I relied on Daniel Richter's text, The Ordeal of the Longhouse.

[15] These visits were chronicled in both the local Canadian press and the newspaper on the Reserve itself, *Pine Tree Chief*, for example, see "Six Nations Indians at U.N. Headquarters" and "Mrs. Roosevelt Says!" February 27, 1928.

the Elected Council and was brought before the Ontario courts in 1959, but it escalated into the renowned "status case of the Six Nations." The status of the Six Nations, as allies, subjects, or Indians in the parlance of the Indian Act of Canada, as well as the title of the land as either held independently in fee simple or vested in the Crown, were the two major questions at stake in the Supreme Court of Ontario. Malcolm Montgomery appeared for the Confederacy and R. J. Stallwood, the Superintendent of the Reserve, along with the Attorney General of Canada, represented Clifford E. Styres, the chief councilor of the elected council in Logan v. Styres. Originating in a land dispute the two sides clashed repeatedly over authority to represent the wishes of the community. Both councils claimed to be the legitimate governing body of the Reserve.

The Confederacy chiefs' supporters argued that Six Nations as allies of the Crown were not swept up in the transfer of British Indians to Canada under the British North America Act, for they were never subjects. Therefore, the chiefs reasoned, the Parliament of Canada had no right to legislate over Six Nations people or interfere in their affairs. The chiefs backed up their claim by their interpretation of two documents signed by officials before Confederation, the "Haldimand Pledge" and the "Simcoe Deed." Montgomery argued the two proclamations were tantamount to deeds, conveying not only ownership of the land, but sovereign status over the land as an independent people. The legal wrangling encompassed the right of the Canadian Parliament under the Indian Act to have oversight concerning the internal affairs of Six Nations. The fractious political debates in Canadian legal forums generated raw anger displayed on the reserve in an uprising, as decades of bitterness welled up and supporters of each Council vied for media attention, control and dominance. As this residual anger spilled over into the

Ontario courts and conditions on the Reserve disintegrated, allegations ensued regarding kidnapping, riot and rebellion amidst seizure of the old confederacy Council House by the chiefs' supporters. Although this proceeding was not an atmosphere seemingly conducive to negotiation, there still were efforts to find commonality, even in the intensity of this dispute on the reserve. Overtures were made even during this uprising by Six Nations leaders to urge parties to reach consensus for they were conscious of the harmony ethic and the necessity for solidarity as a people to resist the use of Canadian police forces on the reserve.

Using both the weapons of cultural tradition and modernity as cultural signifiers, many competing voices emerged from the Reserve in the press and throughout the Native community. These voices presented highly nuanced visions of the future for Six Nations, aimed at specific audiences both on and off the Grand River territory. How to reconcile these competing visions was a real source of tension and anxiety for Six Nations people caught in the crossfire of the uprising. Confronted with dramatic socio-economic change Six Nations leaders lacked the requisite economic and political power to control and shape their own future.

There were also stumbling blocks along the legal pathway for Six Nations funds to pay for lawyers were under the control of the Indian Department so access to the courts to effectively challenge the existing laws was very difficult to obtain, particularly for the Confederacy council. Nevertheless, many advocates agreed to help the Six Nations chiefs with their legal cases. The lawyers who advocated for the Six Nations Confederacy Council in the twentieth-century were quick to capitalize on the ancient forms of diplomatic address, translated to English, from the ancient Iroquois League.

They studied the oratory transcribed in colonial records and adapted it to their more modern purposes, but still promulgating an ethnographic authority dating from "time immemorial." Thus, the legal documents and transcripts reflect the formal and historic oratory of Six Nations diplomacy gleaned from the colonial era. The Euro-Canadian and American lawyers clearly understood the interplay between cultural signifiers, representation and the circulation of imagery, tropes and metaphors as a coin of exchange – not only in legal forums, but also in cultural venues before diverse audiences.

Even though hobbled by the paternalistic policies of Canadian officials Six Nations people still struggled to shape their own destiny. In 1960 after their bid to remove the Elected Council from power in the Ontario courts failed, the Confederacy testified before the Joint Committee of the Senate and House of Commons on Indian Affairs. Without assets, support or allies, however, Six Nations would paradoxically repeatedly return to the Canadian courts and appeal for British aid to obtain justice, legitimacy and the reaffirmation of their ancient treaty rights and traditions. How far to push the legal parameters open to First Nations at the time bedeviled Six Nations leaders and their advisors. The Canadian courts often referred the Six Nations claims to Parliament and noted that the Six Nations Indians, while appealing for a ruling from the Governor General to reverse the imposition of the Elected Council, must then abide by the rule of Canadian law. Therein lay the rub; for while Six Nations claimed sovereignty over the Grand River territory as a nation within the Euro-Canadian legal and diplomatic framework, the very cases that were brought to the Canadian Courts undermined First Nations autonomy and the quest for self-government.

The ruling by Justice King in the 1959 status case gave the Confederacy much to ponder, since by challenging the legal status quo, they were in danger of losing their central contention in the courts for good, namely, that Canada really had no jurisdiction over Six Nations and never had, since the colonial era, due to their special status as allies. The evidence presented by the Confederacy at the trial consisted, once again of historical documents and narratives, some dating from the seventeenth-century. Notably, Justice King gave wide latitude to submission of historical evidence, oral history, and local knowledge. He also stated that most people of the reserve did not recognize the legitimacy of the Elected Council. Although the 1959 case did not result in overturning the Elected Council, it breathed new life into the ongoing struggle, for it was taken seriously by the Canadian government and the legal community.

By 1970 the dispute moved back into the Canadian courts and new factors such as domestic and international pressure with regard to human rights began to affect the arguments over the legitimacy of the two systems. This resulted in a startling verdict rendered by Justice Osler in the Ontario Supreme Court in favor of the Confederacy in the Supreme Court of Ontario in the case Issac v. Davey. The two constitutional issues identified by Judge Osler in this case were the legitimacy of the Elected Council and secondly, the Indian Act itself.

The Council House was once again the titular focus of controversy as Confederacy supporters repeatedly padlocked the doors in the summer of 1970, denying access to the Elected Councilors. Much more important however, was the power struggle behind the scenes. Justice Osler analyzed the title to the reserve lands, going back in the historical record and complementing his interpretation of the law with a number of

precedents, including Justice King's careful reading of the pertinent precedents and his decision in the status case. Osler agreed with King that Six Nations people were subjects of the Crown, but disputed the argument that Six Nations lands were vested in the Crown. By distinguishing the manner in which the lands were "granted" to Six Nations Indians through the Haldimand and Simcoe "Deeds," in contrast to the way lands were usually considered reserved for Indians' according to the Indian Act, Osler argued that Six Nations lands were an exceptional case in Canadian-Native legal history.

Osler closely argued what Joseph Brant himself had stressed in his long running conflict with British authorities, particularly Simcoe, namely, that the title to the land of the reserve was held by Six Nations Indians independently of the Crown, in fee simple. This point was laden with irony, for Brant wanted freedom to dispose of the land or to lease the land at interest, as he saw fit, in order to provide an annuity for the community. The Confederacy, at least since 1924, has been opposed to land sales.[16] Osler's decision validated the common sense contention of the Confederacy supporters, who had argued to promote their sovereign control of the land for years, but in the context of their contention that they were not subjects of the Crown.

Instead, Osler argued from the legal definition of the Indian Act, itself. He reasoned that if the Six Nations land grant was not a Reserve, as defined under the Indian Act, than the two Orders-in-Council legitimating the Elected Council were invalid. These Orders-in-Council recognized the Elected Council, based on the application of Part II of the Indian Act, Indian Advancement, to Six Nations. Osler's 1973 ruling validated the leadership of the Confederacy Chiefs, the leaders of the old system, as the legitimate

[16] Brant used his power of attorney to sell almost 353,000 acres of the Haldimand tract, to reap an annuity of more than five thousand pounds, according to Isabel Kelsay's text, Joseph Brant: Man of Two Worlds.

rulers of the Reserve. Osler even cited the overall lack of participation in Council elections on the reserve as evidence of the Elected Council's lack of legitimacy as a representative institution.

The Indian Act also came under attack in this period for its racially discriminatory provisions resulting from a Canadian Supreme Court ruling in the celebrated case, The Queen v. Joseph Drybones. Drybones, a Dene Indian, was charged for being inebriated while off-reserve and consequently was fined and jailed. This case marked the beginning of Canadian court's legal recognition of embedded racism in Canadian policy toward Indians. The Court ruled a section of the Indian Act inoperative for its discriminatory provisions against Indians regarding the use of alcohol. This temperance policy had its origins as paternalistic, protective legislation in an era when assimilation was the goal of the Canadian government. After the Drybones case, it was argued by many Natives and their legal representatives that the entire Act should be voided, long a position of many of the chiefs of the Six Nations Confederacy.

Justice John Osler, who issued the ruling in favor of the Confederacy Council, in holding the Indian Act inoperative for Six Nations lands and council, also ruled in another watershed case, Isaac v. Bedard. This case concerned the gendered and discriminatory provisions of another statute of the Indian Act involving a Six Nations woman and her children. So, Osler was exceedingly well aware of the political challenges mounted against the Indian Act on all fronts, international and domestic. He cited the Bedard case as evidence in the 1973 Isaac v. Davey decision, ruling that the Indian Act was inoperative. The arguments over the Indian Act continued to rage in the Canadian courtrooms of a mere handful of key justices, namely Justices Ritchie, Laskin

and Osler, from 1970 to 1985. While some were well steeped in the lore and history of Native affairs, others proceeded from their narrow vision of the primacy and inviolability of the Indian Act. Ultimately, it would take legal perspectives from outside of Canada to shake the Canadian government's faith in the Act through which they sought to assimilate First Nations. Each party to the struggle tended to perceive the canvass of Euro-Canadian and Native relations from a fixed and unyielding perspective.

In the appeal of Isaac et al. v. Davey et al, delivered by Justice Arnup, the Ontario Court of Appeal reversed the lower court and held for the Elected Council, a stunning and rapid reversal of Osler's decision. One could do an extensive study on the men involved in these decisions, for the dissidents in the court were clearly Laskin and Osler, while Justices Ritchie and Arnup were clearly in sympathy with the Dominion. Arnup's decision, however, was cognizant of and sensitive to the long, complicated and contentious history of the Six Nations Band. In fact, he noted wryly, the Confederacy Council had assumed positions long held by Chief Joseph Brant, the founder of the community, namely that the Six Nations are an independent political community, whose lands are held in fee simple. Brant repudiated the Simcoe Deed in favor of the Haldimand Pledge, holding that the reserve lands were already held in fee simple.[17]

[17] Joseph Brant and Lieutenant Governor Simcoe strenuously disagreed about the way the Grand River lands were held with Brant arguing they were a reward for Six Nations' alliance with the Crown and could be sold or leased at will, without restriction, for the tract of land was conveyed in fee simple by the Haldimand Deed. Brant never recognized the Simcoe Patent due to its restrictions on land sales. Simcoe argued that all land transactions involving Indians had to go through the Crown, as established in the Proclamation of 1763. Nevertheless, Brant managed to sell or lease a huge part of the Haldimand Tract, 350,000 acres to non-Natives, for he gained the power of attorney from the Confederacy Chiefs to strike the deal. So when Simcoe wrote the Simcoe Patent he made sure he included a clause that all Six Nations land dealings had to go through the Crown. This still did not stop the alienation of reserve lands, for Six Nations were urged by the Crown to sell yet another 200,000 acres to the Crown and consolidate their landholdings away from the white squatters who had encroached on Six Nations land. See pertinent discussion in The History and Culture of Iroquois Diplomacy: An Interdisciplinary Guide to the Treaties of the Six Nations and Their League, edited by Francis Jennings, (Syracuse: Syracuse University Press, 1985) p. 77-78.

Osler gave credence to the Common Law interpretation of legal parlance, while Arnup's decision reiterated the history of Six Nations, but reduced the welter of material to several lists of legal principles summarizing the findings in each trial and historical circumstances, giving a methodical litany of trials and documents in his decision. Arnup extended his analysis to encompass other legal challenges and rulings considering the operation of the Indian Act and other Native land rights cases throughout the world. Within that international legal purview, Arnup found that the Indian Act was not inoperative and that the process through which the councilors were elected was in accordance with the law. Arnup argued that the words used to convey land were substantively different if the intent was to convey the property in fee simple to Englishman, rather than the language used to convey land for Indians' use. He refused to accept a common law interpretation and noted that his task was to infer what the writers of the documents meant to achieve. Arnup did not shy away from establishing his interpretation as the legally correct decision.

Arnup clearly differed with Osler's interpretation of the import of the "Simcoe Deed," merely interpreting it in the context of the time as an ordinary grant of land, similar to those that already existed, rather than uniquely deeding the land to Six Nations in fee simple. I will contend that the timing of the second legal challenge the Confederacy Chiefs mounted against Canada during the late 1970s was most unfortunate. For while they mounted an important challenge to Canadian control and power over Six Nations affairs, under the guidance of Malcolm Montgomery, their long-time, trusted advocate, they lost a long-awaited opportunity to gain their dream, restoration of the Confederacy system. Perhaps, if the case were tried a decade later, when international

and domestic pressure had built to excise discrimination from the Indian Act, Osler's judgment would have stood firm. As it was, the crux of Osler's argument was refuted quite handily in the Ontario Court of Appeal in 1974.

Although there was a motion granted in 1975 to mount a subsequent appeal to the Canadian Supreme Court this generated additional controversy on the Reserve, for the funding for first two cases had not been forthcoming and a negative ruling in the Supreme Court of Canada would be final, as far as the Canadian government was concerned. The Chiefs apparently wanted the local community to seek their leadership in the years following 1924, rather than thrusting themselves into a self-appointed leadership role. 1959, nor 1973 was not the denouement heralded in the press.

Curiously, the Chiefs have been remarkably reticent, awaiting the actions of the clan mothers and the community before coming forward to claim Six Nations' governance. Consensus is slow in coming and issues take a long time to explicate and unravel in the Six Nations Confederacy Council. While the pace of the assault on the Canadian government may be slow in unfolding, it is inexorable. This is somewhat frustrating for our small community for the parry and thrust of the court challenges do not topple the prevailing hierarchy of power soon enough for many. Yet, as long as this fight has continued, for ninety years, it is still insignificant in terms of the historic orientation of the Confederacy founders who instructed leaders to look at least seven generations into the future with regard to the decision-making of the chiefs. Perhaps, the time for action has arrived. The community has called for a rapprochement in seeking the leadership of the chiefs in the long-sought battle with the Canadian government over the entire Haldimand tract. The Chiefs long struggle is finally bearing fruit, for they have been

sought out by community activists to act as leaders in the negotiations with Canada and private developers as both Ongwehònwe and Canadians in the lands surrounding the reserve begin to weigh the environmental costs of further development. Far from being a marginalized shadow government the Confederacy has endured to play a key role in the protection of their cherished Grand River lands.

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Chapter One

Origins of the "Great Schism"

The relationship of the Six Nations of the Grand River in Ontario with the British during the Revolutionary War has been evoked as the partnership of the savage and the lord; emblematic of the traits of two warrior races.[18] Described in epic terms it is depicted as a tragic story fraught with danger, unswerving loyalty and principled devotion to a cause that ultimately split the ancient Confederacy of the Iroquois.[19] In reality conflicts were rife and long-standing in the history of Haudenosaunee, or people of the Longhouse, who constructed palisaded settlements in their ancient homeland in central New York. Internal struggles led to increasing tension and strife within the League in the colonial era. A host of problems stemmed from ongoing relations with a formidable array of European powers, which weakened the unity, and power of the Confederacy. Drawn into warfare that significantly reduced population and resources the Confederacy was considerably weakened long before the revolution. Increasing cultural and social contacts increasingly drew the Six Nations into the Euro-American economy and culture, stepping up the process of syncretism in myriad areas, including religion, language, behavior and every-day life-ways.[20] This process was obviously a "two-way street" for colonial society as well.

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[18] The romanticized portrait of Joseph Brant evoked by Isabel Kelsay draws upon these tropes in her biographical text, Joseph Brant, 1743-1807: Man of Two Worlds, Syracuse: Syracuse University Press, 1984.

[19] See for example, Barbara Graymont's text, The Iroquois in the American Revolution, (Syracuse: Syracuse University Press, 1999). Graymont skillfully describes how the Confederacy was plagued from a number of internecine conflicts as members of the Six Nations as well as individual chiefs increasingly ignored the rulings of the central council and sought their own interests and alliances outside the League. Graymont's account of the Iroquois League leading up to the Revolution and the concomitant destruction of the Confederacy shows the failure of Native leaders to follow the Confederacy policy of neutrality and the fatal flaw of becoming entangled in Euro-American alliances. As a result the Haudenosaunee were plunged into their own civil war.

[20] An excellent source to illustrate one particular facet of this complex process in regard to religion is James Axtell's ethnohistory, The Invasion Within: The Contest of Cultures in Colonial North America, (New York: Oxford University Press, 1985).

The telling blow may have been dealt by the encroaching Americans with their unquenchable thirst for land and power, but the depredation wrought by disease, warfare and depletion of the environment and its resources had all taken their toll. The erosion of the "middle ground" between Native inhabitants and Euro-Americans was a steadily growing peril to the League. Ultimately, Six Nations diplomacy failed to forestall the breakup of the Confederacy due to both internal fault lines — no doubt aggravated by relations with Euro-American society – as well as colonial warfare. External pressures after 1815 proved to be too much to sustain the hegemony of the Confederacy despite the skill of Six Nations diplomats and leaders.[21]

Territory, population and power were under assault well before the Six Nations migration to British Canada under the leadership of Joseph Brant. The affinity that evolved into an alliance between the Confederacy and the British had been forged in the colonial era led to a pact involving aid, defense and ostensibly, mutual respect for one another's sovereignty. This agreement was referred to as the Covenant Chain. In Richter's detailed account of its evolution he notes that: "Around the diplomacy of the Covenant Chain developed a rich body of intercultural rituals that…had different meanings for Indians and English. Indicative of those contrasting interpretations was the way in which the two sides preserved memories of the proceedings: in oral tradition aided by mnemonic wampum belts for one, in neatly engrossed legal documents for the other." The Covenant Chain became "tarnished" or eroded over time, from the Native perspective, due to the loss of the precept of reciprocity. The Six Nations in Canada struggle unceasingly so they do not lose the other lynchpin of this Covenant Chain – the

[21] The concept of the middle ground was defined by Richard White as a "new set of common conventions" growing out of a particular colonial context in the Great Lakes region in which neither European nor Native forces could gain their objectives solely by force. White argued that these circumstances provided a unique political, economic and social climate for dialogue and negotiations between Natives and Europeans – a sPublic Archives of Canadae for these communities to articulate difference and search for common ground because it was in the mutual interest of all parties to do so. See the text by Richard White, The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650 –1815, (New York: Cambridge University Press, 1991), p. 52.

mutual respect for sovereignty and status as nations, a principle that forms the crux of the assertion of sovereignty for the Six Nations at Grand River as described in this thesis. [22]

Of course, at face value this assertion of "sovereignty" is usually inconceivable in many forums both within the Dominion and in regard to international forums. Yet the history that I begin unfolding in the late nineteenth-century long after the Revolution, the migration to British Canada and the reconstitution of the League has important links to this colonial history. After a series of complex diplomatic negotiations and decisions, an agreement was struck to facilitate the movement and adjustment of the Six Nations to a new homeland, taken as compensation for ancestral lands lost in the fray. It is estimated that half the Iroquois population moved to the Grand River tract after it was opened to those Natives who had fought the Americans in the Revolution.[23]

As British Canada was increasingly permeated by a colonial world-view, however, Canadian officials and Indian agents often misunderstood life-ways, politics and culture of the Six Nations. No longer treated as valuable allies, Six Nations leaders found themselves treated with disdain, rather than esteem. As a result, Native people interpreted policies designed to assimilate them into Canadian society during the nineteenth-century as denigrating and destructive to the dignity of their families, faith and cultural integrity, as well as presenting a clear threat to their identity and form of government.

The intensity of conflict between Six Nations and Canadian cultures has waxed and waned, but occasionally has erupted in violence and recrimination, reaching a

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[22] Richter, Daniel K., The Ordeal of the Longhouse: The Peoples of the Iroquois League in the Era of European Colonization, (Chapel Hill: University of North Carolina Press, 1992), p. 142. The "Covenant Chain" remains a critical underpinning to the alliance between Britain and the Six Nations from the perspective of the Confederacy Chiefs. This became a critical historical reference point underscoring the chiefs' claim to sovereignty and a focus of their resistance to Canadian domination. Six Nations leaders of the Iroquois Confederacy would base their claim to sovereignty and status on what they considered was the immutable nature of this agreement and find themselves caught short by changing power relations and differing conceptions of sovereignty, diplomacy and treaties held by Britain and the Dominion. Further, the spirit of reciprocity was not well respected or entrenched in Western diplomatic cultures.

[23] Richter, Daniel, Facing East from Indian Country, (Cambridge, Mass.: Harvard University Press, 2001), p. 224.

crescendo in 1924 when Canada replaced the Native system of government at Grand River. My focus on the Grand River Reserve lies in the increasing alienation of the Six Nations people from their former allies, beginning in the late-nineteenth century, eventually culminating in a series of legal battles throughout the twentieth-century, after the forced removal of the Confederacy government. Contributing to increasing tensions were the ever-shifting boundaries of race, ethnicity and gender relations, as well as new political alliances and internal realignments for both Six Nations and Canadian societies. At stake for Natives during this struggle was the very core of Six Nations history, identity and sovereignty. If the Six Nations won a series of legal challenges to the colonial framework upheld by the Dominion, which sought to objectify and subdue their spirit, will, independence and sense of identity in a quest for assimilation, not only would it signify the renewal and resurgence of the spirit of the ancient Iroquois Confederacy, it would exempt the Six Nations and perhaps other indigenous people from the Indian Act – laws governing the day-to-day conduct of life on the reserves set up as homelands by the British and Canadian governments for indigenous people.

Reserve life during the late nineteenth-century was not totally separate from the majority culture, rather it reflected Natives' hesitant foray into modern society – sometimes embracing progressive ideology – but concomitant with a comforting reverence and quiet yearning for the trappings of "traditional" Iroquoian culture.[24] This complex duality of Native desire for the representations of ancient Indian culture, ideology and philosophy reflective of an ancient theocracy coupled with a desire for modernization, set Six Nations apart from other Iroquoian groups in Canada from the outset of their settlement at Grand River: "…Grand River Iroquois clung more tenaciously to Iroquois traditions and have asserted a sense of independence rather more forcefully. They also continued to emphasize their unique relationship with the British."[25] Six Nations religious and cultural tenets historically represented a powerful

[24] This is particularly evident in the societies created by the Six Nations community, for example, the agricultural improvement organizations that clearly sought to improve the yield of Six Nations land using the modern techniques of the day.

[25] Surtees, Robert, "The Iroquois in Canada," in The History and Culture of Iroquois Diplomacy, edited by Francis Jennings, (Syracuse, Syracuse University, 1985) p.79.

belief system, held dear by those Natives who treasured an idealized conception of the Iroquois Confederacy and the Great Law or "Kionarakohwa," based on oral tradition. Following their migration after the American Revolution, Natives reestablished the League in two places – Grand River and Buffalo Creek, so the League was replicated on both sides of the border.[26] "The New York League of the Hodenosaunee (meaning people of the Longhouse) continued in a weaker form in New York State, " but grew stronger as the leading chief, the Thadodaho, was centered at the Onondaga reservation.[27]

The Longhouse religion, a revitalization movement sparked by the teachings of Handsome Lake, a Seneca from Allegany Reservation in New York State, also became a central part of Six Nations identity and culture.[28] The Longhouse religion incorporated many of the old rites and rituals that existed before the Seneca prophet's revelation. Native religious beliefs continued to co-exist with Christianity as they had from the beginning of settlement as Grand River. After all, the historic Mohawk Chapel was built for Anglican worship in 1786, by Joseph Brant and the Empire Loyalists whom he invited to settle with him.[29] Brant, though, continued to invoke sovereign status for the settlement at Grand River, a claim that has continued to roil the politics of the Reserve until the present day.

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[26] Dean Snow, The Iroquois, Cambridge, Mass.: Blackwell Publishers, Inc., 1994) p. 152-3.

[27] Surtees, Robert, "The Iroquois in Canada," in The History and Culture of Iroquois Diplomacy, edited by Francis Jennings, (Syracuse, Syracuse University, 1985) p.79. The last Thadodaho at Six Nations died in 1961 according to Wm. G. Spittal, in his notes to the minutes of the Confederacy Council which he edited and published. See Appendix H in the "Minute Book," (Ohsweken, Ontario: The Constitution of the Five Nations, 1991) p. 291.

[28] Wallace, Anthony F. C., "Origins of the Longhouse Religion," In Northeast, ed. By Bruce Trigger, Handbook of the American Indians, Volume 15, (Washington, DC: Smithsonian Institution, 1978) 442-8.

[29] See Isabel Thompson Kelsay's text, Joseph Brant, 1743-1807: Man of Two Worlds, (Syracuse: Syracuse University Press, 1984) and Sally Weaver's article, Six Nations of the Grand River, Ontario, in Northeast, ed. by Bruce Trigger, Handbook of North American Indians, v. 15, (Washington, DC: Smithsonian, 1978). Chief Joseph Brant was celebrated for translating scripture into the Mohawk language. Brant's sister, "Molly" was the common-law wife of Sir William Johnson, receiving a pension from the British government after the war. Johnson treated Brant as a son, sending him to be educated and later, schooling him in warfare during the French and Indian War. The Chapel was built for the Anglican denomination in 1786, by Joseph Brant and the Empire Loyalists, who settled nearby after leaving New York after the Revolutionary War. The Queen Anne silver communion service and bible, given to four Mohawk Chiefs during their visit to England in the early eighteenth-century, was kept in the chapel.

The Confederacy Chiefs continued to invoke the poetic, traditional oratory of Iroquoian diplomacy in their dealings with Canada to reinforce their claim to authority. Yet, the Confederacy was markedly changed as an institution after the American Revolution. It had to be adapted for governance since the separation of Native territory falling in both Canada and the United States literally split the League. The Confederacy was replicated – one in Canada and one in the United States. The Council Fire, symbol of the ancient League, was rekindled at Grand River and at Buffalo Creek following the war. The institutions were created as mirror images – forty-nine hereditary chiefs, as well as the clan mothers, dwell on each side of the border.[30]

By the nineteenth-century, the Grand River Reserve became a cultural center for traditional knowledge for the ancient lore: study of the Great Law, language and medicine societies were kept alive on the Reserve. The legend of the Peacemaker and the founding of the League of Peace, as well as the principles of the Great Law were first written down and published in English during the late nineteenth-century by ethnologists such as Lewis Henry Morgan and Horatio Hale in collaboration with Native informants, many of whom came from Six Nations or visited to gather information from the chiefs. Several versions were researched and written, beginning in the 1880's, based on the recitations and research of Seth Newhouse and Chief John Gibson.[31] Politically, the Confederacy Chiefs had successfully adapted the Confederacy model to rule a rather small enclave, rather than a larger swath of the former Six Nations territory.[32]

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[30] Dean Snow, The Iroquois, (Cambridge, Mass.: Blackwell Publishers, Inc., 1994), p. 152-3.

[31] Ibid., p.187-191, 239. Snow lists the versions examined by his mentor William Fenton, and includes comments on the provenance and accuracy of several of these texts. There were earlier manuscripts but many were fragmentary, inaccurate, not carefully translated or deliberately edited to fit a Western framework, without consultation with Native informants. There were Mohawk and Onondaga versions found by Hale at Six Nations in 1879. Hale was a gifted linguist, as well as ethnologist, according to Fenton. Fenton worked with several Native speakers to translate the Gibson text which was the official version accepted by the Six Nations Chiefs in 1900. See also, the Iroquois Reprint of The Iroquois Book or Rites and Hale on the Iroquois, published on the Six Nations Reserve by Iroqrafts, 1989, for Fenton's article on Hale.

[32] Noon, John, Law and Government of the Grand River Iroquois, (New York: Viking Fund Publications in Anthropology, 1949).

The Chiefs were a de facto municipal government for the Grand River Territory and some chiefs were willing to move forward to assume these duties within a Canadian framework. A segment of the Native population was following the lead of the Indian agent to assimilate modern methods of farming and education, as well. Sally Weaver argued that there was a clear difference in the orientation of the "Upper Tribes" as opposed to the people "down below," the traditional followers of the Longhouse community, citing the forces of "progress and the Protestant ethic" as the forces of change in the community. According to Weaver: "Some educated Mohawks had become influenced by recent municipal legislation in the province (Weaver 1963-1974); and attempting to gain more local self-determination, they collected a petition in 1861 urging the government to apply the legislation to the reserve, thereby instituting an elected government." This petition was rejected by the Chiefs and was not supported by Indian Affairs, so the efforts to form an elective government subsided. The issue was not debated again until the 1890s. The Mohawks were viewed in Weaver's analysis as progressives for they founded an Agricultural Society and pressed for grants for education, while the Cayugas and Onondagas resisted acculturation.[33]

Weaver's analysis imposes a static dichotomy on relations within the community that are much more fluid and complex. These micro-national communities overlap in a small, face-to-face territory and key individuals move back and forth these social, cultural and political spaces in terms of a larger Ongwehònwe identity. The way that the Six Nations community has been analyzed by principal scholars has tended to accentuate difference through imposed dichotomies, rather than to look at factors that support the existence of a consistently revitalized, emergent and persistent Six Nations identity. This identity may often be unspoken, unexpressed or unconsciously presented, but is equally unyielding over the period under study as are intersecting notions of progress, adaptation and modernization. In my view it is counter-productive to apply Western academic dichotomies to Native communities such as Grand River for one then misses the nuances

[33] For a fuller explication of Sally Weaver's perspective on the Six Nations community, see her article "Six Nations of the Grand River, Ontario, in Northeast, Vol. 15, edited by Bruce Trigger in Handbook of North American Indians, (Washington, DC: Smithsonian Institution, 1978), p. 529.

and contradictions, the wit and imagination of Six Nations society that emerge over time in contingent circumstances.[34]

"Conservatives" or traditionalists among Six Nations Natives, who bitterly resented the imposition of Eurocentric norms and values that displaced their idealized perspective of the "golden age" of Iroquoian life, have consistently sought renewal and revitalization in their own communities and culture. The Longhouse and the League, the institutions corresponding to the Western church and state for the people of Six Nations were both reconfigured to meet the exigencies of time, contrary to popular myth.[35] For example not all the Confederacy Chiefs were followers of the "Longhouse" religion; indeed, many chiefs were Christians. Some chiefs did not believe in the Handsome Lake tradition preferring the faith embedded within the Great Law.[36]

Some ceremonies were dropped in the Longhouse such as the "White Dog ceremony," for it conflicted with changing norms, both on and off the reserve.[37] Terminology changed in reference to individuals referred to as "warriors," as male gender roles adapted within the Grand River enclave. In addition to changing beliefs, material culture has changed. For example the wampum that clan mothers hold as a symbol of power to make the chiefs has often been damaged or is lost or missing, so it has had to be

[34] In some ways, the trickster figure of Native oral tradition brings one closer to the core of Six Nations society, politics and culture for it embodies change, chance, survival and humor. Gerald Vizenor's work emphasizes this figure in expressing what is missing in Western scholarship, particularly history and anthropology in regard to study of Native peoples. He argues such "terminal creeds" permit "… a material and linguistic colonization of tribal families." In Vizenor's narrative history of the Anishinaabeg academic experts end "mythic time" and "invent" tribal people, hence his text is entitled, The People Named the Chippewa, (Minneapolis: University of Minnesota Press, 1984), p. 27.

[35] For the most sensitive study of change and persistence within the Longhouse, see the work of Annemarie Shimony, Conservatism Among the Iroquois at the Six Nations Reserve, (Syracuse: Syracuse University Press, 1994), while for the analysis of the Six Nations Councils, particularly the evolution of a "progressive" faction, see Sally Weaver's considerable body of work beginning with her overview of the "Six Nations of the Grand River, Ontario, in Northeast, Vol. 15, edited by Bruce Trigger in Handbook of North American Indians, (Washington, DC: Smithsonian, 1978), p. 529.

[36] Annemarie Shimony, Conservatism Among the Iroquois at the Six Nations Reserve, (Syracuse: Syracuse University Press, 1994), p. xxxiii.

[37] This was a ceremony involving sacrifice of a white dog that has not been practiced on the reserve for decades.

recreated.[38] Clans have had to be reconstituted and chiefs "borrowed" from other families, as adherents of the Confederacy age, or a clan mother does not have a suitable male candidate for office within her clan.

The offices of the Speaker and Deputy Speaker of the Council were established in the mid-nineteenth century and were not part of the oral tradition embodying the Great Law.[39] This is vital to understand, for Natives were not trapped in static traditions, but have adapted and developed ingenious ways to solve problems presented within Six Nations territory and in the interface with the majority society.[40] The institution if the Confederacy Council was adapted and reshaped to meet the exigencies of Native society at Grand River after the American Revolution, for it was widely recognized that the reestablishment of the council fire of the Confederacy was paramount and necessitated great change. Grand River Territory did not stop evolving in the nineteenth-century, although there remained great emphasis on conservation of tradition.[41]

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[38] This has happened in my own family for with the death of our oldest female clan mother for the wampum strings were somehow misplaced and lost. The wampum strings have to be remade in order to name a chief in council. See the notes to Appendix H, in the fragmented Minute Book of the Council, when Wm. Guy Spittal discussed the classes that were begun to instruct traditionalists in the production of more of the quahog beads, for it was in short supply on the reserve and is necessary for ceremonial purposes**. See as well, A. C. Parker, TheConstitution of theFive Nations or The Iroquois Book of theGreat Law, Reprint, (Ohsweken, Ontario: Iroqrafts, Ltd., 1991) p. 233.**

[39] Sally Weaver, in "Six Nations of the Grand River, Ontario," in Northeast, Vol. 15, edited by Bruce Trigger in Handbook of North American Indians, (Washington: Smithsonian Institution,1978), p. 529.

[40] Perhaps the most cogent text reflecting upon the tendency to stereotype indigenous people as static populations, observed and classified by academic observers is Time and the Other: How Anthropology Makes its Object, by Johannes Fabian, (New York: Columbia University Press, 1983). The author's perspective deconstructed the milieu of the academic expert who dissected and inherently diminished the dignity of subject populations examined. Ultimately, we did not trust ourselves to tell our own story. One of the people I interviewed for this research recounted how she had been literally afraid to speak. She was leased out as a maid to a doctor in the local town from the residential school where she had been placed by the Indian office. The doctor sought to overcome her reticence about her own opinion. At one point, he slammed his on his desk and scolded her to speak up for herself. At eighty years old, Lenora Jamieson remembered this as a defining moment in her life. She learned she should speak up for herself. I just regret that the settlement for students who suffered under this regime is too late in coming for her.

[41] See Jennings, Francis, ed., The History and Culture of Iroquois Diplomacy (Syracuse: Syracuse University Press, 1985), p. 79, and also, Noon, John, Law and Government of the Grand River Iroquois, (New York: Viking Fund Publications in Anthropology, 1949).

Not all Six Nations Natives accepted this transition, however, for some individuals sought dissolution of the reconfigured Confederacy Council and immersion in the majority society, refusing to be marginalized in a separate community. A group known as the Dehorners Association and later, the Indian Rights Association, formed at Six Nations arose in the mid-nineteenth century and sought to displace the Confederacy Council.[42] Many of the supporters of the Dehorners had been educated at the Mohawk Institute, a boarding school founded by the New England Company to provide a rudimentary education for Indian children, both girls and boys. The Dehorners were concerned with improvement and advancement of life on the Reserve through education and progressive measures of governance.[43] Yet, other Six Nations leaders sought the removal of Christian and European influences and tenets from Native society, including Handsome Lake's revitalization of the Longhouse religion, which was ironically, still thought of as the new religion in the mid-nineteenth-century.[44] Six Nations Natives were often resistant to Christian missionary efforts, rejecting Christian principles gradually seeping into Six Nations faith and governance.[45]

In addition, disputes over land, status, politics and money continued to roil community relations on the Grand River between two so-called "factions" – the term enshrined by William Fenton and his anthropological disciples in the social-scientific

[42] Moses, Elliot, "The Six Nations Dehorners Association," (1973). Paper obtained from the Historical Claims Division, Department of Indian and Northern Affairs, Ottawa, January 2006. The term Dehorners arose in regard to the removal of a Chief from power by taking the "horns of office," the symbol of a chief. See, also, Annemarie Shimony, Conservatism Among the Iroquois at the Six Nations Reserve, (Syracuse: Syracuse University Press, 1994), p. 93.

[43] Sally Weaver, "Six Nations of the Grand River, Ontario, in Northeast, v. 15, in Handbook of North American Indians, ed., Bruce Trigger, (Washington, DC: Smithsonian 1978).

[44] See for instance, The Life of General Ely S. Parker, by Arthur C. Parker, about the career of the Seneca who was the aide to General Grant in the Civil War, transcribing the terms of surrender at Appomatox. Ely's grandfather was described as the leader of the 'progressive party' of the "new religion," meaning the Longhouse religion of Handsome Lake, p. 53 (Buffalo: Buffalo Historical Society, 1919). Yet, Anthony F. C. Wallace referred to the Longhouse religion in his classic text as the "Old Way" of Handsome Lake. See Wallace's text, The Death and Rebirth of the Seneca., New York: Vintage Books, 1969.

[45] Even after formal conversion to other religions in Catholic or Protestant denominations many Six Nations members continue to believe in the ceremonies of the Longhouse and some of the practices predating the Code of Handsome Lake handed down within families on the Reserve. Outright conversion to non-Native religions is done as part of cultural syncretism, rather than replacing the core of the Native belief system.

literature and celebrated ever since.[46] This conceptual framework contributed directly to an extremely damaging and I will contend, unfounded presumption, regarding a dichotomy of the Six Nations community as configured into two warring camps of ideologically fixed and immutable enemies – one progressive and one conservative. The followers of the Confederacy Council, ironically, became known as the traditionalists of the Six Nations, even though they reshaped, restructured and tried to modernize the Confederacy system. Overlaying these political divisions were the religious differences of Christians, Longhouse advocates and those cultural and religious traditionalists sometimes referred to on the Reserve as "from down below," referring to the northeast corner of the Reserve.[47]

These groups became known as distinct, but over-lapping groups at Six Nations. Yet, these so-called "factions" may have arisen as artifacts of colonial discourse, an academic construct of anthropological analysis, or as a calculating attempt to divide and conquer; a colonial invention, designed to facilitate the policy of acculturation.[48] The term faction echoes through much of the political and historical landscape of my people

[46] Annemarie Shimony was strongly influenced by William Fenton's work for example, citing twenty-two monographs in the bibliography for her text, Conservatism Among the Iroquois at the Six Nations Reserve, (Syracuse: Syracuse University Press, 1994) p. 301-2. Shimony's work posited contending factions in matters of faith and politics within the Longhouse and Confederacy Council leading to the demise of the Confederacy system. As Fenton argued in his introduction to Arthur Parker's celebrated text on the Iroquois, these anthropological works have been produced with the cooperation of Six Nations people, who "covet and guard the books about their customs as if they tribal wampum belts…" See Parker on the Iroquois, (Syracuse: Syracuse University Press, 1968) p. I. Not only were Iroquois customs and ceremonies depicted, however, for the influence of the anthropologists' depictions of the strife in the Grand River community also imPublic Archives of Canadated the understanding of local people and contributed to perpetuating this interpretation of local disputes.

[47] Sally Weaver, "Six Nations of the Grand River, Ontario, in Northeast, v. 15, in Handbook of North American Indians, ed., Bruce Trigger, (Washington, DC: Smithsonian 1978). Weaver noted the original location of the village settlements up or down the river was the origin of names of specific communities within Six Nations. Cayugas, Onondagas and Senecas settled in the northeastern tract and were known as the Lower Tribes simply from location down the Grand River from the Upper Tribes, namely, the Mohawks, Oneidas and Tuscaroras. Many of the members of the Upper Tribes were Christians, so a dichotomy gradually formed in associating the Upper Tribes with progressive ideology and Christianity, as opposed to the Lower Tribes who became know for adherence to traditional culture.

[48] See Peter Hulme's text for a post-modern analysis concerning the debate about the opposition between the first tribes encountered in the Caribbean. He argues that this was a false paradigm of the New World in The Caribbean: Caribs and Arawak.

by underscoring the discordant tones in the community serving to highlight Six Nations internal differences as a major factor in institutional dissolution at Grand River. This contradicts the perception of many Six Nations people. The Ongwehònwe, or "real people," posit that it is precisely because of Canadian interference in Grand River affairs that people do not " speak with a good mind," as admonished by the teachings of the Longhouse and the Confederacy regarding the Great Law.[49] Increasingly, many supporters of the elective council, who are also opposed to Canadian power over the Six Nations reserve, currently voice this observation.

The pathway to this conflict is typical of many colonial encounters in which there are distinct, hierarchical relations of power created from a sense of Euro-American entitlement, coupled with a nineteenth-century ideology of "racial uplift," that not only infuses the language and policy of the majority society, but is internalized by subject peoples in a colonial context.[50] This Euro-centric hierarchy of power relations contributes to an uneasy dualism of antagonism, yet familiarity with colonial cant, redeployment of stereotypes and despair in regard to possibilities for change and realization of self-government. Power was consistently orchestrated and contested within the community by Six Nations leaders struggling with the legacy of "terminal creeds," or word wars, a concept the Anishinaabe writer Gerald Vizener has introduced in his literary texts. Dogma and reified tradition has sometimes served as a substitute for Native agency

[49] Adherents of the Great Law, may devote their lifetime studying the rituals, ceremonies and nuances of texts and recitations, so interpretations vary widely among practioners and anthropologists. For a brief understanding of the three major principles of the Great Law – peace, power and righteousness, see The Iroquois, by Dean R. Snow, (Cambridge, Ma, Blackwell Publishers, 1994) p. 60, or Basic Call to Consciousness, a publication of the Akwesasne Notes, Mohawk Nation, Rooseveltown, New York, 1978, p. 10, 11. These principles underlie the Ongwehònwe spiritual belief system transmitted through oral tradition. These beliefs are expressed in the annual ceremonial cycle of the Longhouse, as well as the "Thanksgiving Prayer," at the heart of spiritual observance and ritual. It begins, "E'tho niyohtonhak nonkwa'nikon:ra," or "So, let all of our minds come together as one… " Brian Maracle wrote an excellent short description of the origin myth and Thanksgiving Prayer in Our Story: Aboriginal Voices on Canada's Past, (Toronto: Doubleday, Canada 2004), p. 30.

[50] The clearest and most insightful discussion of the colonization of consciousness that develops as a result of colonialism and the internalization of the hierarchies of power and methodologies of social control of the colonizer is found in the introduction to Jean and Joan Comaroff's text, Of Revelation and Revolution: Christianity, Colonialism, and Consciousness in South Africa, (Chicago: University of Chicago Press, 1991).

and creativity to engage in the work involved in building a Six Nations community.[51] Vizenor underscores the vacuous nature of creeds or doctrines – whether cultural, religious or ideological, prohibiting continuing growth and change.

Reflecting the syncretism of Western and Native influences, the so-called traditional is often replete with contradictions, yet it often represents to Native nationalists, as well as Western anthropologists, a benchmark for authenticity and cultural conservatism.[52] Six Nations Reserve has been both a signal example of Native cultural tradition in the anthropological literature and served as an iconoclastic symbol for its long-standing challenge to Canadian law in regard to usurpation of Native sovereignty.[53] Yet, along the way, we too, have been ensnared in the webs of government bureaucrats, missionaries, social scientists and the Western legal system, absorbing some of their methodologies ourselves – we were drawn into the process, internalizing aspects of colonialism. Imagining and engaging in a Native-centered society is philosophically, economically and politically difficult, as a result. Without a great deal of work and struggle to understand this unfortunate legacy, find common ground and renew a shared sense of identity, Native self-government may continue to elude the community.

This does not imply that a pure, "authentic" traditional form of government can be found, contrary to the beliefs of the Mohawk Workers. Historically, as the Confederacy reinvigorated itself over hundreds of years, its continued existence was predicated upon its ability to adapt to new conditions – this has always been the Confederacy's great and

[51] See Vizenor's satirical use of the term indicates the emptiness of doctrinaire ideology for both Native and non-Native groups. One of the prime targets of his literary tricksters are Western anthropologists, but neither does he spare Native ideologues, such an Native nationalists, who create an orthodox and static interpretation of "tradition," in his text Bearheart: The Heirship Chronicles, Minneapolis: University of Minnesota, 1978. Vizenor notes that resistance to anthropological paradigms is one of the key tasks of Native scholars in order to deconstruct misperceptions concerning Native peoples regarding Native history. Telephone conversation with Dr. Vizenor, December 24, 2006.

[52] Comaroff, Jean and Joan, Of Revelation and Revolution: Christianity, Colonialism, and Consciousness in South Africa, (Chicago: University of Chicago Press, 1991), Introduction.

[53] See Annemarie Shimony's text, Conservatism Among the Iroquois at the Six Nations Reserve , (Syracuse: Syracuse University Press, 1994) and Edmund Wilson's, Apologies to the Iroquois, (Syracuse: Syracuse University Press, 1959), for example. The discussion of the way tribal populations are represented in the anthropological literature referred to in this dissertation is based upon Johannes Fabian's text, Time and the Other: How Anthropology Makes its Object, (New York: Columbia University Press, 1983).

enduring strength. The ancient Confederacy was not transfixed in time, but continued to adapt to the exigencies of the era. Problems were met head-on – whether they concerned warfare, religion, scarce resources or colonization, for the needs of the community remained fluid and dynamic.

The internal power struggle over dogma and doctrine, whether cultural, religious or political, became intense at Six Nations beginning in the late nineteenth-century. Six Nations was acutely aware of the importance of the assertion of Native rights and perspectives concerning land claims, sovereignty, and cultural rights. These issues were hard-fought and resonate through generations. Yet, the astute and canny people of the Six Nations community were somehow side-tracked, maneuvered and seduced into participating in a Federal-provincial political gambit where we could only lose power. Prior historical alliance and close ties to the Crown perhaps led Six Nations leaders, beginning with Joseph Brant, to have a false sense of security and confidence in regard to Six Nations cultural and political autonomy. Unwittingly, perhaps our leaders' hubris has led to political difficulties. As Six Nations leaders engaged in an internecine struggle, they ignored the age-old imperial tactic of divide and conquer, albeit as employed by the Dominion government. They did not question the validity of the old Covenant Chain, the agreement with the Crown that guided so many of our leaders.[54] Often, the strategy of last-resort for Six Nations leaders in the nineteenth-century was to appeal to the British to force Canadian officials to do the "right thing." Unfortunately, living in the twenty-first century, we have seen that our ancestors were not successful, however vigilant and persistent in petitioning other governments to uphold agreements and treaties.

We begin with the search for the factors that led to the fall of the Confederacy system in 1924 to understand the reasons for the tensions at Grand River among Native groups, as well as the ways the Canadian government reacted to the multiplicity of voices emerging from Six Nations in the late-nineteenth-century. When I began my research, I

[54] See Daniel Richter's nuanced definition of the diplomatic agreement in The Ordeal of the Longhouse: The People of the Iroquois League in the Era of European Colonization, (Chapel Hill: University of North Carolina, 1992), p.136-137. Richter argued that for the British it was merely a means to pacify Natives, but from the perspectiveof the Iroquois "…it was the beginning of long-lived dominance in the intercultural diplomacy of the Northeast."

was looking for a "smoking-gun," an individual or group who may have unwittingly led Canadian officials to exploit a local conflict and use it to the Dominion's advantage. Yet, as I read the documentary evidence, it became clear that there were no clear villains in this tale. Yes, the Delaware and Tuscaroras at Grand River were unhappy with their lack of representation in the Confederacy Council, but no one, at least at the outset, seemed aware that their protests would result in the end of Confederacy rule.

Instead, as the Dominion government proffered a series of incentives in the 1880s, presumably to encourage Indians to take part in Canadian society and to begin exercising self-government in concert with the majority society, officials consistently assured Six Nations that the government was not trying to break apart the Confederacy coalition. The policies of the Dominion were tendered under the rubric of progress, civilization and advancement and were a part of the Canadian initiatives open to bands thought to be ready for assimilation. An 1884 initiative was first described to Indian superintendents, agents and missionaries across the Dominion in a circular letter. Deemed later the Indian Advancement Act, it was to allow the "training" of the more advanced Native bands to "exercise municipal powers." The letter stressed that it was not the government's intention to force any band to submit to the provisions of the Act, but, rather at the discretion of the Indian agent, the policy was to be described to certain bands that were considered sufficiently civilized or intelligent to warrant its application. Its paternalistic, ostensibly progressive tone was unmistakable for its announced goal was to provide for the racial uplift of select Native groups so that they would earn or deserve a measure of "equality" with the "white portion of the population."[55]

This appealed to our own peoples' sense of elitism – we, after all, were allies who had helped the British in the Revolution and had been honored with a grant of land as payment for our service. It is this sense of elitism that has often been manipulated first by the British, then by the Canadian government. Six Nations as a community has not

[55] National Archives of Canada; Indian Affairs, RG 10, Volume 2283, File 56, 883, Pt. 1. Microfilm Reel C11194. Circular Letter to the Indian Superintendents and Agents in Ontario, Quebec, Nova Scotia, New Brunswick, Prince Edward Island, Manitoba and British Columbia, from the Indian Office, January 16, 1885.

been well served by either the British or Canadian officials, but many Six Nations people have also expressed keen disappointment with the lack of unity among our own nations in coming together to solve problems in a deliberative fashion – ironically, the hallmark of the Confederacy.

In regard to the Indian Advancement legislation, the Ontario agent was quick to respond, noting that he had spoken of the new policy in the Six Nations Council and remarking, the hall had been "full of Warriors and Women." Perhaps intent upon fostering a bit of rivalry and competition, as well as to direct attention to the merits of the policy, the Indian agent pointed out to the Six Nations Band that the new Act was to be applied shortly to their neighbors, the Mississaguas, so that they would be able to observe the policy in action.[56] Proof that members of the Six Nations Band desired to advance their education and knowledge was quite evident.[57] My own ancestor attended Oxford University to become a physician in the nineteenth-century and returned to start the Royal Order of Foresters.[58] There was clear evidence Native students could succeed. The Confederacy Council, the Native government on Six Nations Reserve in the late nineteenth-century was very supportive of Western education and was even willing to contribute a small stipend to support young men as they continued their education in Canadian schools. For example, it voted to give two hundred dollars to one young man, James Miller, to pursue a law degree.[59] It was expected that the Six Nations Band would

[56] National Archives of Canada, Indian Affairs, RG 10, Volume 2283, File 56, 883, Pt. 4. Microfilm Reel C11194. Letter to the Superintendent General of Indian Affairs, from J. T. Gilkinson, Vice Superintendent and Commissioner, February 1, 1885.

[57] Peter Martin had pursued a medical degree at Oxford University, courtesy of the British government. The Prince of Wales, while visiting the Reserve had been impressed by the young man's eloquence and had offered to help him attend a British university. He was mentored by Sir Henry Acland, the Prince's personal physician.

[58] Peter Martin, known as Oronhytekha, or Burning Cloud, my great, great uncle, posed for a portrait while attending Oxford that still hangs in Saint Edmund's Hall. Ironically, he is painted as a red Warrior, complete with feathers and tomahawk. I viewed his portrait when I attended a conference in Oxford.

[59] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 56,960. Microfilm Reel C11194. Letter to the Superintendent General of Indian Affairs from Agent I. Gilkison, Vice Superintendent and Commissioner, July 15, l885.

soon be ready to implement the new set of by-laws that would guide a transition to a municipal style of government.

The Six Nations Confederacy Council governed the Grand River Reserve in the late nineteenth-century, claiming its authority from the ancient Iroquois Confederacy. The Confederacy had ruled its own territory in what became New York State prior to the colonization of North America. After the policy of neutrality was formerly adopted by the Confederacy before the American Revolutionary War it had been shattered by several of the Confederacy chiefs who acted independently and concluded alliances with either the British or American forces. The Confederacy splintered with different nations taking either the British or American side in the conflict.[60] The Mohawks followed their chief, Joseph Brant, known as Thayendanegea, into battle at the side of the British. Brant had a long-standing relationship with the British Superintendent of Northern Affairs, Sir William Johnson. At the conclusion of the war, Brant and his followers found themselves on the losing side. Many of the Six Nations were exiled from their homeland and found their way to British Canada.[61] Mohawks were the most numerous, but all Six Nations were represented, along with Delaware, Creek, Cherokee, Tutelos, and Nanticokes.[62]

After this diaspora, the scattering of the Six Nations resulted in a number of new settlements. One of these newly forged communities was the Six Nations Reserve, not far from the town that bears Joseph Brant's name, where he forded the River Ouse, or Grand River in Ontario. It is a sleepy little backwater – a Canadian town whose claim to fame now is Wayne Gretsky, the hockey player, rather than Joseph Brant. One of the central points of this chapter is to set forth the historical context for the claims of this

[60] See Barbara Graymont's account of the Iroquois in the Revolutionary War for a discussion of the struggle of the Six Nations to avoid foreign entanglements.

[61] Not all Six Nations people settled at Grand River, although it is the largest reserve. John Deseronto, also a Mohawk leader, set up the settlement that bears his name, at the same time as Grand River. Obviously, many Iroquois people remained in the United States.

[62] Kelsay, Isabel, Joseph Brant, 1743-1807: Man of Two Worlds, Syracuse, Syracuse University Press, 1984, p. 370.

Native population at Six Nations to be considered as a separate people. Six Nations people claimed their lands and rights to self-rule through their historic alliance with the British and celebrated this claim as the basis of their national, Native identity, transcending the limits of colonial subject or multinational citizen.

Yet, the relations between the Band and the Dominion were not without difficulty, particularly with regard to legal title to the land and sovereignty from the outset. Where I began my research into the documents detailing Six Nations relations with Canada in the latter part of the nineteenth-century, the Confederacy Council was still very concerned about its title to the Grand River territory. Chief William Smith, a Mohawk chief of the Six Nations, wrote to the Governor General in 1885 on behalf of the Six Nations Indians concerning the "title-deed" to the Reserve and the legal relationship of the Band to the British Crown. Chief Smith noted that members of the Six Nations were concerned that recent changes in the "connection between" the Indians and the British Crown violated the prior agreements confirmed by both the British and the people of the Grand River territory. The Chief proposed to send a delegation to England to pursue the matters directly, by-passing Canadian authority.[63] The Department of Indian Affairs maintained that the title of the land occupied by the Six Nations had not been brought up as a matter for discussion. The officials of the Department presumed that reference to changes in existing treaties meant changes in clauses within the Indian Act concerning enfranchisement, a "hot-button" issue in dispute at the time. The Indian Act is the corpus of regulations that governs Native people in Canada to this time. Indian Advancement only pertained to particular sections of the laws and regulations of the Indian Act.

In his report to the Governor General of Canada, the Superintendent General of Indian Affairs noted that the Six Nations had always been opposed to enfranchisement of its people, but that he thought this was a detriment to individual progress, as well as to the society of the Reserve in general. Before the changes Chief Smith referred to in the Indian Act, it had been impossible for individuals to be enfranchised without consent of the Band, the term Canada uses as roughly equivalent to tribe. Changes in the law were

[63] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Draft of a letter to the Governor General of Canada, from the Superintendent General of Indian Affairs, January 23, 1885.

designed to partially remove that obstacle and the Confederacy Council was alert to its significance, for the law stated that those opposed to any individual's request must state their objections in each individual case. It was intimated in a report from Indian Affairs that the Indians request had more to do with taking a "jaunt" to England rather than embarking on a campaign to change the provisions of the Indian Act in question.[64]

The Confederacy Council by the latter nineteenth-century was generally distrustful of the Dominion's notions of progress, but the Secretary, Josiah Hill noted that a special Council meeting had been called specifically devoted to hearing the text of the Indian Advancement Act as proposed. After having heard it read both in English and Native languages spoken in Council, the Chiefs had sought to be exempted from the provisions pertaining to Indian Advancement.[65] The Council argued that the Six Nations Band, numbering about 5,000 living at Grand River, had already made great strides in civilization, education and Christianity under the tutelage of their own leaders and would prefer to continue in that way, until a majority felt otherwise. The letter also made reference to the "Haldimand Patent" that the Chiefs believed guaranteed Six Nations control of the Reserve in perpetuity.[66]

The reference to the Haldimand Patent, also referred to as the Haldimand Deed, served as a potent symbol of the link of the Six Nations Indians to the British Crown. In terms of Six Nations nationalism and mythic history the Haldimand Deed was evidence of independence and autonomy. It was viewed as emblematic of respect for the Six Nations Indians for their alliance and military service to the Crown. The Confederacy Council rebuffed any intimation on the part of the Canadian government that the Six Nations Indians were less than capable of handling their own affairs, in large part due to

[64] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Microfilm Reel C11194, Draft of letter to the Governor General of Canada from the Superintendent General of Indian Affairs, John Macdonald, Ottawa January 23, 1885.

[65] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Microfilm Reel C11194, Letter to the Department of Indian Affairs from Josiah Hill, Secretary of the Six Nations Council, May 5, 1890.

[66] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Letter to the Governor General from Josiah Hill, Secretary of the Six Nations Council, May 5, 1890. "Indian Chiefs in Conference," The Spectator, Hamilton, September 11, 1915.

their belief in the sanctity of the Haldimand Grant giving them independent control of their lands. The Superintendent at this early juncture took pains to inform the Council that the Six Nations would not have the Advancement Act forced upon them.

Yet, by September 1890, a formal protest concerning Canada's interference in Six Nations affairs had made its way to the Privy Council. Written in the style of a petition to the Governor General, but framed in an elegiac style, it reaffirmed the chiefs' commitment to the Covenant Chain, while mourning the absence of stalwart support from their erstwhile ally.[67] By referring to the Covenant Chain, the Chiefs pressed the Dominion to recall and respect the ancient treaties, under the mantle of the bonds that were forged between the Six Nations and England. The concept of the Covenant Chain was historically represented in colonial diplomatic affairs by successive exchanges of wampum belts at ceremonial gatherings to celebrate treaties between the Six Nations and the British colonial leaders. Governor Clinton was purportedly the initial recipient of the first wampum belt used to embody this idea of the Covenant between the Natives of the Six Nations and the British colonials.[68]

Using long-standing metaphors of diplomacy the Chiefs addressed the Governor General as "brother" and the Queen as "our mother" as they urged lines of communication be made clear "to renew, brighten and strengthen the ancient covenant."[69] The 1890 petition emphasized the honor and reciprocity implicit in the

[67] Daniel Richter depicts the Covenant Chain as emerging from several agreements that were forged on an ad hoc basis by the British colonial officials, such as Governor Edmund Andros of New York, as a way to structure and ease Native and Anglo-American relations throughout several colonies. The alliances were also negotiated from the British colonial perspective, as titular acknowledgement of their "preeminence" in the region. Yet these agreements also elevated the preeminence of the Five Nations of the Iroquois League, for they created a dominant role for the Confederacy Chiefs as diplomatic power brokers in the Northeast between the British and other Native nations. As the Iroquois nations, joined by the Tuscaroras as the sixth member of the League, embraced this new role they gained enormous prestige, security and power from the Covenant Chain. See Richter's text, The Ordeal of the Longhouse, (Chapel Hill: University of North Carolina Press, 1992), p.135-137.

[68] National Archives of Canada, Indian Affairs, RG 10, Volume 22284, File 571, 169-1, "Memorial" written to Lord Knutsford, Secretary of State for the Colonies, London.

[69] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Petition to the Privy Council of Canada from Isaac Hill, Onondaga Chief, Jacob Silversmith, Cayuga Chief, George Key,

ancient relationship and the unique role the Five Nations held in colonial America. The chiefs complained that laws were being forced upon them by the Dominion that violated an ancient treaty created in 1754. The Indians inquired poignantly if "the sun and moon has gone out of your sight," alluding to the metaphoric immutability of the agreement. They noted archly, that from their own perspective of the firmament, they still "see the sun and moon as when our forefathers and your forefathers made the agreement."[70]

The Chiefs argued the ancient agreements specified that each culture was to live by their own laws without interference. They referred to particular wampum belts as iconic representations of the history of the League, enshrined in oral tradition and emblematic of the spirit of reciprocity as the basis of diplomacy between the Five Nations and the English. For example, the Chiefs maintained that the agreement governing British and "Hode noe shuen nee" (People of the Longhouse) relations as separate entities was memorialized in the "two-row wampum." Fashioned as two parallel rows of white beads against a purple background, in the view of the Confederacy, the belt symbolizes each culture's control over their own society and government. The Canadian government rejects this artifact as a treaty or formal agreement.

Canadian officials in the Department of Indian Affairs did not understand the references contained in the petition, for they initiated a search of their records for these "so-called wampum treaties."[71] The officials were much more concerned with demographic information to gauge the depth of political support for the petition. Three

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Seneca Chief, Jacob Hill and Gibson Crawford, Warriors of the Five Nations Indians of the Grand River, September 4, 1890.

[70] Through detailed analysis of the evolution of the Iroquoian language used to evoke the spirit and substance of the alliance between the British and the Six Nations, see Daniel Richter's text, The Ordeal of the Longhouse: The Peoples of the Iroquois League in the Era of European Colonization. Richter argues that the original terms of the alliance were marked linguistically by differing degrees of metaphorical strength to reflect the relative closeness of the agreement. From the Iroquoian perspective the alliance increased in strength as it was "symbolized...by a rope, an iron chain, and a silver or golden chain." See Daniel Richter, The Ordeal of the Longhouse: The Peoples of the Iroquois League in the Era of European Colonization, (Chapel Hill: University of North Carolina Press, 1992), p. 278.

[71] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Petition to the Governor General of Canada from the Six Nations Indians, Chiefs and Warriors, September 4. 1890.

chiefs from each of three separate tribes, Onondaga, Cayuga and Seneca, as well as a total of forty-four Warriors, "signed" the document; most simply made their mark. The Department estimated three to four thousand Indians lived on the Grand River Reserve at the time.

When the officials investigated the legal relationship of the Six Nations to the Dominion, the Department found a signal decision rendered by Chief Justice Macaulay contained in a letter to Sir George Arthur in 1838. According the Macaulay's reasoning, Indian tribes were to be considered "naturalized or natural born subjects," who would be at a loss to claim any "tenable ground" for a "distinctive character." Macaulay declared: "The Six Nations have I believe asserted the Highest pretensions to separate nationality but in the courts of justice they have been always held amenable to, and entitled to the protection of the laws of the land [sic]." Macaulay noted that in the Canadian courts, Indians were parties to both criminal and civil proceedings, with regard to disputes with one another or non-Indians. Therefore, he reasoned the same principles applied as far as political rights were concerned. Indians could neither be denied the right to vote, nor the right to hold municipal office, if they met the property requirements necessary.[72] Yet, Macaulay's reasoning was not based on Native equality before the law for he perceived that Indians were not thoroughly assimilated in Canadian society. Until integration occurred Macaulay stated, the "law officers of the Crown" had an important role to play. Noting Natives ostensibly diminished capacity Macaulay warned that: "…until fully competent to incur the responsibilities of social life, it is reasonable and right that they should in analogy to infants, or other persons deemed incompetent in law, be protected against indiscretion and improvidence."[73] .

[72] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1, Extract of a Report to Sir George Arthur from Justice Macaulay, 1839. See also legal extracts submitted in support of Six Nations Status Case, by A. G. Chisholm, Barrister, London, Ontario to James Lougheed, Department of Justice, July 23, 1920, RG 10, Volume 2285, File 57, 169-1A, Pt. 2.

[73] National Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. Extract from Chief Justice Macauley's letter to Sir George Arthur, August 22, 1838.

Macaulay's perspective was extremely influential for it provided the framework for the report issued and approved by the Privy Council and the Governor General of Canada in 1890.[74] It was unequivocal: there was no special relationship of the Six Nations Indians with either the Canadian government or the British. The Six Nations Indians were most certainly subjects with no claim to exemption from the laws of the land despite their avowed loyalty.[75] It was not the first ruling that denied historical fact in the interest of postcolonial subordination of Native groups, especially of those Natives who sought to broaden the interpretation of treaties to retain their way of life, language and faith against the onslaught of assimilation.

It was not only the Six Nations on the Grand River Reserve who were concerned with the Canadians' lack of historical memory and increasing encroachment in Native affairs, threatening by "ill designs" to abolish Indians as a national entity, by virtue of the British North American Act. A Mohawk Chief from a neighboring reserve, Tyendinaga, who was a direct descendant of Joseph Brant and was his namesake, gently reminded both the British and Dominion governments about the meaning and significance of the silver covenant chain from the days of colonial diplomacy:

> Brother Chief, concerning our first acquaintance we shook hands and finding we should be useful to one another, entered into a perpetual Covenant of brotherly love and mutual friendship, and though we were at first only tied together by a rope, yet this rope might grow rotten and break, we tied ourselves together by an iron chain; lest time an accident might rust and destroy this chain of iron, we afterwards made one of silver, the strength and brightness of which would reject all decay; the ends of this silver chain we fixed to the immovable mountains and in so firm a manner that the hands of no mortal enemy might be able to remove it; and therefore that we would take great care to keep it from breaking or from getting any rust or filth upon it, that we would be as one flesh and blood so that if any enemy should intend to hurt or strike one party the

[74] Rogin, Michael, Fathers and Children, (New York: Vintage Books, 1975). Michael Rogin in his analysis of Andrew Jackson's relations with indigenous inhabitants, explores the process of infantilization in which adult Native populations were viewed as children, incapable of making their own decisions. It is helpful in examining the Canadian judge's decision.

[75] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1, Certified Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council, November 13, 1890.

> other should immediately give him notice and rise up and help him; and a good road should always be kept open between our habitations.

Using the historic metaphors, Joseph Brant had explained the notion of the nation-to-nation alliance forged by the people of the Five Nations with the British and the significance of the "silver chain," or covenant chain as a symbol of mutual respect, strategic interest and brotherhood." The relationship was clearly perceived by the Mohawk chiefs as one between equals, who might be of use to one another, rather than as a hierarchical relationship in which the Indians were regarded as a lesser, weaker or unworthy partner. [76]

These sentiments were also reflected in the words of Sir William Johnson, the British Superintendant of Northern Affairs and patron of Chief Joseph Brant, in 1755: "United amongst brethren is the best and surest defence [sic] against every enemy, brothers join together with love and confidence and like a great bundle of sticks which cannot be broke whilst they are bound together, but when separated from each other a child may break them." Chief Brant, speaking for the Tyendinaga Reserve, wryly commented, "it appears to us that the child has grown up and separated the bundle of sticks," violating the agreements.[77]

The letter from the Tyendinaga Mohawks sought copies of treaties and the patents accompanying the treaties from the Department of Indian Affairs. Chief Brant also requested the so-called "Haldimand Deed," the document Six Nations equated with their autonomy and legal title to their lands. After an "exhaustive search" for the documents requested by the Mohawks, the Indian agent for Tyendinaga, Matthew Hill, was instructed by the Superintendent General of Indian Affairs to inform them that nothing

[76] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57169-1, Letter to the Duke of Connaught from Mohawk Chiefs of the Six Nations at Tyendinaga, signed by Joseph Brant, De-ka-ri ho-ken, Tortoise Totem, April 20, 1891.

[77] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1,
Letter to the Duke of Connaught by Chiefs of Six Nations, Mohawk Indians, Signed by Joseph J. Brant, De-ka-ri.ho-ken, April 20, 1891.

was found by the Imperial Colonial office, except the Proclamation of 1763.[78] Considering the immense archives of the Canadian and British governments on Indian affairs, this was hardly likely. The detailed oral history of agreements between the Mohawks and the British government still remained alive in Native society, even if the Canadian government disavowed any trace of the documents.

Unfortunately, the respectful reply submitted to Chief Brant was not replicated in the chain of correspondence that followed involving Chief Isaac Hill, from Six Nations. Chief Hill engaged in a rancorous ideological and bureaucratic battle with the Inspector of the Indian Agencies and Reservations, named Dineman, over legal autonomy. The inspector's correspondence is laced with the language of colonial power: He refers to Chief Hill as a pagan, who has little support at Grand River. Dineman equates Chief Jacob Silversmith, John Hot and John Smoke as "pagan" warriors and sympathizers. The inspector was astonished that Six Nations Indians viewed themselves as allies, rather than subjects of the Queen, and further, that the Indians asserted that they could not be compelled to obey any laws passed by Canadian authority, just ancient Iroquois custom. Chief Isaac also sought an accounting of Six Nations money spent by the government to improve infrastructure at Grand River. These same issues were at the core of the struggle over Six Nations identity, sovereignty and autonomy for much of the twentieth-century. The Indian Affairs Department brushed aside these concerns, citing the 1890 Order-in-Council. This Order-in-Council ostensibly settled a range of issues such as the debates over Canadian-Six Nations relations, the deterrent effect of law on the Reserve and the need to finance improvements to the Reserve with Six Nations funds. Chief Isaac and his "pagan supporters were easily dismissed and marginalized," by the Department for their officials concluded "he had very little influence in the Band."[79]

[78] National Archives of Canada, Indian Affairs, RG 10, Volume 2284. File 57, 169-1, Draft of a letter to Chief Joseph Brant from Matthew Hill, Indian Agent, September 1, 1891. Brant asked for the following documents from the Indian department in Ottawa, ostensibly dated as follows: Patents of April 14, May 1 and July 30, 1684; Treaty March 25, as well as Patent April 13, 1761; Treaty May 29, as well as Patent June 19, 1762; Treaty September 9, as well as Patent, September 23, 1763.

[79] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1, Report of the Clerk of the Privy Council, John J. McGee, regarding correspondence from Isaac Hill.

The Chiefs consistently played the British officials off against the Dominion, so another letter was written directly to the Secretary of State for the Colonies, Lord Knutsford, who was familiar with the issues raised by the Six Nations leaders. Knutsford noted that Brant's major questions had not been answered, singling out three issues that were to be addressed by Canadian government. The first concern was the British North America Act that placed Indians under Canadian law, "whether they are satisfied or not." Secondly, the Secretary of State grasped that the "Indians are required to conform to the Indian Act which affects their nationality." Finally, he astutely noted that by giving select Indians the opportunity to vote for Members of Parliament under the policy of Indian advancement, the Canadian government had sown discord and division among the people of Six Nations, as political parties were created on the reserves in response to the exercise of the franchise. Indeed, this was the key to the havoc that resulted in the eventual loss of the Confederacy Council. The Secretary of State wanted all of these points summarily answered by the Canadian government in a formal letter to the Chiefs.[80] The appeal to Lord Knutsford for protection from the Canadian government's compulsory laws, limiting Six Nations' freedom and form of government, was to begin a pattern of diplomacy in which the British were solicited as a protector for the Six Nations from Canada in the long struggle that lay ahead. Six Nations people argued that our ancestors had "shed a brook of their blood" for the English; now they wanted to "renew and brighten the Covenant Chain," but under British assurance that their treaty rights, national identity and ceremonies were to remain untouched by Canada.[81]

Predictably, the Superintendent of Indian Affairs dutifully reported to the Privy Council that the Six Nations' inquiry was simply a way to use their old claim of alliance with the Crown to oppose lawful measures passed by Parliament. It was recommended that the Privy Council simply ignore the inquiry from Six Nations, for it was argued that

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[80] National Archives of Canada, Indian Affairs, RG l0, Volume 2284, File 57, 169-1. Letter from Lord Knutsford, Secretary of State for the Colonies, London, to Lord Stanley Preston, Governor General, Ottawa, May 11, 1892.

[81] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Letter from Lord Knutsford, Secretary of State for the Colonies, London to Lord Stanley Preston, Governor-General, Ottawa, May 11, 1892.

since the Indians were not forced to vote according to the Electoral Enfranchisement Act, Natives were not impacted by this legislation. Iroquoian tribal politics had undergone a sea change, however, for the delicate internal diplomacy of the Native polity noted for consensus building, had been eroded by the Euro-American political culture of majority rule. The chiefs reported in 1896 that Indians were increasingly polarized by the voting process, harboring ill feeling and political grudges for one another – just as had been foreseen by Knutsford. Consensus building was the ideological and spiritual hallmark of the ancient Confederacy after the Great Peace marked the end of internal warfare.[82] Clearly, internal deliberations over the council fire were threatened by the Canadian government's policy encouraging Native enfranchisement and advancement. Six Nations chiefs and warriors charged that "inferior officers," within the Department of Indian Affairs, were not acting in the "spirit of their treaties," resulting in serious discord between the Six Nations and Her Majesty's government, as well as with Canada.[83]

As the chiefs at Six Nations struggled to adapt their Council in the nineteenth-century and prepare their community for the rapid changes brought by modern life, they did not always speak with one voice.[84] In 1892 for example, Chief Joseph Montour inquired about the possibility of an elected council. Montour argued that the existing Council of Chiefs was "incompetent" and as a result the Six Nations community was

[82] For an account of the founding of the League, see Daniel Richter's text, The Ordeal of the Longhouse: The Peoples of the Iroquois League in the Era of European Civilization, (Chapel Hill: University of North Carolina Press, 1992), p.31-32.

[83] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1, Letter to John Campbell Hamilton Gordon, Governor General of Canada, Ottawa from Chiefs and Warriors of the Six Nations, Johnson Williams, Jacob Silversmith, William Sandy, George Martin, and John Buck, who all made their marks, Witnessed by Seth Newhouse, November 2, 1896.

[84] Annemarie Shimony, Conservatism Among the Iroquois at the Six Nations Reserve, (Syracuse: Syracuse University Press, 1994), p. xxxii-xxxiv. See also John Noon's text, Law and Government of the Grand River Iroquois, (New York: Viking Fund Publications in Anthropology) for his history of the Confederacy Council and meticulous account of the manner of deliberations of the Confederacy Council at Six Nations, after it was reestablished at Six Nations Reserve. Although modeled on the ancient Confederacy with representation of all Six Nations, by the nineteenth-century it was a mix of Christians and Longhouse followers. For an overview of Iroquoian communities adaptation see Dean Snow's text, The Iroquois, (Cambridge: Blackwell Publishers, Inc., 1994). This text provides a brief narrative of the formation and adaptations of the League for Iroquoian communities in the United States and Canada, including the contemporary state of the League and Longhouse.

"backward." The Deputy Superintendent of Indian Affairs, Hayter Reed responded that he always thought the chiefs themselves were opposed to the change and had sought to keep the ancient Confederacy. Reed was careful to mention that Canadian officials had no desire to force such a change, but by early 1894, Reed welcomed a possible switch to an elected system, to bring Six Nations in line with the Dominion.[85] Other communities such as Tyendinaga, a Mohawk community founded at the same time as Six Nations, had changed to a government of an elected band council in 1870, but still had a hereditary council until the 1930s.[86]

Meetings were held on the Reserve to debate the issue. "Indian Magazine" reported that those Six Nations' people in favor of elections and majority rule argued, "if the Indians are qualified to have a vote in the election of members to the Dominion Parliament, as the government have declared them to be," they should have a direct voice in their own council. The hereditary rule of the chiefs was criticized, according to the article, as belonging to a time when the conditions for Natives were quite different, when qualifications, fitness for office and fiscal accountability were not closely monitored. Further, it was argued by those in support of an elected system that it was the right of all free peoples to have a voice in their affairs. Conversely, supporters of the Confederacy Council of hereditary chiefs submitted, even if they conceded it was necessary to streamline and modernize the Council, it could be done in the future. Some critics of the hereditary system maintained the Indian Department acted as a safeguard against an abuse of power by the Council, for the Dominion oversaw the day-to-day operation of Council [87]

[85] National Archives of Canada, Indian Affairs, RG 10, Volume 1753, File 148,581. An extract from a memorandum, dated March 10, 1892, detailing a visit to the Six Nations Reserve by the Deputy Superintendent General of Indian Affairs, Hayter Reed and followed up by a letter to Indian Superintendent E. D. Cameron, Brantford, Ontario, also from Reed, April 4, 1894.

[86] Dean Snow, The Iroquois, (Cambridge, Blackwell Publishers, Inc., 1994), p. 213.

[87] National Archives of Canada, Indian Affairs, RG 10, Volume 2753, File 148,581. Clipping from the June 1894 issue of "Indian Magazine."

In June of 1894, the Department received a petition signed by 212 members of the Six Nations community seeking an elective Council.[88] This was a serious blow to Confederacy rule at Six Nations for it represented a generational conflict.[89] The petitioners asserted that the hereditary chiefs were unable to lead the Six Nations into the modern era. Four main charges were cited in seeking a change in government: namely, that the chiefs were uneducated and incompetent to lead their people to civilization; the talents and energy of young men was not encouraged due to the hereditary nature of office; also, when the selection of leaders was not based on merit or fitness for office, the masses had no voice or control over expenditures; and finally, that there were too many chiefs to efficiently govern a small community, so money could be saved by reducing the size of the Council. The petitioners specifically requested that the seventy-fifth section of the Indian Act, the body of laws used to govern the indigenous people in Canada, be applied to the Six Nations of the Grand River Reserve. Notably, Chief Joseph Montour was the first signatory to the document.[90]

After receiving the petition Deputy Superintendent General Hayter Reed acquainted his superior, T. Mayne Daly, with the roots of the controversy at Six Nations and elucidated his own support for an elected council. Reed explained that there were forty-two Confederacy Council members each of whom was chosen for office by matrilineal clans and served for life. Under the terms of the Indian Act an elected council

[88] This was not the first petition to seek an elected government, for in 1861 a group of well-educated Mohawks petitioned for an elected government, but at the time there was no legislation to provide for a change of the hereditary system, according to Sally Weaver in "Six Nations of the Grand River, Ontario" in Northeast, ed. by Bruce Trigger, volume 15, Handbook of North American Indians, (Washington, DC: Smithsonian, 1978).

[89] Sally Weaver documented a similar movement in 1890, in a manuscript entitled, "Iroquois Politics: Grand River, 1847-1975," as a working paper in her files. See also, her notation in Six Nations of the Grand River, Ontario, in Northeast, edited by Bruce Trigger, v. 15, Handbook of North American Indians, (Washington, DC: Smithsonian, 1978).

[90] National Archives of Canada, Indian Affairs, RG 10, Volume 2753, File 148,581. Letter and petition to T. Mayne. Daly, Superintendent General of Indian Affairs, Ottawa, Undated. individuals' signatures were accompanied by notations to the effect that an individual had made "his mark," so it was clear that not all signatories were literate.

would be limited to eighteen members, so it was likely that the annual expenditure, funded by the Six Nations people themselves, might be reduced somewhat from eight-hundred dollars per annum. Grand River was a poor community and this amount was not insignificant. Reed argued that the majority of the Band would support an elective system. He also reiterated his belief that an elective system would bring Six Nations into the "spirit of the times." He informed Daly that the Governor-in-Council had the power to introduce the system without consent of the Band. In a hand-written notation on the letter, Daly noted the import of the decision and remarked that it was a "step in the right direction."[91]

Reed also sought the opinion of the local agent in regard to the "feeling of the majority of the Indians" at Grand River concerning the changes being proposed. Specifically, Reed sought to know whether it would be better to consult the people at Six Nations regarding the shift to an elected council and to bring the question to a vote, or to use the power of the Indian Act to put in place an elective system without their consent.[92] Daly stressed that the Department should move slowly, considering the proposal carefully before making a final decision.[93] The petitioners also had communicated their fears to the local agent, Cameron, worrying that any change should be deliberate, urging Reed "not to come to any decision for the present.[94]

The process initially appeared to move forward for Reed sought to ascertain how

[91] National Archives of Canada, Indian Affairs, RG 10, Volume 2753, File 148,581. Letter from Hayter Reed, Deputy Superintendent General of Indian Affairs, (DSGIA) to T. Mayne Daly, Superintendent General of Indian Affairs, (SGIA) June 8, 1894.

[92] National Archives of Canada, Indian Affairs, RG 10, Volume 2753, File 148,581. Draft of letter to E. D. Cameron, Indian Superintendent, Brantford, Ontario from Hayter Reed, Deputy Superintendent General of Indian Affairs, Ottawa, June 15, 1894.

[93] National Archives of Canada, Indian Affairs, RG 10, Volume 2753, File 148,581.
Letter to Robert Henry, Brantford, Ontario, from T. Mayne Daly, Superintendent General of Indian Affairs, Ottawa, June 15, 1894.

[94] National Archives of Canada, Indian Affairs, RG 10, Volume 2753, File 148,581. Letter to Hayter Reed, Deputy Superintendent General of Indian Affairs, from E. D. Cameron, Indian Superintendent, Brantford, Ontario, September 11, 1894. The document was marked informally with the handwritten notation, "How many men are there in the band?"

many men and boys, aged sixteen and over, might be eligible to vote at Grand River. According to the census, approximately one thousand men, over twenty-one years of age, were considered eligible to vote. Then the Confederacy Chiefs began to fight back and blamed the agitation for an elected council on "half-breeds," who were unduly influenced by local white citizens.[95] The political winds shifted soon after, leaving the effort to create an elected system at Six Nations, stalled. By February of 1895, Superintendent General Daly claimed, "…those who presented the petition were not desirous of having a decision in the matter until the Deputy Superintendent General of Indian Affairs could again visit the reserve and hear the question fully discussed."[96]

The Confederacy Chiefs attempted to rebuff this serious assault on their power by writing directly to the Governor General of Canada, John Gordon. Six Nations' chiefs claimed the mantle of authority touting them as the "possessors of Pure Iroquois Confederate Indian Spirit, the raminant [sic] faithful true loyal to the cause," based on Grand River's custody of the "General Council Fire of the Great Peace." Citing an alliance created in 1750 between Sir William Johnson, the Northern Superintendent of Indian Affairs, and the Iroquois, Six Nations chiefs stated they had carried on a nation-to-nation, diplomatic discourse with the British government. In the old, familiar metaphors of the Covenant Chain, the Confederacy Council sought the continuation of this historic relationship. Noting that the Euro-Native alliance was purported to last forever, the chiefs maintained, the "chain of silver…can never rust, but becomes brighter with each use."

Their criticism encompassed Six Nations Indians on the reserve who had voted in the Canadian elections by choice, becoming "independent British Canadian subjects…as

[95] National Archives of Canada, Indian Affairs, RG 10, Volume 2753, File 148,581. Letter to the Deputy Secretary General of Indian Affairs, Hayter Reed, from E. D. Cameron, Superintendent of Indian Affairs, Brantford, Ontario, September 21, 1894.

[96] National Archives of Canada, Indian Affairs, RG 10, Volume 2753, File 148,581. Letter to Peter Hill, Warrior from the Six Nations, from the Superintendent of Indian Affairs, T. Mayne Daly, Ottawa, February 22, 1895.

if they were white men."[97] Having given their allegiance to a foreign government, the Chiefs were resolved to "expel our Indian Voters" from the Grand River territory.[98] The issue of voting was anathema to the Confederacy system for the Chiefs operated through deliberative consensus. Voting was viewed as a rejection of Six Nations culture, even more telling than conversion to Christianity. There were many Christians at Grand River from its founding and Chiefs-in-Council who were Christian. Historically, the Confederacy stressed the harmony ethic, but as Richter noted, the deliberations were complex and tended to defuse political tensions through ceremonial consultation within and between each nation, so each group's perspective was ascertained and addressed. Each nation's chiefs were consulted in a deliberate fashion with the three "elder brothers" in the League, the Onondagas, Senecas and Mohawks having great power in the discussion and debate, but also responsible for consulting in turn, with the Oneidas, Cayugas and Tuscaroras. "In the many headed political culture from which such leaders came, localism, factionalism, voluntarism and individualistic patterns of leadership operated paradoxically within a system that stressed consensus, but of a distinctly non-Western form."[99] In the Confederacy system the majority does not rule, rather all voices are heard in an effort to achieve harmony.

John Gordon's response to these political problems confronting the chiefs was succinct and dismissive. After reviewing the 1890 decision of the Privy Council, the Governor General did not sustain the claim to a "special exemption" for Six Nations Indians from the "laws of the land." In the high dudgeon of bureaucratic parlance it was reported in the Privy Council's Committee that these matters had been "fully dealt with

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[97] This was brought up because in 1885 Indians were given the right to vote in Federal elections by the Conservative Party. Strongly denounced by the Confederacy Council, the measure was quickly withdrawn by the Liberals. See Sally Weaver, "Six Nations of the Grand River, Ontario" in Northeast, ed. by Bruce Trigger, volume 15, Handbook of North American Indians, (Washington, DC: Smithsonian, 1978).

[98] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Memorial from Chiefs Johnson Williams, Onondaga and Jacob Silversmith, Cayuga, as well as Warriors William Sandy, Cayuga, George Martin, Mohawk, and John Buck, Onondaga, to the Right Honorable John Gordon, Earl of Aberdeen, Governor General of Canada, November 2, 1896.

[99] Richter, Daniel, The Ordeal of the Longhouse: The People of the Iroquois League in the Era of European Colonization, (Chapel Hill: University of North Carolina Press, 1992), p. 6.

and disposed of," in accordance with Canadian law. Yet, even the bureaucrats at Indian Affairs had misgivings about the extension of the franchise to the Band. The Acting Minister noted that the Chiefs' claims "were not without good ground." Further, he recommended that the Six Nations Band ought to be reassured that their "legal status and privileges as a distinct community" were taken seriously by both the "Canadian and the Home" governments. Although he viewed the Privy Council decision of 1890 as binding, he suggested that the extension of the Elective Franchise Act to Six Nations Indians be taken up at a later date and only occur then if it was deemed to be in the interest of the Six Nations members, themselves.[100] However, the Superintendent General for Indian Affairs scrawled across the report, "Let stand, respond formally." The Canadian government made a decision to follow legal, rather than historical precedent. From the Native perspective, this violated the spirit of diplomatic accords that were established as part of the Covenant Chain. The Chiefs were no longer treated with the respect and dignity of national leaders, but were being subordinated within a colonial framework and forced to deal with bureaucracy, rather than on the level of "nation-to-nation. A clerk of the Privy Council, who judged the matter closed, formalized the determination. No other answer appeared possible, given the limits of Canadian law and vision.[101]

Activists within the Six Nations community were not satisfied with this curt dismissal and began to write to the Canadian government, seeking copies of documents that they believed would prove their case for independence and control of their own affairs. In some ways this took on the significance of a quest, for these documents had been rumored to exist since the mid-1700s, during the tenure of Sir William Johnson, Northern Superintendent of Indian Affairs under the British, and a wealth of mythology had grown up around them. The assumption was made that if the Six Nations had created wampum belts recording important agreements with European colonizers, why would there not be a formal, written record of these transactions in the possession of the colonial office or the Dominion?

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[100] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1, Copy of Letter from Acting Assistant Secretary of Indian Affairs to the Governor General, Ottawa, December 9, 1896.

[101] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Letter from the Clerk of the Privy Council to the Governor General, February 9, 1897.

Concurrently, those individuals who sought assimilation and an elective system of government at Grand River were also unwilling to abandon their political agenda to remove the Confederacy Council. A petition seeking an elective council was identified as early as 1861, but with no action taken by the government.[102] Three members of the Six Nations community, P. M. Jamieson, A. E. Hill and G. D. Styres wrote to Indian Affairs, asking that a decision be made to switch to an elective system. The local Superintendent, E. D. Cameron, told the Indian Office that only a third of the people on the Reserve supported the change and that if a switch was made "considerable trouble would result," for it would strengthen the hand of the "pagan," uneducated stratum. In fact over 400 band members petitioned the Governor General to maintain the old system in 1899. Furthermore, their memorial argued that the impetus for change stemmed from people of 'mixed blood," formerly adopted into the band and instigated by the white community, surrounding the Reserve. Superintendent Cameron wondered why the Reserve couldn't have a "dual system" of government, creating one council elected as a representative body, while the other reflected the hereditary chiefs and clan system. Cameron mused that the Dominion would have final approval on measures enacted by either body anyway, so it might make sense for the Indians to be slowly brought to see the benefit of a representative system on its merits, without having it foisted upon them, all at once.[103] Logically, this might have defused much of the animosity toward the Dominion that ensued, following the imposition of an elected council in 1924.

Meanwhile, the Confederacy Chiefs sought to shore up the evidence of their authority to govern, by enlisting the director of the New York State Education Department, John Clarke, to request an archival search for three specific agreements. They sought a record of the "pledge" given by George III, presumably created during Sir William Johnson's tenure, granting Six Nations' people their independence, their land

[102] Beaver, George, View from an Indian Reserve: Historical Perspective and a Personal View from an Indian Reserve, Brant Historical Society, 1993), p. 26. Also see Sally Weaver, in "Six Nations of the Grand River, Ontario" in Northeast, ed. by Bruce Trigger, volume 15, Handbook of North American Indians, (Washington, DC: Smithsonian, 1978).

[103] National Archives of Canada, Department of Indian Affairs, RG 10, Volume 2753, File 148,581. Letter to the Secretary of Indian Affairs, Ottawa, from Superintendent E. D. Cameron, Brantford, April 19, 1899.

and annual gifts. Secondly, they sought to find a similar pledge by Sir Guy Carleton, who was a contemporary of Chief Joseph Brant. They also requested the "Allies Treaty," presumably the entire body of accords that constituted the Covenant Chain, identified by its own distinct terminology among Six Nations people and transmitted through oral history.[104] Six Nations Chiefs used the wampum belts to signify a complex diplomatic relationship that was encoded with traditional signifiers.[105] Six Nations Chiefs knew that in Chief Joseph Brant's time, Sir Frederick Haldimand had issued a document that they believed backed up their independence from Canadian rule and legitimated their claim to the tract along the Grand River. This document was variously referred to as the Haldimand Pledge, Treaty or Deed. This was the last item John Clarke requested and one of the key items that contributed to the sense of shared origin and independence at Grand River. It not only nurtured a healthy sense of Native identity among Six Nations people, but also a shared spirit of nationalism.[106]

After a search of the Colonial Records Office, the Governor General's Secretary furnished the New York scientist with a copy of the Proclamation of July 11, 1763, signed by George III and issued through Sir William Johnson, who had died just before the American Revolution. This document is what he presumed Mr. Clarke was looking for on behalf of the Six Nations Indians, but as he noted carefully, it did not assure the people of the Six Nations independence. He had found a copy of the document signed by Frederick Haldimand on April 7, 1779, ratifying verbal agreements made to Six Nations Indians by Sir Guy Carleton. This served as recognition of the land grants at Grand River

[104] See a cogent explanation of how this agreement worked historically by Francis Jennings, in "Iroquois Alliances in American History," in The History and Culture of Iroquois Diplomacy, (Syracuse: Syracuse University Press, 1985) p. 37-65.

[105] For an explication of the significance of the wampum belts, their importance to Six Nations diplomacy and culture, see Michael Foster's narrative, "Another Look at the Function of Wampum in Iroquois-White Councils," in The History and Culture of Iroquois Diplomacy, (Syracuse: Syracuse University Press, 1985) p. 99-114. This article recounts the way Chief Jake Thomas was able to explain and use the wampum belts to figuratively "polish the Covenant Chain," as done in treaty negotiations centuries ago. The Confederacy Chiefs have continued to study and use wampum strings and belts as a symbol of authority and as an ideological guide for diplomacy.

[106] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1, Letter from John M. Clarke, Director of the New York State Education Department, Science Division, Albany, New York to the Secretary of State for the Colonies, London, England, February 4. 1909.

and the Bay of Quinte, and 15,000 pounds sterling, paid to indemnify Six Nations losses in the Revolution. However, the Colonial Office had found no records that guaranteed the independence of Six Nations people at Grand River.[107]

In addition during the 1890s, Sir John Thompson issued a report to the Governor General in Council regarding the history of Iroquois diplomatic relations with the British, as well as the Dominion. Reviewing material from the late 1600s, he presented the position of the Iroquois in the colonial era as clearly subordinate to the British, even though the Confederacy was deeply involved in complex negotiations with both the French and the English over the fur trade, as well as their territorial sovereignty and cultural autonomy. As the Canadian officials interpreted the British perspective in the colonial records, members of the Confederacy were regarded as subjects, rather than allies of the King. Sovereignty and hegemony over the Six Nations Indians was considered a given, moreover, any challenge to that position was held to be the height of "unparalleled effronterie."[108]

Six Nations Chiefs would challenge this claim in Canadian courts in the form of petitions, but it was extremely difficult to mount a legal assault, for Natives had no recourse to legal representation in the nineteenth-century. In the first case regarding the Six Nations' status in the Dominion courts in 1839, Justice Macaulay ruled that Six Nations had no exemption from the laws of the land. This early nineteenth-century decision established a legal precedent and was widely cited by Canadian authorities late in the nineteenth-century. In his argument Macaulay used racist language, anecdotal evidence and stereotypical examples, yet his decision became a legal benchmark regarding Six Nations. Macaulay reflected that Indians had been tried for murder in Ontario courts and that he, himself, had punished an Indian for "stealing one or two blankets from a squaw on the Grand River Tract." Macaulay refused to consider the

[107] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1, Letter to John Clarke from the Secretary to the Governor General in Canada, Ottawa, March 23, 1909.

[108] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Report to Department of Indian Affairs, Ottawa, Undated, Signed by J. Stewart.

plaintiff's appeal that the case should be tried according to Native "usages and custom," even though both parties were indigenous. Macaulay maintained that there was no "legal authority by which protection of the criminal law could be refused to the Indians inhabiting the county of Haldimand, whenever any of them sought it." He wrote that while "a sound discretion should be exercised by the local magistrate," if there was a case of an "aggravated character" and a crime was thought to have been committed by Indians, it must be dealt with in the Canadian courts. Macaulay thus extended the authority of the Dominion over Six Nations people by fiat, without any legal precedent.[109]

Macaulay's ruling was quoted extensively in other legal cases dealing with Six Nations Band members, who sought clarification of their status. Macaulay's legal perspective stemmed from one case, decided on fairly narrow grounds in a particular locality. It would appear that he did not seek to preclude other avenues, but rather, pointed to the lack of options facing judges at the time. He noted that the plaintiff had appealed to the Justice of the Peace, "who felt bound to act on her complaint," against another person from Grand River.[110] Macaulay, despite his unseemly reference to the "squaw," sought to protect a Six Nations woman who was pressing her case against another Indian from her own Reserve – crafting a decision of limited scope. Unfortunately, this narrow ruling was interpreted as an important precedent for dealing with Six Nations legal and political questions well into the late nineteenth-century.

In terms of the legal rights and political opportunities of the Six Nation people, Justice Macaulay recollected that John Brant, descendant of Chief Joseph Brant, had once been elected to the local Assembly. Although Brant had lost his seat, it was not due to his race, which was not "urged against him as a disqualification," but to his lack of "freehold property."[111] This information underscores the fluidity of social, political and legal relations for Six Nations people in the early nineteenth-century in Canada. When

[109] Ibid.

[110] Ibid.

[111] Ibid.

Justice Macaulay issued his decision, in turn, racial and ethnic relations were more stratified and polarized. After all, Joseph Brant's leases and sale of nearly 350,000 acres of land to white settlers was confirmed in the 1830s; Canadians had much to gain from the Natives in their midst. Land cession holds the key to Native-Canadian relations. In 1841, 220,000 additional acres were surrendered to the Crown in return for a small settlement. By the end of the nineteenth-century Six Nations Indians had already turned over large tracts of their remaining land to the Crown in exchange for a small portion of their original holdings.[112] Thus, Canadian officials had no incentive to deal fairly with Six Nations any longer and treated people as if they were subordinate to Canada.

Compared to Justice Macaulay's deliberations, the report of 1890 prepared by Sir John Thompson, Minister of Justice, simply refutes the argument in a petition from Six Nations seeking an independent status, without the nuance of Macaulay's discussion. Brushing aside Six Nations' loyalty and service to the Crown, Thompson refused to even to consider any claim to an exemption from the Canadian legal system. Moreover, he states that the Six Nations community will not be recognized as anything "other than subjects of Her Majesty the Queen."[113] This simply exacerbated the tension at Six Nations, for the Chiefs – fearful of precipitous change – sent telegrams to England asking the Secretary of State for the Colonies not to allow any alteration in the government until they were consulted.

The Council faced discord at home as well, for the deliberative process through which the Confederacy Chiefs reached decisions was not always timely or satisfactory for all nations or individuals of the Confederacy. In 1904, Tuscarora members wrote two letters to Ottawa, charging that they had inadequate representation in the Confederacy Council. The local Superintendent on the Reserve, E. D. Cameron, unlike his successors, was familiar with the practical workings and composition of the Council. Cameron realized that two elderly chiefs simply had not been promptly replaced within the cycle of

[112] Sally Weaver, in "Six Nations of the Grand River, Ontario," in Northeast, v. 15, edited by Bruce Trigger, Handbook of North American Indians, (Washington, DC: Smithsonian, 1978).

[113] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Undated report to the Department of Indian Affairs, Ottawa, signed by J. Stewart.

Confederacy office holding, so he easily defused and refuted the charges. Josiah Hill, Secretary of the Six Nation Council, also moved to reassure the Tuscarora members of the Band that they had "equal rights with other nations," with the power to appoint their own chiefs.[114] Yet, this incident raised a dangerous precedent, for as local Six Nations complaints increasingly found their way to Ottawa, the locus of power and accountability shifted from within the community to the central government. The Confederacy Council was increasingly dependent upon the forbearance of Ottawa, rather than their own people at Grand River. Although, the Secretary of the Department acknowledged the general efficacy of the hereditary Council up to that time, he warned: "…the Superintendent General may consider the advisability of recommending to His Excellency in Council that either the Indian Act or the Indian Advancement Act be applied to the Six Nations, as has been done in other cases when the Department thought it necessary to make the change, even without the consent of the Indians concerned."[115] This was to be the death knell of the Confederacy and foreshadowed exactly what happened in 1924 when the Confederacy Council was abolished without consent of the people of Six Nations.

The forthright discourse with which the Six Nations Chiefs confronted the looming threat of abolition of the Confederacy system undercut the notion that the Chiefs in Council were befuddled and out of touch. The chiefs were cognizant of criticism of the hereditary nature of leadership from within the band and moved to recognize promising young men from the community as "self-made" chiefs.[116] This practice was based on sound precedent from the Iroquois Confederacy's inception, enshrined in oral tradition, namely, the existence of the Pine Tree Chief. This ancient avenue to tribal leadership was created to reward merit, courage and wisdom in promising men, separate and apart from the clan system. The majority of Chiefs generally rose to leadership from within particular families, but the role of the Pine Tree Chief had been created as an

[114] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1.

[115] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt.1. Letter from J. D. McLean, Secretary General, Department of Indian Affairs, Otttawa, to E. D. Cameron, Indian Superintendent, Brantford, Ontario, June 8, 1904.

[116] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Extract of Minutes of the Six Nations Council, Ohsweken, Ontario January 5, 1905.

avenue of change from within.[117] When there was the death of a Confederacy chief a condolence ceremony was held where the deceased leader's Indian title and office is "requickened," or restored from within families, giving continuity to the Great League.[118]

The challenges presented by modernity ushered in many changes to Six Nations culture that the Confederacy Council met head-on and solved with aplomb. Seth Newhouse, a Pine Tree Chief, drafted a written constitution for the Six Nations Council in the 1890s. By 1900, the Six Nations Council of Chiefs had adapted the practices and transformed the format of Confederacy governance to operationally fit the constraints inherent in the small community at Grand River. In 1899 another version of the League's constitution was composed, in English, by a group of Chiefs, namely, John Gibson, John Elliot, Jacob Johnson and Hilton Hill.[119] As a functioning political system for Grand River, the Confederacy Council was similar to any small community's government dealing with repair of roads, health, education and welfare of Six Nations people, but ostensibly settling issues in the spirit and oral tradition of the Great Law. The Chiefs had streamlined the process of decision-making, as well as easing some of the tensions between the dominant tribal groups, the Mohawk, Onondaga and Seneca and their less powerful counterparts in Council, namely the Oneida, Cayuga and Tuscarora.[120]

The issue of women's roles in the selection and removal of Chiefs at Six Nations affair was a subject of consternation to both the Canadian authorities and increasingly, to Six Nations members, who had begun to internalize the prevailing gender relations of the majority society. Removal of a chief from power was historically the responsibility of the clan mothers and was deemed "dehorning." Six Nations women sought to retain their long-standing leadership role in the selection of chiefs and leadership of the clan, a legacy

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[117] Dean Snow, The Iroquois, (Cambridge, Mass: Blackwell Publishers, Inc., 1994), p. 65.
[118] Annemarie Shimony, Conservatism Among the Iroquois at the Six Nations Reserve, (Syracuse: Syracuse University Press, 1994), p. xxxvii-xxxviii.

[119] Dean R. Snow, The Iroquois. (Cambridge: Blackwell Publishers, Inc., 1994), p. 183-4.

[120] Noon, John, Law and Government of the Grand River Iroquois, (New York: Viking Fund Publications in Anthropology, 1949).

of the precolonial, matrilineal organization of Native societies. Canadian officials in the mid-nineteenth-century began to pressure the reserves to use patrilineal relationships for band membership, rather than matrilineal lines. Drawn from prominent families in the Longhouse councils, clan mothers from each tribe had long-sponsored worthy men for leading roles in the Six Nations Council and moreover, could remove them from office, serving as an important check on the abuse of power and authority within the League.

The pressure of different gender conventions from Canadian society weakened this authority, but Six Nations women fought back. In one instance several women sparked an investigation and prompted the removal, or "dehorning," of a chief whom they accused of fraudulently seizing land from another woman on the reserve. Two Six Nations women, Charlotte Hill and Sarah Doxtator, wrote to the Six Nations Council and the Superintendent, seeking the Chief's removal and stating, according to the Six Nations law, if the chief is not ethical, he must be removed and stating: "Well Chiefs – the women are the heads on this reserve…" Both the Six Nations Council and the Superintendent on the reserve backed their position.[121] The Confederacy Council was not always able to mollify its critics, though, particularly the nations who felt they did not have enough power within Council. For example, in 1905 the Tuscaroras petitioned King Edward VII, challenging the rule of the Council and focusing attention, rather unwittingly, on racial politics and gender discrimination. A representative of the Tuscaroras, Taheoango or Job Hill, issued a harsh critique of the ruling Council and complained bitterly of racial factions on the reserve. According to Taheoango divisions at Grand River were fueled by intermarriage with whites, giving rise to an internal power struggle over Indian status and land. "The halfbreeds or whites are constantly at war with the Indians, they are determined to have us shackled and enslave us…," the petition claimed. The "whites" and people of mixed race should be removed from the Indian List, and ultimately, removed from the Reserve, he argued. The petition made reference to the changes in gender relations that had been instituted with the imprimatur of the

[121] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt.1. Letter to the Superintendent of Indian Affairs from Ms. General, Sarah Doxtator, and Charlotte Hill, August 1905. See also a report submitted by Chief John Martin completed with two other chiefs to the Six Nations Council, July 4, 1905.

Department of Indian Affairs, namely, that "in the event of any Indian woman marrying a white man she shall lose her rights here and go away with her husband." Yet, the reverse did not occur, so white men seeking Indian land frequently lived with Indian women, taking over Native land with impunity. The petitioners inveighed against intermarriage and railed against this practice at Grand River. It also accused the Confederacy Council of accepting bribes to place "whites" on the Indian "list," or tribal roll. The politicization of the Six Nations membership list was a major source of acrimony and division on the reserve for the Confederacy Council ultimately decided who could live on the reserve on a case-by-case basis. The petitioners sought to exclude anyone who was not full blood and to have "our own Indian children placed on the list and exclude all half breeds, white people and non-treaty Indians."[122] This racial language was common vernacular in the nineteenth-century, but it points out the schisms in the community surrounding miscegenation and dissatisfaction with the way the Council handled these conflicts.

The dangers to the Confederacy system were mounting from within the Grand River community. An emerging critique was developing in regard to the structure of the Confederacy system in regard to the hereditary nature of office, the slow pace of decision-making, difficulty of adapting to change, the model of consensus and hierarchy of power among the Native groups living at Grand River. The increasing syncretism with the Canadian society certainly influenced Six Nations people, particularly with regard to politics, religion and education. Institutions intentionally sought to spread their ideological beliefs at Six Nations, namely the Mohawk Institute, the numerous religious sects acting on the Reserve and the Canadian Conservative Party, who briefly extended the franchise to Six Nations males to gain Native votes. Although the opportunity to vote was quickly withdrawn by the Liberals and the Confederacy Council urged the Native population not to take part in the process, the contacts between Canadian bureaucrats, agents, and inspectors would only grow. Some members of the community responded positively toward these elements of the wider society and grew restless under the

[122] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Letter to King Edward VII, signed by Job Hill, Taheoango, Grand Warrior and Representative of the Tuscaroras of the Grand River Indian Reserve, Undated. The "petiition" was forwarded to the Governor General of Canada, from the Secretary of State for the Colonies, November 6, 1905.

Confederacy Chiefs, although this was a minority of voices. The small fissures in Grand River society were exposed and gradually widened however, from the ever-increasing pressures of modernity and contact with mass culture. Changes that beset Canadian society surrounding the onset of World War One would imperil the Confederacy Council. As a system of government that had raised once again, as a phoenix from the ashes, the Confederacy would be severely tested by the ideologies of the West – it remains to be seen if this long-lasting Native institution can rise to the challenge of the new millennium, to be the core of an indigenous self-government at Six Nations, once again.

Chapter Two

Who Will Rule at Grand River?

As we have seen the Confederacy Council's rule was challenged by intermittent petitions that circulated on the Reserve from Native advocates of an elected council with the goal of replacing the hereditary system. Non-Natives from the surrounding community also were stakeholders in the type of government that was in place at Grand River. Merchants, ministers, farmers and local businessmen often ventured opinions about their neighbors on the reserve in letters to the editor of the local paper, the Brantford Expositor. Members of Parliament made occasional visits to the reserve, particularly when there was a photo opportunity to try on Native regalia or a large public gathering where they might garner potential support. The right to vote in the Federal election had once been extended briefly to Natives on the reserve by the Conservative Party. John MacDonald's administration had extended the franchise to Six Nations male residents over age 21 in 1885, but the Liberal government in 1898 soon withdrew the initiative.[123] Local ministers were keenly interested in shaping the morals of the community and had a vested interest in the overthrow of the Chiefs whom they viewed as pagans. There were long-standing tensions between the local merchants in the towns surrounding the reserve for Native people could not be sued if they defaulted on their payments for purchases. Still, Indians were an increasing part of the local economy and were sought as customers. Still, Brantford's thriving "market" area t the center of town was built on land the Six Nations Indians still claim. Land claims to areas rented or leased to the town of Brantford and Caledonia dating back to the time of Joseph Brant had never been resolved making local landowners uneasy.

In 1907 the supporters of an elected system squared off against the Confederacy, organizing their supporters and presenting their case directly to the Department of Indian

[123] Sally Weaver, in "Six Nations of the Grand River, Ontario," in Vol. 15, Northeast, in Handbook of North American Indians, ed., by Wm. Sturtevant, (Washington, DC: Smithsonian Institution, 1978), p. 532.

Affairs. The Warriors or "Dehorners," were once regarded as progressives – the diametric opposite of their characterization in present day Six Nations politics when the term "Warrior" denotes a Native nationalist and orthodox supporter of League tradition. Nevertheless, in 1907 the Warriors sought an elected, rather than a hereditary body to govern Six Nations, but sought to preserve Native authority in relation to local affairs. By appealing to Ottawa these leaders explicitly signaled the acceptance of the Canadian authority, under-cutting the internal management of Six Nations affairs.

Both the Confederacy Council and the Indian Rights Association curried favor with J. G. Ramsden, Inspector of Indian Agencies and Reserves, in order to solicit his influence with the Department of Indian Affairs. The Confederacy Chiefs appointed a committee to prepare a petition in support of the existing system. Among the chiefs named to defend the hereditary system were A. G. Smith and Josiah Hill, prominent, articulate and well-known leaders at Grand River.[124] Underscoring the fluidity of allegiances and political affiliation during this period, A.G. Smith later became one of the most prominent defenders of the elective system.[125]

Three hundred members of the Six Nations community in favor of the elected council signed a stinging critique of the Hereditary Chiefs and transmitted it to Ottawa. They argued that the old Confederacy system stood in the way of Six Nations progress. Besides the obvious issue that a hereditary system was not representative or accountable to the masses, the Confederacy Chiefs were said to be lacking in education and competency. This criticism particularly emerged from graduates of the Mohawk Institute, first established as a day school in 1826, who were dissatisfied with the poor level of education they had received at the Mohawk. "It was considered an

[124] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32. pt. 1., Extract of the Council Minutes, Ohsweken Council House, February 7, 1907, submitted by Josiah Hill, Secretary, Six Nations Council.

[125] A. G. Smith was related to my grandmother, Ellen Hill Martin. Smith was her father's half-brother and Ellen was placed in the Mohawk Institute due to the progressive leanings of for her father, Samuel Hill and A. G. Smith, who came to believe strongly in the ideology of Indian Advancement. My great-grandmother, Mary Two-Fish, spoke only Cayuga and was not in favor of this decision. My grandmother was given a formal education through the Mohawk Institute, residing there until she reached adulthood and married a local farmer, Joseph Martin. She rebelled against the progressive ideology fostered by the Mohawk Institute by marrying a supporter of the Confederacy Council.

accomplishment for a pupil to reach 8th grade and most of the teachers employed in the Schools were 8th grade, ex-pupils of the Mohawk Institution."[126] The lack of concern about higher education for Native students was certainly an issue and much was also made of the lack of advancement for young men of merit and ability within the Confederacy system. This conflict was in many ways, generational, with young people feeling stifled by lack of opportunity and with no voice in community affairs. The Warriors Association also stressed that the Confederacy Council was too large, as well as being too expensive, although it was reported that chiefs made the princely sum of one dollar per day to conduct Six Nations affairs.[127] The Warriors wanted to send a deputation to Ottawa to convince Indian Affairs to place an elected council on the Reserve and asked to be contacted directly through their secretary, D. S. Hill.[128]

A representative of the Warriors was a Chief of the Delaware Nation, Nelles Montour. The Delaware Nation was a member of the Six Nations, but part of a contingent of refugees who had established residence at Grand River. Montour complained about the lack of representation for his people on the Confederacy Council.[129] Reflecting dissatisfaction with political marginalization of the Delaware at Grand River, Montour cited the obligatory seating and speaking privileges in Council privileging the original five nations of the League, to underscore the subordinate status of his people's representative. Delaware chiefs were seated with the Cayugas, Oneidas and Tuscaroras, the "little brothers," instead of with the senior tribes of the ancient League,

[126] Moses, Elliott, "The Six Nations Dehorners Association, Finally Called the Six Nations Rights Association," (1973) Paper obtained through the Department of Indian and Northern Affairs, Historical Claims and Research Division, Ottawa, Canada in January 2006, p. 1.

[127] Moses, Elliott, "The Six Nations Dehorners Association, Finally Called the Six Nations Rights Association," (1973) Paper obtained through the Department of Indian and Northern Affairs, Historical Claims and Research Division, Ottawa, Canada in January 2006, p. 2.

[128] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Letter to Frank Pedley, dated March 13, 1907, signed by J. G. Ramsden, Inspector, Indian Agencies, forwarding an undated letter and a petition signed by three hundred members of the Six Nations Band. The petition was addressed to Frank Pedley, Deputy Superintendent General of Indian Affairs, Ottawa.

[129] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 2. This was also the case with the Tutelo Indians who also were represented in Council at Six Nations. Minutes of the Six Nations Council, January 6, 1914.

the Senecas, Onondagas and Mohawks. Montour articulated his critique of the hereditary system in terms of class, education and character. He attacked the chiefs as ignorant and corrupt, citing in particular, A. G. Smith, calling him a demagogue who unduly influenced the "pagans" of the Longhouses. Smith, in turn, was accused of grasping every monetary subsidy, no matter how trivial, and being greedy for power.[130] Montour blamed social, political and economic stagnation at Grand River on the chiefs' illiteracy and outdated mode of representation. He identified himself and the prospective elective system with modernization and progress.[131]

The Warriors Association did not ultimately make much headway with the transition to an elective system at this time. Indian Affairs stood firm – the elective system would not be applied until the bureaucrats in Ottawa were "satisfied that the majority of the Indians desire the change, and fully understand the conditions of the elective system."[132] A few representatives from the Warriors Association, Jacob Miller and David S. Hill, then took their concerns directly to the Confederacy Council.[133]

A. G. Smith was appointed to respond for the Chiefs-in-Council, since he was considered a progressive voice among the Chiefs, when Warriors from the association agitating for change addressed the meeting. The chiefs decided to seek a list of the warriors who had signed the petition against the Council from the Indian Affairs Department in Ottawa. The Warriors' Association promptly changed its name to the Indian Rights Association, or the "Dehorners;" an old Confederacy term associated with removing the symbols of the chiefs' authority. Many Six Nations members vociferously

[130] This is also the oral history of the conflict our family. A. G. Smith was my grandmother's uncle and instrumental in putting her in the Mohawk Institute.

[131] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Letter to Frank Pedley, Deputy Superintendent General of Indian Affairs, Ottawa, from Nelles Montour, Chief of the Delaware, Six Nations Reserve, March 5, 1907.

[132] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Letter to D. S. Hill, Secretary of the Warriors Association, signed by J. D. McLean, March 20, 1907.

[133] This is so interesting because D. S. Hill was the father of Chief Dave Hill who ardently resisted the imposition of the elected government with Levi General, known as Chief Deskaheh. Members of Six Nations families were often moved to support different sides of these issues.

defended the status quo, including Isaac General, Alexander Bomberry and Seth Newhouse, the Native scholar who codified the first written version of the constitution of the Iroquois League in 1885.[134]

The Confederacy Chiefs were suspicious of the connections between Ottawa and the Indian Rights Association, with good reason. The new Indian agent, Gordon Smith, was certainly anxious about the situation on the Reserve, lobbying for a deputation from the Association to make their case directly to Ottawa. His style of back-channel communication was strikingly different from his predecessor. Josiah Hill, Secretary for the Confederacy Council, quickly assessed the change and moved to make his suspicions known to an official he trusted in the Ministry of Customs. Hill complained that Smith was holding "investigations with reference to charges preferred by the Indian Rights Association upon this Reserve against certain Chiefs…with a view to depose the Chiefs who are appointed under our own ancient customs, and to introduce the elective system."[135] Indeed, this was exactly the subterfuge used in 1924 to replace the Confederacy Council. Hill sought to discover if this was Gordon Smith's own idea, or if it was the Department of Indian Affairs' plan to undermine the Confederacy.

Josiah Hill, Secretary of the Six Nations Confederacy Council, attributed the agitation for an elected council to people who were of "mixed blood;" only one-eighth, or one-sixteenth Indian, who stood to gain more influence, and perhaps more money, from the eventual sale of the reserve if the Indian Advancement Act were put into effect. Measurement of blood quantum was an artifact of the nineteenth-century discourse relating to racial purity and fear of miscegenation. These notions had permeated Six Nations racialized internal discourse, as well.

There was fear at Six Nations regarding the policies of the Canadian government for Six Nations residents had been driven off their lands in recent historical memory, as

[134] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Extract from minutes of Council meeting, Ohsweken Council House, Six Nations Reserve, April 3, 1907.

[135] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Letter from Josiah Hill, Secretary, Six Nations Council, to William Paterson, Minister of Customs, Ottawa, August 23, 1907.

land-hungry Canadian settlers sought fertile agricultural lands that had been formerly reserved to Six Nations people.[136] In addition, Iroquoian people in New York had been forcibly removed and their lands sold to speculators in the nineteenth-century. There was fairly constant communication between Natives scattered in the diaspora over the Northeast and government initiatives were often compared and assessed.

Josiah Hill also considered that a change to an elective system would not be workable at Grand River Reserve, with its multiplicity of tribes living on one reserve. He warned the Minister of Customs, "If we were only one band, an elective system would not be so bad, but where there are the Mohawk, the Seneca, the Onondaga, the Cayuga, the Oneida, the Tuscarora and the Delaware, I would almost dread the consequences."[137] Yet, officials of the Indian Department often regarded Native groups as homogeneous and viewed discontent and rivalries between indigenous groups as negligible, so they often ignored historic rivalries between and among nations.

The Confederacy Council at Six Nations had adapted the old order of the Iroquois League, founded on the principle of peace between the ancient Iroquois peoples long before colonization. Deganawidah, or the Peacemaker, had founded the League to end the blood-letting between these five nations, which were later joined by the Tuscarora. Each nation was strictly apportioned a specific number of chiefs whose leaders were crowned with deer antlers, hence the term "Dehorners." The Mohawks had nine chiefs,

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[136] Oral history from my grandfather, Joseph Martin, recounted how Six Nations people were driven away from their lands on the other side of the Grand River during the mid-nineteenth-century. As Brantford was settled and the population increased, pressure on Six Nations families who lived nearby, grew as well. Local farmers sought the Indians' land and during epidemics, they also sought to drive Six Nations people away from the Canadian settlements. In the 1830's Six Nations had surrendered 800 acres for the town of Brantford, but as the town expanded land-hungry settlers wanted more. During the 1840s, Six Nations families began to move out to the reserve. My grandfather recounted how as a young boy, he was forced to cross the Grand River in the winter, without shoes by a group of Canadians who chased him away from the town. For a general timeline of important Six Nations events and historical perspective, see George Beaver's text, A View from an Indian Reserve. He compiled excerpts from his newspaper columns in a book, entitled, published through the Brant Historical Society in 1993. The text references the dates of surrender of land in the 1830's, listed above.

[137] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Letter from Josiah Hill, Secretary of Six Nations Council, to William Paterson, Minister of Customs, Ottawa, August 23, 1907.

Oneidas had nine, as well, while the Onondagas were represented by fourteen chiefs, including the Thadodaho, namely, the leader of the entire Confederacy Council, the Senecas had eight and the Cayugas had ten leaders in the council, according to the ancient schema recounted by Chief Jake Thomas, the Cayuga ritualist from our reserve.[138] The Thadodaho was purportedly the most evil of the Onondaga shamans for Ayonhwathah (Hiawatha) was sent expressly to convert him to the Peacemaker's message. The Thadodaho was eventually won over by Deganawidah's (the Peacemaker) message and awarded a signal position of leadership in the League. The mythic origin of the Confederacy gave great weight to the Mohawk, Onondaga and Seneca nations as the "elder brothers" for their leadership in the formation of the League and for their role in assimilating the message of peace and the ceremonies of Condolence, or the Requickening Address, to "clear the mind" and raise the chiefs to their leadership of the League of Peace.[139] As time went on, especially after the diaspora following the American Revolution, the Delaware and the Tuscarora were increasingly dissatisfied with their representation in the Council at Grand River. The Tuscaroras and the Delaware correctly perceived the rigidity of the Council was tied to the historic origin of the Confederacy and was not easily changed, for many Six Nations people viewed this hierarchy of power as an article of faith, not politics. The Tuscaroras and Delaware leaders, relative latecomers to the League, sought a political solution by petitioning the Canadian government for redress of their grievances.

Simmering rivalries between the various Native nations were still worrisome to the leaders of the Six Nations in the early twentieth-century. The Confederacy Council had papered over these national differences in the aftermath of the Native peoples flight to Canada after the Revolution and had tried to give these "newcomers" a voice in the Council through the established "elder brother" system. Yet, even Jacob Miller, an advocate of the elective system, worried about an intra-national rivalry. Miller stated that

[138] Jacob Thomas, with Terry Boyle, Teachings from the Longhouse, (Toronto: Stoddart Publishing Co., 1994), p. 15,16. See also, Dean Snow's text on The Iroquois, for his description of the founding of the League, (Cambridge, Massachusetts: Blackwell Publishers, Inc., 1994), p. 58-65.

[139] The leader of the entire Confederacy is the Thadodaho, always chosen from the Onondaga nation.

those who advocated the change by the "Indian Department" that each "tribe" would elect representatives to an elected council, based on their portion of the population at Grand River, would not "prevent great dissatisfaction of the smaller tribes." Proportionate representation would exacerbate differences on the reserve, rather than ease tensions. Since intermarriage had already blurred those national distinctions, Miller argued, advocates of the elective system should eschew tribal affiliation, for he thought it would be more productive "… that we be known as one people "The Six Nations."[140]

Responding to the agitation for change, the agent for the Indian Department declared that a change in the system of government at Six Nations might occur if a majority of eligible male members of the Band voted for a change, or "if they would prove sufficient charges against the Council of a character which would warrant" such a change. This must have sounded rather unsavory, however, to the Indian Rights advocates, for: "They did not want to be understood as making charges, nor did they think that a majority would vote for a change." The Chiefs appointed and removed their own members through the clan mothers of each nation only if they deemed such actions warranted, according to the old Confederacy customs. Indian Affairs did not interfere with this process and merely recorded the Confederacy's appointments, rendering Six Nations unique among the other Reserves in Ontario.[141] Condolence ceremonies installing chiefs were conducted as they had been for centuries and the Native names apportioned for each nation, linked to particular clans, still echoed from the roll of the Confederacy chiefs.[142]

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[140] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 2. Letter from Jacob Miller, to Gordon Smith, Superintendent of Six Nations, Brantford, March 18, 1909.

[141] National Archives of Canada, Indian Affairs, Volume 7930, File 32-32, pt.1. Letter from J. D. McLean, Secretary, Department of Indian Affairs, Ottawa, to Gordon J. Smith, Indian Superintendent, Brantford, February 14, 1908. Also, see the Memorandum to Mr. Pedley, Deputy Superintendent General, Indian Affairs, Regarding Interview with Six Nations Indians, from Frank Oliver, Minister of the Department of the Interior, April 20, 1907.

[142] When the Council was reestablished at Grand River, some adjustments had to be made to fill the roster of the Chiefs from each nation, but all were represented and the Confederacy was reconstituted. For the roll call of the chiefs, one can refer to a number of monographs reprinted at Six Nations, Iroqrafts, including one by W. N. Fenton, "The Roll Call of the Iroquois Chiefs," which was published by the Smithsonian

As the Confederacy Council continued to be challenged and the basis of the hereditary system debated more frequently and with greater intensity on the Reserve, partisan brawling and character assassination intensified – despite the highly vaunted ethic of Iroquoian harmony and consensus. The Confederacy Chiefs issued a summons to one of the foremost supporters of the Indian Rights Association, Nelson Moses, delivered by an officer of the near-by village of Caledonia, ordering him to appear before the Council on March 17, 1908. Moses was charged with criminal libel, but when an elderly chief rose to warn the council in his Native language to be careful, for a transcript in English was being recorded by the Interpreter for the Indian Office, reportedly no further action was taken.[143] Throughout March and April 1908, individuals aligned with the Indian Rights Association in turn, filed affidavits with Canadian authorities, charging a number of Chiefs on the council with corruption. Specific incidents of bribery and graft related to the Chiefs' decisions regarding the sale of land to Band members, Indian status and band membership, as well as illegal production and sale of liquor were recounted. These charges were recorded in depositions and although they were not corroborated or investigated by the police, these statements contributed to an unhealthy atmosphere of suspicion and infighting on the Reserve.[144]

One of the most notable individuals from Six Nations who will be illuminated in this narrative as an aggressive defender of the Confederacy in its time of troubles was Levi General, from the Cayuga nation. A powerful orator and organic intellectual, General would become the very symbol of the Iroquois Confederacy to Europeans and a thorn in the side of the Canadian government. Ironically, at this relatively early stage in

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Institution in 1950, detailing his examination and study of a cane that served as mnemonic device using pictographs for the list of chiefs who were the founders of the Iroquois League.

[143] Moses, Elliott, "The Six Nations Dehorners Association Finally Called the Six Nations Rights Association," (1973), Paper obtained from the Department of Indian and Northern Affairs, Historical Claims and Research Division, Ottawa, Canada, January 2006.

[144] National Archives of Canada, Indian Affairs, Volume 7930. File 32-32, pt. 1. Declarations given under the auspices of the Canada Evidence Act of 1893, filed in the city of Brantford, by Levi General, Upper Cayuga, April 23, 1908, William Davis, Oneida, April 23, 1908, Jackson Jamieson, Upper Cayuga, March 24, 1908 maintaining that they made payments to a number of the Chiefs in Council at Six Nations, to influence their vote on matters before the Six Nations Council.

the conflict, Levi General was one of the first people to file a complaint against the Council with local Canadian authorities. The fluidity of political relations at Six Nations defies the Western rubric of dichotomous factions, whether based on religion – Christian or Longhouse, or politics – elected or hereditary council supporter, in the face of cultural value-transactions. Leaders, secure in a multi-faceted, Six Nations cultural identity, move back and forth quite easily across apparently dichotomous, ideological and spiritual divides, from the secular to sacred, with no qualms or appearance of cognitive dissonance. Levi General, with nary a qualm, pragmatically stated that he paid off each of six chiefs to influence their vote over a property dispute. Was this a way for a reformer to highlight corruption on the Confederacy Council; was he trying to oust particular Chiefs in order to advance his own ambitions, or was he simply pursuing his own interests at the moment?[145] The dispute over governance at Six Nations yields us a multiplicity of shape-shifters and tricksters, individuals who appear in one guise and then quickly switch to another changing parties, allegiances and ideologies, from progressive to traditional – all within the context of a multi-faceted Six Nations identity recognizable to the community.

Notably, the very day after Levi General testified, a delegation of leaders, including David Hill, William Smith, Jr, Nelson Moses and Jacob Miller, advocated the switch to an elected system. Nelson Moses had supported an elected council for some time, but young Bill Smith was the son of a prominent supporter of the Confederacy. These men met with the Superintendent General of Indian Affairs, Frank Oliver, to acquaint him with their agenda for reform. Dissatisfied Chiefs within the Confederacy Council who supported the Warriors Association often shaped the political landscape at Grand River around personal and familial issues, rather than merely ideological or religious faction. The Smith family is a case in point for William Smith, Sr. was one of the most vocal opponents of the prospective change to an elective system. As the Indian Interpreter, he worked closely with the Confederacy Council. Through the history of his

[145] Shimony notes that "…charges of bribery became common, and it was alleged that only by a payment of the chiefs could any action be terminated favorably." Annemarie Shimony, Conservatism Among the Iroquois at the Six Nations Reserve, (Syracuse: Syracuse University Press, 1994), p. 91.

family one can see a battle between father and sons. William Smith, Sr. had four sons with divided political loyalties – three of whom supported reform. William, Jr. was a strong advocate of the elective system. He was initially a member of the Warriors Association, but later in his life switched political sides to support the Confederacy Chiefs in their attempt to gain sovereign status for Six Nations.[146]

Six Nations Reserve is a small, rural, face-to-face community, where most families have close ties over generations, so anonymity is not an option in public discourse. Speakers in the community are subjected to the close scrutiny and pressure of myriad societal and familial networks in regard to personal conduct and political allegiance.[147] It is not uncommon for individuals to seek office from extended family networks in place for hundreds of years, with overlapping allegiances within their own national ethnic enclave. Often, traditionalists are referred to as those who live "down below," not only indicating one section of the reserve, but also implying Longhouse religious affiliation and resistance to Western culture. This entails resistance or rejection to Western society, French and English language and "modern" conveniences. It must be noted that heat, running water and indoor plumbing fall within the category of "modern" conveniences, for as recently as the 1960s, many of my own relatives had neither.[148]

Politically, charges and counter-charges, as well as local gossip, swirl unabated through the community as issues are debated in print, as well as through oral channels. Historically, individuals sometimes switched sides on particular issues in regard to favoring the hereditary chiefs or the elected council in order to serve their own ends, but

[146] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Letter to H. H. Miller, Ottawa, from George Carpenter, Minister, Newport, Ontario, April 8, 1910. Wilfred Smith was my uncle and his sympathy with the elective system lasted his lifetime, but his brother, Bill, switched his allegiance back to the Confederacy Council in the 1950's and testified before the courts for restoration of the Chiefs in the 1960s.

[147] Public scrutiny and shame are operative principles in such a small place, for example, in current land negotiations, much was made of disrespectful treatment and handling of an individual during a meeting. See Tekha, the newspaper brought pressure to bear on this individual to calm down and participate.

[148] This fact was brought home to me when I took my daughter to visit a relative and she did not realize that you could not drink the water from the tap in some parts of the Reserve – this is the level of inequality that exists today on our "progressive" reserve.

also due to an epiphany. It only takes one time to be harassed at the border to turn a law-abiding Six Nations citizen into a life-long Six Nations advocate.

By the summer of 1909, the Warriors Association was finally bringing their message for reform directly to the community, holding a picnic in Ohsweken, the site of the Confederacy Council House. As membership in the Warriors Association was open to both women and men these gatherings were often held throughout the year in public places on the reserve.[149] Ironically, speakers for reform then denounced the "petticoat government," a reference to the clan mothers' role in selecting chiefs.[150] It would appear that the policy of the Warriors Association was akin to "one step forward, two steps back." Opening up the meetings to both men and women was certainly a progressive notion. Yet, the critique of the power of the clan mothers as the root of the matrilineal system clearly shows the inroads patriarchy had made in Six Nations society. The empowerment of males has had much to do with the influence of Euro-American gender roles embedded within the Indian Act that were gradually assimilated and even naturalized by Native men and women. This will be explored in a subsequent chapter when the topic of gender and the provisions of the Indian Act are explored in detail. Legal challenges from Native women and human rights advocates focused international attention on the inequality at the root of Canada's treatment of Native women in the 1970's.

At the third annual meeting of the Warriors Association, the members debated the way to divide the reserve into electoral districts. Corresponding with four voting districts already assigned for Dominion elections, each section was assigned a committee and a supervisor from the Warriors Association.[151] Ottawa informed the local Superintendent,

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[149] Moses, Elliott, "The Six Nations Dehorners Association Finally Called the Six Nations Rights Association," 1973, Paper acquired from the Department of Indian and Northern Affairs, Ottawa, Historical Claims and Research Division.

[150] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. "Petticoat Rule is Disliked, in the *Ottawa Free Press*, June 13, 1909.

[151] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Article from the *Brantford Courier*, July 4, 1909, Clipping File.

Gordon Smith, who was clearly an advocate for an elected council, that there was no legal provision for dividing a reserve into wards or sections in this manner, except under the auspices of the Indian Advancement Section of the Indian Act.[152] There were clearly tensions between the administration of Indian Affairs and their local agents. Reform of the hereditary system could only legally result from the application of the Indian Act to Six Nations, rather than through piecemeal reform and agitation on the ground. This presented a formidable obstacle, for the Six Nations community, including the reformers, opposed the Indian Act, both for its paternalism and for the negative assumptions about Native people that were an integral part of the legislation.

The Confederacy Chiefs were not idle during the Warriors' assault on their power and they, too, approached the Superintendent General, Frank Oliver, with their arguments to bolster and continue the Confederacy government. The historical arena was the field on which the battle was first joined against the Warriors Association, for in correspondence with Oliver, Chief Elliott insisted on differentiating Six Nations from other reserves. "This Reserve was earned in warfare by our forefathers," the Confederacy Chiefs flatly stated. The agitation of the Delaware contingent against Six Nations was particularly galling to Elliott, for he argued they were kindly adopted as a "small remnant of their race," with no part in the "Treaty" establishing the reserve. The Delaware, sometimes referred to as the Seventh Nation, were "only here through sufferance and it is well for them if they know enough to keep quiet," for the Six Nations out of their generosity, gave them a "place of abode" and a share of the interest received from the sale of Six Nations land.[153] Refuting the notion that one council would be cheaper and more efficient, Elliott worried that the jealousies and fighting, the hallmark of intertribal relations before the formation of the ancient Confederacy, would return. Elliot pointed out that in a general election there would be no guarantee that the historic proportionate

[152] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32. pt. 2. Letter from J. D. McLean, Secretary, Indian Affairs, Ottawa, to Gordon Smith, Brantford, Ontario, March 22, 1909.

[153] National Archives of Canada, Indian Affairs, RG10, Volume 7930, File 32-32., pt. 1. Letter from John Elliott to Frank Oliver, Superintendent General of Indian Affairs, Ottawa, from Chief J. W. M. Elliott, Six Nations Council, February 9, 1909. This sentiment about the Delaware is immortalized in an old joke told on the Reserve about the Delaware as the nation that came as guests and never went home.

representation of the original Five Nations of the Iroquois League would be preserved. Elliott warned that Six Nations people would appeal to England if their rights were ignored.[154]

Elliot was prescient in his observations for representatives would indeed be elected to a council based on an arbitrary geographic division of the reserve into several electoral districts in a general election. In particular, Mohawks would be incensed at this erosion of their power because their chief, Joseph Brant had fought for the original settlement and had forged the agreements entitling all the people of the Six Nations to settle on the Grand River, including refugees such as the Delaware and the Tutelos, as well as his British allies. The Mohawk Workers arose as a political party in large part because their historic role was unacknowledged and minimized both in Council and in the Longhouse during the twentieth-century. Increasingly frustrated and marginalized within the changing dynamics of power at Grand River and Ottawa, the Mohawks grew increasingly antagonistic toward the Six Nations government as well as Indian Affairs in the twentieth-century.

The agitation from the Warriors Association at first appeared to gain traction, especially with the local Indian agent, Gordon Smith, and the ministers on the reserve. Ottawa, however, seemed to try to hold the middle ground between the Confederacy and Warriors, for the Secretary of the Department of Indian Affairs, J. D. McLean, advised Gordon Smith to let each side know what was being conveyed to the Department by each group.[155] Ottawa at times, depending upon the administrative officers, tried to act as an honest broker.

The agitation on the reserve soon attracted the attention of a Member of Parliament, H. H. Miller. The Warriors had apparently convinced Gordon Smith that

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[154] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Letter from Chiefs J. W. M. Elliott, A. Lottridge, and Alexander McNaughton, Six Nations Council to Sir Albert Henry George, Governor General of Canada, February 17, 1909.

[155] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 2. Letter to Gordon Smith, from J. D. McLean, Secretary, Department of Indian Affairs, Ottawa, March 18, 1909.

they could deliver a majority of votes in a referendum for an elected system, if the voting was done by secret ballot. Several people wrote to the Deputy Minister of Indian Affairs suggesting that this notion be considered. H. C. Ross, of the Indian Department argued that only Six Nations and the Chippewa of the Thames had retained the hereditary system. Ross noted that through an oversight in the Department's bureaucracy no provision was made for these two reserves in this state of governance. Through an 1899 Order-in-Council the elective system was simply applied to all Bands in the "older provinces." Ross emphasized that the law was already established to mandate this change. As far as rivalry between the tribes for the Council seats, Ross dismissed this problem, since the department had already established a council with members from both the Algonquian and Iroquois, ostensibly "racially inimical nations," at Oka, another Reserve.[156]

Secretary J. D. McLean favored proportionate representation on councils, as did many others, but sought to keep the overall number of councilors at sixteen chiefs as was the custom at other reserves. The Confederacy's argument must have resonated though, for Secretary Mc Lean cited their reasoning when he declared in the Spring of 1909 the government did not advocate a change to an elective system for Six Nations at the time. McLean indicated that if nations with fewer numbers would be subordinate in an elective system it would give rise to discontent.[157] The Confederacy had staved off this assault, but agents on and off the Reserve would continue their agitation for change.

The Confederacy Chiefs clearly did not trust Gordon Smith, the Indian Agent in Brantford and sought to eliminate his back-channel communication with the Warriors Association for it gave the Warriors privileged access to information and individuals at the Department of Indian Affairs. The Chiefs insisted that Gordon Smith forward all

[156] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Letter to the Deputy Minister of Indian Affairs, Ottawa, from H. C. Ross, February 22, 1909.

[157] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Letter to Gordon Smith, Indian Superintendent, Brantford, from J. D. McLean, Secretary, Indian Affairs, Ottawa, March 2, 1909.

correspondence regarding Six Nations through their Council.[158] Six Nations Chiefs were not alone in this distrust: "Indian suspicion of the motivations of both band councilors and Government officials limited operation of the Advancement Act."[159] The Chiefs also decided to send a deputation to Ottawa to speak to the Superintendent-General, Frank Oliver and managed to win his support. Oliver overruled his own bureaucracy, ruling that the Confederacy Council was the proper body to review "all official communications between the Superintendent and the Department" in regard to Six Nations.[160]

The Chiefs complained about rumors that the Department was going to install a ballot box to conduct a plebiscite at Six Nations. Oliver quickly sought to set the record straight. He repeatedly stated that the Six Nations "were on a different footing" from other Indians in the Dominion; this phrase later became a prominent signifier in the legal battle for Six Nations' independence and assertion of sovereignty. Oliver noted: "The Six Nations Indians of the Grand River came to Canada under special treaty, as the allies of Great Britain…" He emphasized that although the situation might change, the Canadian government had no interest in altering the status quo on the Reserve.[161] This statement still left the Chiefs feeling vulnerable, for with new leadership at the Department of Indian Affairs the political winds might shift leaving the Confederacy in peril.

The chiefs condemned the "chronic caviling" of dissatisfied agitators. They also used the history of their allegiance to the Crown and to the British nation as a point to demand honor and respect for the Confederacy system in a spirit of reciprocity. Rather

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[158] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt.1, Extract of Minutes from the Council of the Six Nations, March 11, 1909.

[159] John Leslie and Ron Macguire, "The Historical Development of the Indian Act," (Ottawa: Treaties and Historical Research Centre, DIAND, 1979), p. 91.

[160] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Letter from J. D. Mc Lean, Secretary, Indian Affairs to Gordon Smith, Indian Superintendent, Brantford, April 14, 1909.

[161] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A., Pt. 2. Letter from Frank Oliver, Superintendent General, Indian Affairs, to Chief J. S. Johnston, Deputy Speaker, Six Nations Council, Ohsweken, Ontario, April 8, 1909.

than simply reifying tradition the Chiefs insisted the Confederacy represented a successful adaptation to modernization. The Chiefs cited advances in health care, roads, infrastructure and education on the reserve, which were brought about through their own labor and leadership under the hereditary system. The Confederacy Chiefs emphasized that their rule was an age-old model for good government.[162]

Another blow against the Warriors Association and their ideology of "progressive government" through an elective system came from two Six Nations' women who wrote directly to King Edward VII contributing a scathing attack on liberal democracy:

> We are not seeking a white man's Government, with its annual Scramble for place, position and power and the incidents of bargainings, [sic]
>
> Vain promises and corruption. We are content with our ancient laws and Customs, and when we desire the white man's Government, we can leave Our people and go among and become as the white population.[163]

The writer, Ellen Staats, received assurances transmitted through the Privy Council and the Secretary of State for the Colonies that her Petition "had been laid before the King" and that a change to an elective system would not be forthcoming. The circuitous route of individual letters and petitions through the British colonial bureaucracy appeared to give Six Nations people an inchoate sense of personal connection to the British monarchy that surfaces again and again in Six Nations history.[164] Admittedly, Ms. Staats might

[162] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1, Letter to Frank Oliver, Superintendent General of Indian Affairs, Ottawa, from Chief J. S. Johnson, Deputy Speaker, Six Nations Council, February 23, 1909.

[163] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Letter to King Edward VII, from Ms Ellen Staats, Osweken, Ontario, Canada, March 25, 1909.

[164] As Terence Ranger discussed in "The Invention of Tradition in Colonial Africa," the notion that the monarch is "omnipotent, omniscient and omnipresent" is inculcated into the Native population, assuring the petitioner that the King cares for their representations and continued welfare, remembers and respects their

conceivably have seen the King, then Prince of Wales, when he visited the Reserve. What merits attention though is the expectation that the monarch was personally concerned about the fate of the Six Nations people. Since royal visits were a rarity other symbols of the monarchy reinforced the relationship. For Six Nations the Queen Anne communion service given to four Mohawk chiefs is an enduring and tangible link between the Crown and the Six Nations, a symbolic of the shared consciousness of the past. The communion service was used for many years in services at St. Paul's, His Majesty's Chapel of the Mohawks, the oldest Protestant church constructed at Six Nations to signify and reinforce the meaning of this historic relationship.[165] There is also a litany of appeals and petitions issuing forth from private individuals, councils, chiefs and clan mothers forming a transatlantic correspondence from the Six Nations community to the monarch during their long struggle for sovereignty. Sometimes these connections bore fruit, particularly on an individual basis, but the Six Nations were to meet a closed door as the struggle for recognition of Native sovereignty intensified and Six Nations affairs were referred back to Canada.[166]

Six Nations leaders were clearly enamored of the trappings of British imperial power and sought the political leverage that the British relationship with Six Nations people could bring to Dominion policy. As much as the Six Nations denied their status as political subjects, they certainly embraced their role as imperial minions – a direct result of internalization of invented colonial tradition, patriarchy and subordination.[167] There

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past loyalty and presumes their future support. See The Invention of Tradition, edited by Eric Hobsbawm and Terence Ranger, (Cambridge: Cambridge University Press, 1983), p. 231.

[165] Dean Snow, The Iroquois, (Cambridge, Mass.: Blackwell Publishers, 1994) p. 136-8.

[166] This visit of the Prince of Wales to our Reserve gave my mother's great-uncle, Peter Martin, the chance to go to Oxford to study to become a doctor. The friendship he formed with Sir Henry Acland, the Prince's personal physician and his connection with Oxford helped shape him as a Native leader and enabled him to start the Royal Order of Forestry when he returned to Canada.

[167] See the discussion of colonial relations under the British empire in The Invention of Tradition, edited by Eric Hobsbawm and Terence Ranger, (Cambridge: Cambridge University Press, 1983), particularly in "The Invention of Tradition in Colonial Africa, " p. 230-231. Notably, a colonized population "…stressed the royal knowledge of their situation, the royal concern for their well-being and the royal responsibility for decisions which in reality had been taken by the cabinet." The authors clarify the chains of correspondences created in colonial relations, where the colonizer controls the power of historical memory over the colonized. A direct, one-to-one relationship with the ruler is enshrined by the colonized, in which the

was clearly a considerable internalization of colonial precepts on the reserve, but a sense of inferiority and marginalization was a direct repercussion of Canada's treatment of Native people as colonial objects.[168]

Daily life at Six Nations in the first decades of the twentieth-century gave evidence to the fact that as Six Nations people, we were coming under increasing government oversight. From the officials who picked up Native children playing along the roads of the reserve in order to herd them to the Mohawk Institute, to the taunts of Indian agents to young girls on our roadways, Six Nations people understood the hierarchy of power being established by the Department of Indian Affairs. It was often taken for granted that our people were too ignorant to speak English and therefore the Indian agents and officials clearly revealed what they thought about the "pagans." The local superintendent had a great deal of control over the daily life of the reserve in terms of housing, aid and education and it was humiliating for Six Nations students to have to seek permission and a stipend to attend the Brantford Collegiate Institute, for example, since there was no high school on the reserve. As the records reveal, no expenditure was too petty for the Department to dispute, no project too small for the local Superintendent to oversee and no infraction was too ridiculous to overlook.

The oversight even extended to secret surveillance of the reserve's political activists in the 1920's by the RCMP and investigation of advocates for Six Nations by the Department of Immigration and Colonization, at the request of the Deputy Superintendent General of Indian Affairs.[169] The Commissioner of the Royal Canadian

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imperial ruler is powerful, wise and beneficent and remembers every action of the colonized in the historical past. .

[168] See Frantz Fanon's discussion of the colonial subject in Black Skin, White Masks, in which he stated, "I begin to suffer from not being a white man to the degree that the white man imposes discrimination on me, makes me a colonized Native, robs me of all worth, all individuality, tells me that I am a parasite on the world, that I must bring myself as quickly as possible into step with the white world…" As Fanon brilliantly analyzed the sense of inferiority that was inculcated in the consciousness of people of color, he strove not only to explicate this consciousness, but also to empower those who experienced this state to make meaningful choices concerning the social structures that oppress them. See Black Skin,White Masks, (New York: Grove Weidenfeld, 1967), p. 98-100.

Mounted Police in Ottawa assigned a Special Agent to monitor the reserve and to attend meetings of Native political organizers to gather "intelligence." The agent monitored speeches, reported on what banners and slogans the Native organizers were producing and carrying – rather mundane information, but still signifying the intensity of interest and oversight of Six Nations by the RCMP.[170] Still, the reality of being watched like this was incredibly difficult to accept, for it diminished Natives' sense of safety, independence and security on their own territory.[171] It was also so completely

The colonial project was predicated upon leading Native people to adapt so-called progressive forms of government – it was also legitimated by its intended reform of Native society, politics and economy to mirror and reinforce a sense of Western religious and ideological mission and to better manage Indian affairs. Not all the methods of the Canadian government were above-board or predicated upon a liberal agenda, however, for there was definitely the threat and intimidating presence of a Canadian police state looming over the Six Nations reserve . The efforts of the Indian Agent, Gordon Smith, to remain in contact with the Warriors' society over the issue of a proposed plebiscite represent an example of such a colonial management strategy.[172]

By April 1, 1909 the Chiefs called for a one-month moratorium on agitation stemming from the challenge of the Indian Rights or Warriors Organization. The

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[169] Public Archives of Canada, RG 10, Volume 2286, File 57, 169-1, Pt. 5, Letter to Duncan Scott, Deputy Superintendent General, Department of Indian Affairs from the Commissioner of Immigration and Colonization, July 12, 1928.

[170] Public Archives of Canada, RG 10, Volume 2286, File 57, 169-1, Pt. 5, Report to the Commissioner of the Royal Canadian Mounted Police, Ottawa, from C. D. LaNause, Inspector for Superintendent Commanding "O" Division, forwarding the report of Corporal Covell and reporting on Agent Fred Douglas' activities for "O" Division in collecting intelligence about conditions at Six Nations, July 14, 1928.

[171] Native people knew this was going on for the governing council of the Indian Defense League of America, working with the Mohawk Workers from Six Nations in the 1920's frequently spoke about their fear of being watched and their meetings compromised by agents for the police on both sides of the border. I heard this myself and I was actually amazed to find out this was accurate when I reviewed the records, particularly in regard to the activities of Chief Clinton Rickard. As a young person attending these meetings, I thought these fears were overblown, but Chief Chauncey Garlow's daughter, Lynette Justiana, was absolutely right about the surveillance of her father and Chief Rickard.

[172] Daugherty, Wayne and Dennis Madill, "Indian Government Under Indian Act Legislation, 1868-1951," (Ottawa: Treaties and Historical Research Centre, DIAND,, 1980), p. 48.

Confederacy Council specifically appealed to the community at Six Nations to retract their support for the Warriors Association. In return, the chiefs pledged to go on record with a pardon and announced, "forgiveness to all those who have transgressed;" an oddly Christian turn of phrase, for the ostensible seat of Iroquoian "paganism." With this olive branch, though, came a new threat: Council admonished the community that meetings held by the Indian Rights Association would be prosecuted as "unlawful assembly," even though the Confederacy Chiefs had no means of enforcing this edict. Although the Chiefs maintained that they did not want to enact "harsh measures," they did not want another power struggle at Six Nations undermining their authority.[173] They may also have been worried that violence would beset Grand River as it had St. Regis when there was an attempt to install an elected government there in 1899.[174]

Consequently, the Confederacy Council moved quickly to depose three Chiefs who had politically opposed them and "shown disrespect," namely, Nelles Montour and Joseph Green, as well as Henry Burning. Nelles Montour, a Delaware, wrote directly to the Indian Affairs Department to intercede on his behalf, protesting the political and religious nature of his dismissal. Montour, attesting to the tradition of Christianity among his people, condemned the pagan nature of the "Deganawidah system, under which the Delaware chafed: "According to the decrees (of Modern Babylon) De-gani-wi-deh the idol is set up whosoever will not bow to that image is cast out…" This was blasphemy according to the chiefs of the Longhouse who adhered to the religious tenets of the Confederacy system. Chief Montour appealed to the officials of the Department of Indian Affairs for redress of his grievances, noting that his people, chafing under the "despotic rule" of the Six Nations, were deprived of their right to choose a new chief, or

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[173] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Extract from Minutes of Six Nations Council, Ohsweken Council House, April 1, 1909.

[174] Daugherty, Wayne and Dennis Madill, "Indian Government Under Indian Act Legislation, 1868-1951," (Ottawa: Treaties and Historical Research Centre, DIAND,, 1980), p. 49. One man was shot and killed at St. Regis and the authors speculate that the government, too, was nervous about the violence that accompanied the installation of an elective council and vowed to follow a policy of neutrality at Six Nations.

to depose the old Delaware Chief.[175] Since the Department of Indian Affairs had upheld the Confederacy Council's legitimacy, very little could be done about these charges from the Canadian government's perspective.

The Confederacy Council was not about to let this serious threat to their authority be overlooked and set about trying to educate the community. They sought to acquaint the community about the significance of Six Nations autonomy, the impact of the historical relationship with Britain and the creation of the Covenant Chain. The Chiefs decided to sponsor a Six Nations National Picnic for the first time, with speeches given concerning the relationship of Six Nations to the British Crown, treaty rights and the workings of the Council. Not all would be politics, for there were to be athletic races and a band, according to a large banner, proclaiming "God Save the King."[176] The Chiefs used this campaign to inform the Six Nations community of the threat the elective system held in store Six Nations autonomy and treaty rights. The Warriors Association countered by circulating their own petition on the reserve, reflecting their support for an elected Council and their will to continue the fight.

On March 31, 1910, the Warriors, or Indian Rights Association presented a petition seeking a change to representative government at Grand River to Frank Oliver, the Superintendent General of Indian Affairs, at the House of Commons, in Ottawa. The petition was signed by 658 people; all males from Six Nations who were over 21 years of age. Several local members of Parliament came with the delegation to lend support as well as to cultivate political ties to the "progressive" Indians. Chief of the Delaware, Nelles Montour, who had recently been deposed by the Confederacy Council, was the main speaker at the event. He condemned the Confederacy system by denouncing it as "truly pagan" and ridiculed the selection of chiefs by the older women of the Six Nations.

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[175] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Letter from Nelles Montour, Delaware Chief, to Frank Pedley, Deputy Superintendent General of Indian Affairs, May 18, 1909. It is interesting that one of the ministers on the Reserve, George Carpenter, came to exactly the opposite conclusion, stating in a letter in the same file, on April 8, 1910, that the proposed change was "an Indian question, to be settled by Indians& that religion should be kept out of it."

[176] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32. pt. 1. Banner in clipping file, Oshweken Council House, August 11, 1909.

Chief Montour was a Christian and he trivialized the ceremonial installation of a chief in the Longhouse by stating derisively: "…they march him up and down, all the time chanting and going through curious motions. After a couple of days of merry-making the chief is made…" Montour complained that the Council was expensive, ($4,000.00 per year) and inefficient. Disregarding the reasons for the reconstitution of the Confederacy, mirroring the ancient institution, Montour acidly commented that one did not need "80 men to govern 46,000 acres and 4,500 people."[177] No mention was made as to the history of how the Delaware came to live at Grand River following their diaspora. Six Nations had been a refuge for the Delaware after their expulsion from their homelands and historically, they acted as mediators between the Six Nations and Algonquian Natives.[178]

Members of the Warriors Association also complained to local ministers that they were persecuted by the Chiefs for their progressive political stance. In response the ministers embarked on a letter-writing campaign to their local Member of Parliament, H. H. Miller, who referred their testimonials for "the change" to Ottawa. Not all the ministers were equally hostile to the Confederacy Council, however, for James Strang, the minister from Kanyengeh (Mohawk) Parsonage, pointed out that the Council was an artifact of "a past before the advent of the White Man." Even though he acknowledged that this was perhaps simply a matter of "sentiment," he argued all men, "whether English, Irish or Scotch have our national traditions, or ideas; and the Indian has a right to his."[179] The ministers' campaign to advocate for an elective system failed to marshal support from the Department of Indian Affairs in Ottawa.

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[177] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Clipping File, "Redskins Tired of Pagan Style," April 1, 1910.

[178] Jennings, Francis, The Ambiguous Iroquois Empire, (New York: W. W. Norton & Company, 1984), p. 161). I also asked Chief Jake Thomas about this at the Six Nations Pow-wow, for he was interviewed by Jennings about this relationship. Chief Thomas told me the old joke referring to the Delaware as the nation who came to visit Six Nations and never went home.

[179] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Letter to H. H. Miller, Member of the House of Commons, Ottawa, April 12, 1910, from James L. Strang, Kanyengeh Parsonage, Grand River Reserve.

Superintendent General Frank Oliver decided that there would be no change in the form of government for Six Nations until a "substantial and permanent majority, say 66 2/3, in favour" of the elective system was evidenced on the Grand River Reserve.[180] Oliver again asserted the Six Nations "were on a different footing" than other Indians of Canada.[181] The Warriors Association quite clearly anticipated a different decision, for they had already set about nominating men for a "provisional council," consisting of ten men from the Church of England, two Baptists and one "pagan," to serve during a transition to an elective system.[182] Ottawa was quick to disassociate itself from this plan and the Department of Indian Affairs issued a disclaimer rejecting authorization for any new ruling body for the Grand River.

The local Christian ministers were not discouraged though and continued to lobby against the "pagan" institutions at Grand River: George Carpenter, T. A. Wright, Dr. Gee and James Strang, brought up several points in favor of the elective system. The ministers argued that due to the "peaceable, law-abiding" nature of the community, violence or riot was highly unlikely to take place as a result of a change in government. They also contended that at least half of the population opposed to the elective system or were largely, disaffected and indifferent. Others might be induced to sign a petition for reform, if they were not afraid of the Confederacy Council, the ministers insisted.[183] The situation was fairly fluid for there was even gossip on the Reserve reporting that several

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[180] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Letters to H. H. Miller, House of Commons and Wm. Paterson, Minister of Customs, Ottawa, April 20, 1910 from Frank Pedley, Deputy Superintendent General of Indian Affairs, Ottawa.

[181] Public Archives of Canada, Indian Affairs, RG 10, Volume 2295, File 57, 169-1A, Pt. 2. "Six Nations Indians Protest Against Compulsory Enfranchisement," *Brantford Expositor*, March 16, 1921. Chief J. S. Johnson later quoted Oliver in his article opposing compulsory enfranchisement.

[182] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1. Letter to M. P., House of Commons, H. Miller, from Rev. George Carpenter, Methodist Minister, May 10, 1910. This correspondence complained that the Methodists were unfairly left out of this provisional council, despite the Church's work on the Reserve for a century establishing Christianity and education.

[183] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 1, Memorandum to Frank Oliver, Superintendent General of the Department of Indian Affairs, Ottawa, from Frank Pedley, Deputy Superintendent General of Indian Affairs, April 30, 1910.

of the clan mothers were leaning toward the new elective system. Populist sentiments were expressed by William Jamieson, who argued the Haldimand and Simcoe "treaties" were not intended to give the land to the Six Nations Confederacy alone, but to the Six Nations people, as a whole. He corresponded with a local Member of Parliament to support a change in governance for Six Nations.[184]

As the dispute continued to smolder, oral recitations and ceremonies concerning Six Nations history took on greater relevance as signifying practices and rituals provide ideological reinforcement for the Confederacy. The Chiefs were adept at shaping discourse and media in the public sphere. Members of Parliament and local dignitaries from the town of Brant, for example, were invited to a Confederacy Council meeting as Chief A. G. Smith, notable orator and progressive chief, quoted from the Haldimand Deed. A. G. Smith affirmed that at this meeting: "The Pipe of Peace was then produced by Chief J. W. M. Elliott and smoked by Chiefs and Messrs. Cockshutt and Fisher. The date of this pipe is 1769 and has been in the custody of the Chief Deyonheykon for over a century." Ceremonies for prominent local leaders were intended to buttress the legitimacy of Six Nations governance. Tropes such as the rising smoke signifying peace, as well as objects of material culture like the pipe itself, were clearly employed to emphasize the authenticity and distinction of the Confederacy Chiefs' rule. The claim to "title to the lands" was designed to rebuff any political encroachment on their power from local elites who might threaten Six Nations land.[185] The Chiefs contended they were the only legitimate voice of the Six Nations.

The Confederacy dispatched yet another delegation to Ottawa to seek the suspension of the Indian Act, vigorously protesting Canadian interference in its "internal affairs."[186] By questioning the very foundation of the Canadian government's aboriginal

[184] Ibid.

[185] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 2. Copy of Minutes of a Special Council Meeting, October 5, 1911, signed by Josiah Hill, Secretary, Six Nations Council, Ohsweken.

[186] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, Pt. 2. Memorandum presented to the Superintendent General of Indian Affairs, September, 1911.

code of laws the Chiefs were embarking upon a collision course with Ottawa. Moreover, the Chiefs' broad interpretation of the "Haldimand Deed" as conveying not only the land, but also autonomy and sovereignty was far from the narrow reading of the document favored by Canadian authorities.

Josiah Hill, Secretary of the Six Nations Council, was distinguished by his attempt to clarify Six Nations status with Ottawa through non-confrontational means. Although he interpreted the alliance of Britain and Six Nations as heroic in light of the League's oral history and through the prism of the Covenant Chain, Hill was clearly not a leader who clung to past military or diplomatic glory. Hill was rather startlingly realistic in light of the reverence for the Covenant between Six Nations and Britain. Even though the Confederacy Council used the Six Nations military alliance with England as the palimpsest on which relations with Canada were reinscribed, Hill was fully cognizant that England was quick to abandon the Six Nations after the Revolutionary War. He fully understood the frustration that beset Chief Joseph Brant in dealing with British colonials in Canada. As British actions fell short in light of Six Nations expectations that their allies would make restitution for their ancestral lands, Brant had to make repeated appeals and insist that the British keep their promises to their Native allies.[187] Six Nations leaders had been fighting to ensure their right to independence and autonomy ever since they had arrived in British Canada. Instead of living up to the promise to "restore" the Indians to their original condition, the British were thought to be unable, or perhaps unwilling, to better the lot of their former allies. Chief Hill notes with irony that the position of Britain must "have been somewhat embarrassing, as they either had to abandon us altogether and allow the Americans to win us back…or they could endeavour to induce us to make Canada our permanent home." He added with some asperity: "We little thought however that we would as soon be ignored and denied the concessions made

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[187] Roger Nichols, Indians in the United States and Canada: A Comparative History, (Lincoln: University of Nebraska Press, 1998), p.144. From the standpoint of the British, the Six Nations perspective was totally invalid, for according to Nichols, five separate land acquisitions had to be made to accommodate the refugees. Initially, Iroquoian peoples were to be grouped in one settlement, but as frictions developed between Chiefs Brant and Deseronto, as well as their followers, the British were forced to acquire more land for settlement. Note: Kelsay's text on Joseph Brant takes a much more sympathetic view.

to us in solemn treaties and pledges and for which we had paid of such a price, but it was done as soon as it could be done with impunity."[188] Herein lay the rub, for Canadian officials were not about to pay for a debt they did not incur to an indigenous group who refused to accept subordinate colonial status. Instead, to the increasing frustration of the bureaucrats in Ottawa, Six Nations Chiefs demanded no less than nation-to-nation status.

The Haldimand "deed" and the Simcoe "pledge" were seamlessly incorporated into the Confederacy arguments, pressing their claim to the land and to Six Nations independence at Grand River. Ironically, when the Simcoe Patent was issued it was perceived and denounced by the Chiefs as a restriction of Six Nations right of ownership over the Reserve lands.[189] The Simcoe Deed did not allow Six Nations people to sell land on the reserve, but recognized the right of the Crown to alienate tracts of land, so the Chiefs have protested the agreement to the present.[190] Chief Joseph Brant had simply ignored the attempt of Simcoe to establish Crown stewardship over the tract and after acquiring power of attorney from the Chiefs, Brant dispatched it to whom he pleased, eventually selling or leasing over 350,000 acres to non-Natives.[191]

The Confederacy Chiefs in the early twentieth-century were equally resentful of Ottawa's attempts at oversight and sought to institutionalize their power as the sole voice in command of the reserve. The Council suggested that "special legislation or provisions" be incorporated into the Indian Act, so that Six Nations autonomy and treaty rights were preserved. The Chiefs stressed that they did not seek to "embarrass" the Dominion, but they wished to bring about a "slackening of the tight reins which the

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[188] National Archives of Canada, Indian Affairs, RG10, Volume 2284, File 57, 169-1, Letter to K. Rogers, Superintendent General of Indian Affairs, Ottawa, from J. W. M. Elliott and Josiah Hill, Secretary, Six Nations Council, February 20, 1912.

[189] Noon, John, Law and Governance of the Grand River Iroquois, (New York: Viking Fund, 1949), p. 86.

[190] Muse, Sandra, "S N [Six Nations] Caucus Prepares for Offer from Feds," *Tekawennake*, May 30, 2007. One of the outstanding land claims currently under negotiation with the Federal government is the "Head of the River" tract, also referred to as the Simcoe Patent, involving the alienation of 400,000 acres which was never ratified by Six Nations.

[191] Sally Weaver, "Six Nations of the Grand River, Ontario" in Northeast, v. 15, edited by Bruce Trigger in Handbook of North American Indians, (Washington, DC: Smithsonian, 1978).

subordinates of the Department have drawn where there should have been no reins at all." The only statutory exception to this policy granted by the Confederacy Council was within Canada's criminal code pertaining to murder, theft and rape, where the Chiefs had yielded jurisdiction to the local judiciary.[192]

Council claimed they were going to great lengths to ascertain the sentiments of the community about these issues. In February 1912 they held a special Council meeting and reported that Warriors who spoke sought self-government, but "shorn of much of the high-handedness" of the Department of Indian Affairs against whom many grievances were lodged.[193] In response, Superintendent Rogers noted that the government at Six Nations, based on hereditary chieftanships had endured a long time and that the Dominion would not be "inclined" to alter the system "as long as it promotes good government."[194]

Looking back over their shared history Rogers noted the Six Nations and the Loyalists were comrades-in-arms and had lost everything in coming to a new land. Rogers reminded the Six Nations leaders they had "participated" in the "bounty" given to the Loyalists by the Crown intended to restore each group to their former state before the American Revolution. The Crown had bought a tract of land from the Mississaugas for the present Reserve lands inhabited by the Six Nations and paid 15,000 pounds to the League for their losses during the war. Rogers maintained that the Six Nations had been duly compensated for their losses on behalf of the British and insisted that the treaties had

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[192] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Letter to R. Rogers, Superintendent of Indian Affairs, from J. W. M. Elliott and Josiah Hill, Secretary of the Six Nations Council, February 20, 1912.

[193] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Copy of a report of a special Council meeting authorizing a deputation to visit Ottawa on behalf of the Six Nations to interview the Superintendent General of Indian Affairs, Robert Rogers and the Duke of Connaught, Undated.

[194] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Letter from R. Rogers, Superintendent General of Indian Affairs, to Chief J. W. M. Elliott and Chief Josiah Hill, April 8, 1912.

"been kept in their integrity."[195]

Rogers sought to put to rest the status question by citing both Justice Macauley's legal decision of 1839 and the Governor General's decision of 1890, but without exploring the legal and social context for the decisions. He offered his opinion that even if it was possible for the Six Nations to have an exemption from the laws of the Dominion it would not be in the best interest of the Indians to receive such a ruling. In the spirit of paternalism, with no critique of the racism and inequality evident throughout Canadian society with respect to indigenous people, he suggested:

> …progress and development would be retarded if the Government found it possible to meet your wishes and recognized you as a separate nation or power. While it is quite true that your affairs are administered under the provisions of the Indian Act, you have all the protection which comes from the criminal and civil laws of the country. You have access to the courts with the same freedom as white persons and your wrongs can be redressed and your property and persons protected in the same way."[196]

Wrongs were not addressed, Native voices were not heard and the courts were only open under certain conditions, the members of Six Nations were soon to discover. On the contrary, when the Chiefs found their freedom to govern swept away by Canadian officials, there was no refuge or protection in the law or in the courts.

One of the difficult aspects of this period for the Confederacy was the advancing age of several of its prominent Chiefs, who served as the institutional memory of Six Nations affairs. Chief John A. Gibson, known as the "greatest ritualist in recent

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[195] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Letter from R. Rogers, Superintendent General of Indian Affairs, to Chief J. W. M. Elliott and Chief Josiah Hill, April 8, 1912.

[196] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Letter from R. Rogers, Superintendent General of Indian Affairs, to Chief J. W. M. Elliott and Chief Josiah Hill, April 8, 1912.

memory," who transcribed the Great Law and served for forty years on the Council, as well as Chief Alexander Hill, one of the Fire-Keepers, and Chief Elijah General, would all die over the period of just a few months, leaving a void in the community.[197] Chief Josiah Hill, who as Secretary of the Confederacy Council undertook to translate and transcribe the minutes into English until his death in 1915, was another signal leader.[198] This generation would be sorely missed for they were imbued with the legacy of the Longhouse and the League, symbols of church and state and fluent in their Native language in which Six Nations business was conducted. These leaders were the embodiment of Six Nations nationalism and the interpreters of the Great Law to generations. Though the Warriors Association objected to the rule of the Chiefs as backward and inefficient, their stance belies the fact that the Grand River community still had a deep and abiding attachment to the mythic history and legacy of the Iroquois Confederacy as their cultural identity. The loss of a generation of leaders could not have come at a worse time for the Confederacy as threats to its very existence mounted.

Secretary Rogers did not threaten the Chiefs, but since he saw the Dominion as an integral part of the greater British Empire, he could not "imagine any greater destiny for the Six Nations than to take part in this general patriotic movement." Indeed, he warned "If you separate yourselves from it [Canadian nationhood] your aims will become narrow and your activities will be restricted." He thought that the "destiny" of Six Nations Natives was to become British citizens, even if that took a considerable amount of time. Rogers envisioned the Six Nations as having a prominent place within a new British order and advised the Chiefs to pursue a course in line with the Dominion, rather than seeking to rekindle the ashes of the ancient Iroquois Confederacy.[199]

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[197] Annemarie Shimony, Conservatism Among the Iroquois at the Six Nations Reserve, (Syracuse: Syracuse University Press, 1994), p. ix.

[198] Sally Weaver, Six Nations of the Grand River, Ontario, in Northeast, v. 15, edited by Bruce Trigger, Handbook of North American Indians, (Washington, DC: Smithsonian, 1978).

[199] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Letter from Superintendent General R. Rogers to Chief J. W. M. Elliot and Chief Josiah Hill, April 8, 1912.

Rogers' warning, or perhaps veiled threat, apparently did not deter the Chiefs at Six Nations, for the Council announced plans for a delegation to England to lay their grievances before the "Imperial Governor." Chief J. S. Johnson approved plans for a tournament, including sports, entertainers and speakers, to defray the cost of the delegation. Despite the common notion of hardened factions arrayed against one another, the Chiefs appointed a political cross-section of Band members, including A. G. Smith, Harry Martin, Joseph Montour and John A. Gibson, to publicize the event and raise funds for the travel and expenses of the Six Nations delegation to England.[200] The Council's activities were reported and forwarded for approval to the Canadian government by the Indian agent on the Reserve, Gordon J. Smith, who explained to his superiors that one reason for the dissatisfaction at Grand River was the transfer of John Brant and his family to the Mississauga Band, without the consent of the Six Nations Chiefs-in-Council. Smith also reported that not all the Chiefs were united behind the decision to send a delegation to England. The Council, Smith argued, was split along class lines, with "the better class of chiefs" opposed to the plan.[201] The so-called, "better class of chiefs," was perceived by Smith as the progressive, better educated chiefs. Yet, they were clearly viewed on the Reserve as cronies and sycophants of Ottawa.

The Confederacy proceeded with its political strategy signaled by a personal appeal to the Duke of Connaught, a visitor to the Grand River territory. United in creating the familiar cultural trappings of the imperial moment, the Chiefs appealed to this dignitary in metaphors calculated to evoke the memory of numerous battlefield encounters between British adventurers, exemplified by Sir William Johnson, and the

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[200] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Minutes in Adjourned Council, August 14, 1912, Ohsweken Council House, Signed by Josiah Hill, Secretary, read and approved by Chief J. S. Johnson, Deputy Speaker, Six Nations Council. It would seem that this group appointed to head the committee represented the continuum of political views on the Reserve since A. G. Smith was well know as a "progressive," in favor of greater assimilation with the majority society, while Gibson was the traditionalist. The concept of factionalism breaks down as one looks at individual decisions made, as well as generational conflict, where models do not encompass individuals' complex motivations and rebellion against the status quo.

[201] National Archives of Canada, Indian Affairs, RG 10, File 2284, File 57, 169-1. Letter from Gordon J. Smith, Indian Superintendent, Six Nations Reserve, to the Secretary, Department of Indian Affairs, September 14, 1912.

men and women of the Confederacy such as Molly and Joseph Brant, who forged an alliance that had benefited them all in terms of treasure, treaties and technology. The idealization of this period had become a signal part of Six Nations identity, but the familiar images, tropes and metaphors of this imperial connection were also referents that permanently cast Six Nations delegations in the role of supplicants to the Crown.

The ceremonial address given by the chiefs began with salutations to the Great Spirit, the use of an Indian name for the Duke of Connaught, "Ka-ra kon-tye," and the metaphors of Native ancestors – artfully and consciously employed: "Your brother chiefs therefore hasten to extract every thorn that may have pierced your moccasins and marred your feet and gently bathe them in pure spring water wipe them, and apply to them soothing balms, so that you may again be free from weariness and pain and be fully refreshed." Adding a metaphor from the Longhouse to blend spirituality with diplomacy, the Chiefs directed: "They now also wash off all the dust that may have impaired your vision so that you may again see with clear and unobstructed vision."[202] Longhouse ceremonies often include the directive to 'see with a good or clear mind;' so by addressing the Governor General of Canada in this manner, the Chiefs include him in the tradition of diplomacy expressed in the Covenant Chain, as well as the spirituality of the Longhouse.[203] The historical legacy of Confederacy diplomacy was evident, as was the strategy of using both oratory and the terms of fictive kinship in negotiations to serve the Six Nations political interests.

[202] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, 57, 169-1. Memorial to Arthur William Patrick Albert, Duke of Connaught, the Governor General of Canada, from the Six Nations, Undated.

[203] For a discussion of the meaning and significance of how this phrase is used by members of the Longhouse, see the text by Cayuga Faith-keeper, Teachings in the Longhouse, by Chief Jacob Thomas, (Toronto: Stoddart Publishing Co., 1994), p. 145.

Chapter Three

The Great War and the Status Case Erode the Links of the Covenant Chain

Since the late-nineteenth century Canadian officials under Superintendent General John Macdonald's administration began to actively promote democratic, elective systems along the line of municipal governments to replace Native governments. Part of this process of Indian Advancement entailed a steady erosion of power and lessening of respect for the governing Council of Chiefs at Six Nations because it was regarded as an inferior system by Canadian politicians and Indian Affairs bureaucrats. Macdonald believed that the time was right to push those Native bands which were fairly well advanced along the path to assimilation to create "a better system for managing their local affairs than the one which at present prevails among them."[204] Six Nations was singled out as one of those bands. Yet the bureaucratic characterization of Six Nations as simply another Native band, rather than celebrating its unique status as an ally of the Crown stripped the imperial trappings from the relationship, much to the Chiefs' chagrin. Their pride would suffer far more grievous wounds with the appointment in 1913 of Duncan Campbell Scott as Deputy Superintendent General if Indian Affairs. Scott would have no patience with such delusions of grandeur would pose a grave threat to the power and the very existence of the Confederacy Chiefs.

Scott had some new political tools to accelerate the process of assimilation and to streamline the cumbersome machinery of Indian Affairs. In 1906 Indian Advancement had been made part of the Indian Act, strengthening the hand of the Department of Indian Affairs and particularly the authority of the Superintendent General to guide the indigenous population toward assimilation and civilization, through elections and elective

[204] Daugherty, Wayne and Madill, Dennis, "Indian Government under Indian Act Legislation, 1868-1951, (Ottawa: DIAND, 1980), p. 11.

band councils.[205] Still one might characterize the pace of change as slow, for despite the desire of the officials in charge of Indian Affairs to accelerate assimilation, no one acted to impose any changes directly, as we have seen. There was still only grudging acceptance of the power of Indian Affairs by the Six Nations Chiefs. Although the local superintendent was given more oversight over affairs in Council and was expected to prod the Chiefs to adopt progressive policies leading to assimilation, the power resided in Ottawa and the chiefs knew this very well. The chiefs could afford to ignore the agents, bypassing them in order to appeal directly to Ottawa. They were justly proud of their system and quite successful in staving off challenges to their power until after World War I. The façade of Six Nations self-government remained intact. Ottawa denied any change was in the works. The Confederacy Council appeared from all appearances to be a quasi-municipal entity operating under Native principles. Six Nations pride was intact for the cultural trappings of indigenous rule were not challenged for the language and the ceremonies of Council were firmly in Ongwehònwe hands. Scott would put an end to all, becoming the nemesis of the Six Nations Chiefs.

Relations between the Confederacy Council of Six Nations and Indian Affairs would reach their nadir during the administration of Duncan Scott, who was appointed as Deputy Superintendent General in 1913. The post of Deputy Superintendent was extremely important in the hierarchy of the Department, for this official had day-to-day power over the management of Indian Affairs at this time. The Superintendent General, also served as Minister of the Interior and turned over the day-to-day operation of Indian Affairs to his Deputy.[206] Arthur Meighan held both of these posts from 1917 to 1920 and gave Scott free reign to administer Indian Affairs. Scott orchestrated his own meteoric rise through the ranks from a clerical position, yet he was singularly without vision of the potential of a Native-Canadian partnership.

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[205] Daugherty, Wayne and Madill, Dennis, "Indian Government under Indian Act Legislation, 1868-1951, (Ottawa: DIAND, 1980), p.22.

[206] Chisholm, A. G., Letter to the Editor, "Explanation of Unrest of Six Nations," *Brantford Expositor*, March 29, 1921.

Scott served until 1932 as a consummate administrator and tireless advocate of detribalization and acculturation of the Native population, parallel to the United States policy at the time.[207] Scott was the archetype of the Canadian civil servant. As a progressive, he was convinced that as a class and race Natives would move forward only by being inexorably absorbed within the Canadian body politic. To acquire civilization Native societies had to undergo a cultural reconstruction through submitting to education, enfranchisement and capitalism, leavened with Christian philanthropy. Scott promoted himself as both a poet and essayist of Native culture, but trivialized and reduced the poetic language and lifeways of Indian cultures at every turn. Scott proved unable to engage intellectually or spiritually with Native peoples. The mundane, bureaucratic realities of rules, boundaries and precedents was his foremost pursuit in his unusually long reign over Native societies, for he became indispensable to a procession of ministers who relied on his mastery of bureaucracy at Indian Affairs. Scott created no policy, reached for no stars, touched no firmament, but excelled as a Deputy Secretary through his mastery of using the arcane provisions of the Indian Act to reduce Native people to Canadian civility. The "imaginary" Covenant Chain, "said to be of silver and attached to the mountains," was dismissed by Scott as folklore, along with the "Belts that were exchanged from time to time."[208]

Scott's first salvo was to establish that there was no written treaty confirming a treaty between the Iroquois League and the Crown. In a new twist on the diplomatic argument, however, he argued that the fault for not maintaining the Covenant lay with the Natives. Scott maintained that all members of the Confederacy who had promised to remain loyal to the British had not maintained their part of the bargain, for the Oneidas, chose to ally with the Americans.[209] Scott argued that in the American Revolution due to

[207] Roger Nichols, Indians in the United States and Canada: A Comparative History, (Lincoln: University of Nebraska Press, 1998) p.263. Nichols' conclusion was that the efforts of bureaucrats in both nations during the progressive era "hurt tribes more than helping them."

[208] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Letter drafted in reply to the Six Nations' Memorial, addressed to the Governor General of Canada, by Duncan Scott, Deputy Superintendent General of Indian Affairs, Undated.

the split in the Confederacy, the Six Nations lost their Western Indian allies, their own "ancient Council Fire was extinguished," and they never were united again.[210] Although the council fire was indeed extinguished, it was rekindled at Grand River and Buffalo Creek, as we have seen. Scott argued that no further diplomatic debt bound the Canadian government or Britain to the Six Nations, for the British had repaid their obligation to the Six Nations by obtaining the Reserve on the Grand River and by monetary compensation.

Duncan Scott espoused the argument that the Six Nations people should strive for British citizenship as their most practical course. The Six Nations advocates for citizenship along these lines were of course, the members of the Warriors Association, known as the Dehorners. An official from the United States Department of Indian Affairs, Frederick H. Abbott, attested to the dissatisfaction of several young men when he toured Canada's Reserves: "The only note of discontent which reached my ears during my visit here was from some of the younger Indians, who believed that the hereditary council (the old women of the Six Nations now select the chiefs) should be abolished and supplanted by an elective system."[211] The Confederacy Chiefs in Council were well aware of this internal criticism, but continued to resist encroachment on their own power. They believed, correctly, that the majority of Six Nations residents were satisfied with their indigenous form of government and that criticism of the Council was confined to a small number of young people.[212]

In 1915 the Chiefs sent a delegation to Ottawa, including William D. Loft, Andrew Staats, Samuel R. Lickers, Joseph Montour, Levy General and Asa R. Hill,

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[209] Influenced by Samuel Kirkland, a missionary to the Oneidas, this nation fought for the American patriots. The diplomatic position that the entire League was to have adopted, however, was not loyalty to the British as Scott implied, but neutrality. See Barbara Graymont's text, The Iroquois in the American Revolution, (Syracuse: Syracuse University Press, 1972).

[210] National Archives of Canada, Indian Affairs, Volume 2284, 57, 169-1. Draft for the Governor General of Canada, the Duke of Connaught, by Duncan Scott, Deputy Superintendent General of Indian Affairs. Undated.

[211] Frederick H. Abbott, The Administration of Indian Affairs in Canada (Washington, DC: 1915), p. 63.

[212] Roger Nichols, Indians in the United States and Canada: A Comparative History, (Lincoln: University of Nebraska Press, 1998), p. 269.

accompanied by their legal advisors, W. D. Lighthall and A. G. Chisholm. They emphasized their desire to keep their own form of government, their loyalty and service to the Crown and invoked their claim to special status, exempting them from Dominion rule. The Chiefs were also eager to present their views directly to the Prince of Wales, as they had done with his predecessor, Albert Edward, later King Edward VII, who had visited the Reserve in 1860. The son of King Edward VII, crowned George V, visited Canada and the Six Nations Reserve in 1919, causing excitement much like the excitement surrounding his father's visit.[213]

The war record of Six Nations soldiers in The Great War was widely touted and particularly noteworthy was that the first casualty from Brant County was none other than Lieutenant Cameron D. Brant, a direct descendant of Chief Joseph Brant, Thayendanegea. This fact would resonate with the press for its local color and historical interest in the continuity of Brant's descendants continued loyalty to the British.[214]

Confederacy advocacy of neutrality in the Great War once again roiled politics between the Six Nations, just as it did in the Revolutionary War. In both cases neutrality was pursued as the wisest course for the welfare of the League, but was largely ignored by many of the warriors. In the Revolution, Joseph Brant was instrumental in forging an alliance with the British, in part due to his close relationship with Sir William Johnson, the Northern Superintendent of Indian Affairs.[215] In World War I, Six Nations Chiefs at Grand River resisted the registration and conscription of their young men. They even

[213]Oronhyatekha, Peter Martin, "Address from the Six Nations of Indians, in Canada, to H.R.H. The Prince of Wales, to his Royal Highness," Albert Edward, Prince of Wales, (Oxford: Oxford University, 1860). Terence Ranger discusses the notion of personal connection to the monarch based upon an assumption that he or she is personally concerned about each British subject as an "official theology" in which colonized peoples direct their requests directly to the king as supplicants and in this way, collaborate in the politics of the "colonial theory of monarchy." See "The Invention of Tradition in Colonial Africa," in The Invention of Tradition, (Cambridge: Cambridge University Press, 1983), p. 236. See also, "Indian Chiefs in Conference," from the *Hamilton Spectator*, from the Department of Public Information Clipping File, Stamped September 13, 1919, in Public Archives of Canada, RG 10, V. 2284, File 57, 169-1.

[214] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1, "Indian Chiefs in Conference," *Hamilton Spectator*, September 11, 1915 and "Indian Braves Make Demands," *Quebec Chronicle*, September 23, 1919, Clippings reproduced by the Department of Public Information, Ottawa.

[215] Graymont, Barbara, The Iroquois in the American Revolution, (Syracuse: Syracuse University Press, 1972) and The Iroquois, (Philadelphia: Chelsea House Publishers, 2005), p. 69.

sought legal representation to fight Canada's authority to conscript Indians on the Reserve. The Chiefs argued that only a war council of specially selected chiefs could send their own warriors into battle. Further, they contended that only the King could call the men of Six Nations to fight under the terms of the Covenant Chain. The Six Nations Council even rejected an offer on the part of a prominent Canadian, Lieutenant Colonel Hamilton Merritt, to equip two companies from Six Nations, so that the Indians would fight together as a unit. The chiefs were equally reluctant to participate in Canada's Patriotic Fund, in support of the families of soldiers at the Front. This caused resentment in the surrounding community and problems for soldiers' dependents on the Reserve. The Patriotic Fund for Haldimand County finally stepped in to support for the families at Grand River.[216]

The Chiefs not only fought Ottawa's right to conscript Six Nations men, but also even engaged legal help for the men who refused to register for military service. The order to conscript Indians was later withdrawn by the Canadian government, but this conflict left residual bitterness between Ottawa and the Confederacy Council. Not all the Chiefs agreed with the anti-war stance of the Confederacy Council, just as in Chief Joseph Brant's time. Chief J. S. Johnson, the former Treasurer of the Council, was active in recruiting and organizing Six Nations men to serve in the war effort. He wrote to Indian Affairs in 1916, complaining that several of the Chiefs, including Asa Hill, Acting Secretary, had removed him from office, or "dehorned" him for his political views.[217]

The loyalty and valor of Six Nations' men to fight was not in question, however. At the outset of World War One, Natives from the Cayuga, Delaware and Chippewa Nations enlisted in the war effort; many of them losing their lives in the battle of St. Julien in 1915. When Cameron Brant died in combat, many Six Nations men joined the

[216] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, Pt. 2. "Braves Make Demands: Interesting Dispute Among Six Nations," Reprinted by the Department of Public Information, October 11, 1919.

[217] National Archives of Canada, Indian Affairs, Letter to Duncan Scott, Deputy Superintendent General, Indian Affairs, Ottawa, July 20, 1916, from J. S. Johnson, former Treasurer, Six Nations Council.

114th Battalion and served with the Haldimand Rifles.[218] According to Sally Weaver, 292 soldiers from Six Nations willingly fought in the war, while fifty-five men from the reserve were wounded and twenty-nine died in battle.[219] The returning soldiers came home to a local government that had a mixed record on supporting the Canadian war effort; a fact that was not lost on the men. This discordance created a rift between the soldiers and the chiefs, making the Confederacy Council conspicuously out of step with the times.[220] By 1917, the Warriors Association capitalized on this issue, for it resonated both within the Indian Department and on the reserve.

Warriors Association leaders, Jacob Miller and Nelles Montour, complained to Duncan Scott about the Chiefs' lack of support for the war; in fact, they alleged several chiefs were pro-German. They also claimed that the Confederacy Council did not recognize and welcome the returning Six Nations soldiers in Council. Miller and Montour were outraged that some of the Chiefs had supported neutrality and sought to have the hereditary Chiefs removed by Indian Affairs.[221]

The returning soldiers spoke for themselves in the fall of 1919, writing to Duncan Scott and conveying their own thoughts on who was to rule at Home. Predictably, they pointed out the irony of fighting for a democracy, only to find themselves under hereditary rule, which they assailed as an illiterate and "incompetent aristocracy." The Council was portrayed as disloyal to Canada by hindering enlistment, refusing dependents any assistance and opposing the Soldiers' Land Settlement, which was to

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[218] Montour, Enos, "Officer in War, Magistrate in Peace, Six Nations Man Made His Mark," *London Free Press*, June 18, 1966. Oliver Milton Martin served in this unit as well during World War One and eventually commanded the Dufferin and Haldimand Rifles in the Canadian Army, an amalgamated unit from the communities surrounding the Six Nations Reserve in the Second World War.

[219] Sally Weaver, "Six Nations of the Grand River, Ontario," in Volume 15, Northeast, edited by Bruce Trigger, Handbook of North American Indians, 1978, p.43.

[220] National Archives of Canada, Indian Affairs, "Braves Make Demands: Interesting Dispute Among Six Nation Indians, Reprinted by the Department of Public Information, Ottawa, October 11, 1919.

[221] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 2. Letter to Duncan Scott, Deputy Superintendent General, Indian Affairs, Ottawa, from Jacob Miller, President and Nelles Montour, Secretary, Warriors Association, Six Nations Reserve, Stamped October 10, 1917.

benefit the soldiers who served in the war. The petition from the soldiers pleaded eloquently and passionately for a break with the past, directly targeting the chiefs:

> We are ashamed of them, and at the same time sorry for them, and we want to help them as well as ourselves, our children and our children's children out of the rut that they have us in and where we will stay as long as we have a hereditary Council at our head. Will the Canada that we fought for desert us? Surely you will stop, listen and help your soldiers up just one step along the path of democracy, progress and industry.[222]

In the postwar climate of patriotic fervor and progressive ideology, this plea was exactly what Duncan Scott had been waiting for, emanating from a politically unassailable enclave within the community – the Six Nations war veterans.

In a politically astute move, Scott, rather than sending the petition up the bureaucratic chain of command, sent the document directly to a local Member of Parliament for Simcoe, W. A. Boys. By publicizing the petition and releasing it to the official, Scott calculated that Boys would publicize the petition and seek support for an elective system, as well as compulsory enfranchisement.[223] Boys served as Chairman of a Special Committee to amend the Indian Act, so he was well placed to promote Scott's agenda for reform. Yet, Boys found no groundswell for enfranchisement among the Indians who testified before his committee.[224] This petition would later be examined by Colonel Andrew Thompson in 1923 – Thompson would seal the fate of the Confederacy Council with his board of inquiry into conditions at the Six Nations Reserve.[225]

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[222] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 2. Petition to Duncan C. Scott, Deputy Superintendent General of Indian Affairs, Ottawa, signed by thirty-two men, Sept, 1, 1919.

[223] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 2. Letter to W. A. Boys, M. P., House of Commons, Ottawa, April 16, 1920.

[224] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 2. Extract from Minutes of Debates, House of Commons, Session 1920, Volume IV, June 16, 1920, P. 3617. See also, "Canadian Indian Policy During the Inter-War Years, 1918-1939, by John Taylor, p. 148, published by the Ministry of Indian Affairs and Northern Development, 1984.

Another source of disquiet at Six Nations stemmed from a minor conflict over the use of the Council House by the local agricultural group, the Six Nations Agricultural Club, a progressive group founded in 1867 and nurtured by the Indian Affairs Department's agent to encourage modern methods of farming.[226] The Secretary of the Confederacy, Asa Hill, had arbitrarily barred the door to the men. When the disgruntled farmers went in anyway, Hill threatened them with arrest, attracting the notice of Indian Affairs. Four days later, on May 30, 1919, Scott went on the offensive, writing to Arthur Meighan, Superintendent General of Indian Affairs and Minister of the Interior from 1917 to 1920, condemning the "hostile action" of the Council and stating his support for an elective system at Grand River. As a Canadian official, Scott had no problem interjecting his personal political beliefs into the debate for Scott maintained that the "advanced Indians" had long sought such a change, adding that the returning soldiers would also support the change.[227] Scott's annual report reflected his growing belief in compulsory enfranchisement, not only for the returning soldiers, as a reward for their service, but for all Indians. Scott argued that it would end Indians' differential status as wards, rather than subjects or citizens.[228] Scott's superior continued to resist this step. Perhaps, Secretary General Meighen was wary of resistance or doubted the "readiness" of Indians to embrace the Canadian system, especially if it was foisted upon them without consent.

As Deputy Superintendent of Indian Affairs, Scott was the most significant bureaucrat of the Canadian government in regard to indigenous affairs, since he provided guidance for a succession of Ministers who came and went with each administration.

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[225] National Archives of Canada, Indian Affairs, RG 10, Volume 7930, File 32-32, pt. 2. Letter from Andrew Thompson, Barrister, Thompson, Cole, Burgess and Thompson, Ottawa, to J. D. McLean, Assistant Deputy Superintendent General of Indian Affairs, October 10, 1923.

[226] Sally Weaver, "Six Nations of the Grand River, Ontario, in Northeast, v. 15, edited by Bruce Trigger in the Handbook of North American Indians, (Washington, DC: Smithsonian, 1978).

[227] Public Archives of Canada, Indian Affairs, RG 10, Volume 7930, File-32-32, pt. 2. Memorandum from Duncan Scott, Deputy Superintendent of Indian Affairs to Superintendent General Meighen, Ottawa, May 30, 1919.

[228] John Leonard Taylor, "Canadian Indian Policy During the Inter-war Years, 1918-1939," Ministry of Northern Affairs and Indian Development, 1984.

Scott provided the continuity in interpreting the government's policy regarding Six Nations assertion of sovereignty and he often drafted the minister's replies, despite his status as Deputy Superintendent. Scott also usually drafted the official Canadian response to contentious issues for diplomats involving criticism of Canadian handling of Indian Bands and his replies were often adopted word-for-word. He had a remarkably long tenure in office, from 1913 to l932, and was regarded as an authority on Native issues. Yet, Scott was extremely paternalistic and disparaging toward Native societies, particularly concerning gender relations. He derided the matrilineal organization of the Iroquois as a "petticoat government," in the Canadian press.[229] Scott also regarded Six Nations' desires for self-government, sovereignty and national recognition as sentimental at best, and "childish" as worst.

Women, whether European, Canadian or Indian, who defended Six Nations' aims were particularly singled out for Scott's scorn in his correspondence. For example, Evelyn H. C. Johnson, the sister of renowned Six Nations poet, Pauline Johnson, wrote to Scott communicating dissatisfaction with Dominion intrusion into Six Nations' affairs. Pauline Johnson was Canada's national poet and her defense of Native culture was widely celebrated. Evelyn Johnson feared that part of the Reserve might be surrendered as part of the assault on the Confederacy. Scott viewed her comments as ridiculously exaggerated and easily ignored, but he cloaked his private derision with a paternalistic public tribute to Ms. Johnson's education and ladylike persona.[230] Ms. Evelyn Johnson was active in defending the Confederacy cause, using her eloquence and her forum as a member of the Daughters of the Empire to rally support for the chiefs. She argued in the press that the "rapacious greed" of white people around the reserve was the sole reason the Indian Department had concocted a plan to disempower the Confederacy Council and confiscate Six Nations land. Johnson asserted: "We are different from any other Indians

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[229] "Indian Braves Make Demands," in the Quebec Chronicle, September 23, 1919, reproduced by the Department of Public Information, in National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1.

[230] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Memorandum from Duncan Scott to Dr. Roche, Minister of the Interior, April 15, 1915.

in Canada. We gave our blood and our homes and our country for love of Great Britain. Every man, woman and child."[231] Another sage voice of resistance, was Chief J. S. Johnson, who had himself been harried from the Confederacy Council. He fashioned a historical rebuttal to compulsory enfranchisement, thoughtfully arguing that the relationship of alliance that Six Nation' chiefs claimed was one for Canada, itself, to emulate in order to end its own colonial status with Britain.[232]

The Chiefs-in-Council finally created a committee in 1919 to explore Six Nations status and research their claim to Six Nations sovereignty. In addition a delegation of chiefs went to Ottawa to lay their grievances directly before the minister. Asa Hill, the Secretary of the Six Nations Council, along with Chiefs William Loft, Andrew Staats, Samuel Lickers, Joseph Montour and notably, Levi General went with their lawyers. General would prove to be Scott's foremost Six Nations adversary. Two solicitors were chosen by the Confederacy Council to undertake historical and legal research and then represent Six Nations interests to the Dominion. The two Canadian barristers, A. G. Chisholm, from London, and W. D. Lighthall, from Montreal, both sought an agreement with Indian Affairs to support their research and preparation of a prospectus on treaty rights, constitutional and political issues, as well as claims of autonomy, for the Six Nations' Chiefs.[233] They offered to "suggest a basis for historical progress along lines agreeable to that people," that might form the basis of a negotiation for the consideration of both the Department and the Six Nations Council.[234] This appeared to be an awkward legal position, particularly since Chisholm and Lighthall asked to be paid by the Department of Indian Affairs for their research and recommendations. Yet, it was widely known that the Department controlled all Six Nations funds, garnered from the

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[231] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. "RaPublic Archives of Canadaity of the Whites Feared by Six Nations," Undated, newspaper article.

[232] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. "Six Nations Protest Against Compulsory Enfranchisement," Brantford Expositor, March 16, 1921.

[233] A. G. Chisholm would prepare a cogent historical brief that would be used by the Confederacy to pursue their claims well into the 1960's and he would remain a Six Nations advocate for decades.

[234] Public Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1, Letter to Duncan Scott, September 22, 1919, from W. D. Lighthall, Montreal, Canada.

interest on lands that had been sold to the surrounding community in the nineteenth-century.[235] Scott wrote to the Secretary of Six Nations Council, Asa Hill, and signaled to the Chiefs that he would review the report and consider the issues it raised.[236] By spring 1920, Chisholm gave testimony based on his research. He reported on Bill 14 (an Act to Amend the Indian Act), enfranchisement, and the Soldiers' Settlement Act, before the House of Commons.[237] The barristers' work also resulted in a petition, presented over the signature of six chiefs, on March 12, 1920, to the Department of Indian Affairs.[238] The issues would provide the leverage to overthrow the Confederacy, although the Council was framing them in a manner to defend their status and legitimacy.

The major goal of Indian policy in Canada was to assimilate Natives within the majority society through education, Christianity and detribalization, in preparation for enfranchisement. The Reserve system would ostensibly fade away and the land held by the tribes would eventually be taken over by the Crown. A bill that had been passed in Parliament before the Great War was redrafted, empowering the government "to deal with reserves which contain more land than is necessary for the use of the Indians."[239] The Chiefs were understandably worried about their land and were aware of the implicit threat posed by the legislation – the policy of taking "excess" land under the Dawes Act

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[235] National Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt 2. Accounts submitted by A. G. Chisholm, Solicitor, to Six Nations, from March 1919 to April 1920, for $4979.91. See also letter from Duncan Scott, Deputy Superintendent of Indian Affairs to Major Gordon Smith, Indian Superintendent, Brantford, Ontario, listing an April 14, 1920 bill from Chisholm for $1039, dated April 29, 1920. See also the account from W. D. Lighthall for Six Nations in the amount of $2242.05, April 5,1920.

[236] Public Archives of Canada, Indian Affairs, RG 10, Volue 2284, File 57, 169-1, Letter from Duncan Scott to Asa Hill, Sic Nations Council, September 10, 1919.

[237] National Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. Letter to A. G. Chisholm, London, Ontario, from Duncan Scott, Deputy Superintendent General of Indian Affairs, April 3, 1920. See also, a letter from Duncan Scott to Superintendent General Meighen, Indian Affairs, May 3, 1920, contending that Bill 14 was "*intra vires*," so, consequently, the arguments presented by Six Nations were "disposed of" by the Committee, RG 10, Volume 2285, File 57, 169-1A, Pt. 2.

[238] Titley, Brian E., "Duncan Campbell Scott and the Six Nations Status Case," Paper presented at the Canadian Historical Association, University of Guelph, Ontario, June 11-13, 1984.

[239] National Archives of Canada, Indian Affairs RG 10, Volume 2284, File 57, 169-1. Letter to Seth Newhouse, Chief, Six Nations, addressed to the Ka-nyen-geh (Mohawk) Post Office, Ontario, from Duncan Scott, Deputy Superintendent General of Indian Affairs, Ottawa, Canada, April 2, 1914.

was an ongoing disaster to Natives in the United States, and land loss in Canada, due to lease agreements to white farmers during the Great War, had damaged Native financial prospects.[240] The Canadian government's proposal had been reviewed and debated anew in 1914 and extensively publicized in the Ontario press. It was described and characterized as "removal of the Reserves" and sparked widespread Indian protest. Six Nations Chief Seth Newhouse, famed for his classic interpretation of the Great Law of the League, was so worried he wrote directly to the Governor General to complain, citing the text of numerous treaties promising the Six Nations the use of their land without interference. As a parting shot, Newhouse added, "And about enfranchisement or Citizenship. We don't want it."[241]

In drafting his reply Duncan Scott assured Newhouse that no change was contemplated for Six Nations. Scott maintained: "In any event, the treatment of reserves under this Statute is so controlled that there is hardly a possibility of doing an Indian band any injustice."[242] Scott also noted in his answer that the conditions the Bill was designed to meet did not exist at Six Nations and further, that the political process to remove a reserve were quite complex, with the last step being a resolution in Parliament, so that it was improbable that such an outcome would come about. Yet, a Six Nations member had previously written to the Under-Secretary of State for Canada, submitting that the measure providing for this exigency be repealed for it was viewed with "suspicion and distrust" and further, it had put a damper on recruitment of Indians in the Great War. [243]

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[240] Roger Nichols, Indians in the United States and Canada: A Comparative History, (Lincoln: University of Nebraska Press, 1998), p. 260.

[241] National Archives of Canada, Indian Affairs, Volume 2284, File 57, 169-1. Letter to the Governor-General, the Duke of Connaught, from Seth Newhouse.

[242] Public Archives of Canada, RG 10, Indian Affairs, Volume 2284, File 57, 169-1. Letter from Deputy Superintendent General Duncan Scott to Arthur Gladen, Private Secretary to the Governor General, dated March 25, 1914, Ottawa, as well as a letter to Seth Newhouse, April 2, 1914..

[243] Public Archives of Canada, RG 10, Indian Affairs, Volume 2284, File 57, 169-1. Letter, November 22, 1916, to Deputy Superintendent General Duncan Scott from Lt. Col. Hugh Clark, M. P., Parliamentary Under Secretary of State for External Affairs, Ottawa.

Scott confided in his response to the Minister that he did not care for the Bill either, since it wasn't practical in achieving the ends for which it was conceived, and in his opinion it would have been better to apply for specific legislation. He concluded: "I think it would have been much better when we had exhausted all our means of getting a surrender of an Indian reserve to have applied to Parliament for special powers in each case."[244] This response shows the double-dealing that all Natives faced, not only Six Nations, for Canadian officials such as Scott may have purported to act as the soul of propriety, while planning for the alienation of Native land. The legislation in question provided for the removal of a reserve when it was "within a municipality of a population of 8,000 or over, "according to a 1911 Amendment.[245] The population at Six Nations, according to the census of 1916-17, was 4,794, ostensibly, too small to be affected by the amendment.[246] Yet, by 1914, the provisions of the amendment had been changed and the population quota removed; this was a worrisome development for Indians seeking to hold on to their lands.[247] To stay abreast of the legislative changes that might spell the end of one's culture and society was a tremendous burden for Natives engaged in day-to-day survival. Assailed on all sides, Six Nations stands out as a signal example of Native resistance to this usurpation. Six Nations leaders did not view themselves in an isolated colonial context, for they were living within a dynamic continuation of the Confederacy system which they had reconfigured themselves – it was impacted, but not deconstructed by European power.

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[244] Public Archives of Canada, RG 10, Indian Affairs, Volume 2284, File 57, 169-1, Letter to Lt. Col. Hugh Clark, M. P., Parliamentary Under Secretary of State for External Affairs, Ottawa, from Duncan Scott, Deputy Secretary General of Indian Affairs, Ottawa, November 23, 1916.

[245] National Archives of Canada, Indian Affairs, RG10, Volume 2284, File 57, 169-1. Letter to Lieutenant Colonel Hugh Clark, M.P., Parliamentary Under Secretary of State for External Affairs, Ottawa, November 23, 1916 from Duncan C. Scott, Deputy Superintendent General of Indian Affairs. Scott replied that the legislation was crafted to deal with reserves in municipal areas such as the Songhees Reserve at Victoria and the Sydney Reserve. Scott revealed that the latter case was indeed to be brought up in Parliament in the coming session, obviating the assurances that were extended to Six Nations that this was a process that offered protection to the Indian Bands since it was so fraught with political roadblocks.

[246] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Letter to A. G. Chisholm, Barrister, London, Ontario, from the Assistant Deputy of Indian Affairs, Ottawa, Canada.

[247] National Archives of Canada, Indian Affairs, R G10, Volume 2284, File 57, 169-1. Letter to Seth Newhouse, Chief, Six Nations, from Duncan Scott, Deputy Superintendent of Indian Affairs, April 2, 1914.

Obviously, Duncan Scott's bland replies did not reassure the Chiefs of the Confederacy. They understood that Scott, ever the consummate bureaucrat, deeply internalized the objectives of the Canadian government – to assimilate and acculturate the Native population. Scott sought to do it carefully and slowly, almost invisibly, so as not to provoke resistance. In the true spirit of the colonial manager, he also realized that overt demonstrations of power over an indigenous population, in regard to appropriation of land or compulsory removal, would not be efficient and would arouse, not only a Native backlash, but also, a surge of romantic paternalism and protection in European-Canadian society. This knowledge kept his impatience to force Indian "advancement," in check, at least for a while.

Meanwhile, the Confederacy Council prepared to fight this menace to their independence, skillfully deploying the colonial discourse of race to their advantage in the public sphere. The very terms of address they insisted upon were hallmarks of the continual revitalization of Native identity. "Custom helped to maintain a sense of identity but it also allowed for an adaptation so spontaneous and natural that it was often unperceived."[248] For example, the Department of Indian affairs recorded the names of the chiefs, placed in office through the League condolence ceremonies in Native languages. The chiefs affixed their Indian names on official documents, often because they did not speak English or French, but signed their name by placing a "mark," an X, on the document. The department recorded the Indian names of the chiefs when they

[248] Ranger, Terence, "The Invention of Tradition in Colonial Africa," in The Invention of Tradition, edited by Eric Hobsbawm and Terence Ranger, (Cambridge: Cambridge University Press, 1983), p. 247. This quote was in reference to precolonial Africa, but I thought it fit brilliantly for twentieth-century Native-Canadian relations. For although it is an enlightening study, the authors emphasized the fluidity of pre-colonial identity without acknowledging the continuation of the same sense of fluidity and identity in nineteenth and twentieth-century tribal cultures, when beset by European encroachment. I would argue syncretism does not obviate the husbanding of core precepts, customs and norms that are viewed as hegemonic-givens in day-to-day life. Cultural continuity operates even while societies operate under the auspices of adaptation to new challenges. The arbitrary, dichotomous gulf between precolonial and colonial is problematic in Ranger's article, for in conjunction with other tribal groups already beset by European contacts, continuity, change and adaptation certainly exist side-by-side. The model for change would seem to be a wave, not a line, receding, ebbing, flowing and then cresting, and beginning again in cyclical time. Resistance and adaptation exist in a dynamic interactive process allowing tribal cultures to operate in a context of their own. I would contend that Six Nations leaders did not view themselves in an isolated postcolonial context, for they were living within a dynamic continuation of the Confederacy system – imPublic Archives of Canadated, but not overwhelmed by European power. Perhaps, that is why our leaders have resisted so fiercely.

were placed in office through the Condolence Ceremonies, held as they had been during the ancient League. Iroquoian terminology such as "faith-keeper," "fire-keeper," clan mother, and warrior were even used by Canadian officials in their correspondence, for syncretism was a two-way street. This language use signaled another front in a subtle cultural and spiritual war that was being waged in Canadian society by Native peoples who remained fiercely opposed to domination by British-Canadian colonialism. The stylized forms of Iroquoian address were adapted to Canadian diplomatic discourse, just as they had infused British parlance in the colonial era.

The cultural and political issues at stake were weighty and the proposed changes threatening the power of the Chiefs' were stated succinctly in early drafts of House of Commons reports. In 1917 in an effort to reward the men who fought in the First World War a new governmental board was created to provide farmland to returning soldiers. A small cash payment, as well as instruction in agriculture, was set up so they could begin farming. The Soldier Settlement Act was an effort to aid the veterans returning to civilian life and serve the national goal of increasing agricultural production.[249] Pressure to bring more land under cultivation during the war caused Parliament to revise the Indian Act in 1918, allowing uncultivated, reserve land to be leased without being surrendered by Indian bands, resulting in more land loss to Natives in Canada. Unfortunately, the land leased or appropriated from Natives during times of warfare seldom came back to the Native nations, but was appropriated for other purposes. This effectively reduced the amount of land available for Native families. As John Leslie and Ron Macguire argued in their influential history of the Indian Act: "Before 1918 Departmental efforts on enfranchisement had been thwarted by bands refusing to approve enfranchisement of Indians not in possession of location tickets."[250] One had to be a "landed Indian" to be considered for enfranchisement, until the statutes were strategically amended to simplify the process. In 1919 there was another revision of the Act to allow the issue of location tickets to returning soldiers in order for them to acquire farmland

[249] Taylor, John, "Canadian Indian Policy During the Inter-War Years, 1918-1939," (Ottawa: DIAND, 1984), p. 27.

[250] John Leslie and Ron Macguire, eds., "The Historical Development of the Indian Act, Department of Indian and Northern Affairs, Ottawa, p. 113-114.

expropriated from reserves across Canada.[251] This was also done at Grand River, without consulting the Council. This land was arbitrarily allotted from "vacant" or uncultivated land held in common by the entire Band.[252] It was inconceivable that the Confederacy would not react to this intrusion into their sphere of governance and the Soldiers Settlement Act becomes one of the key issues that bring the conflict between the Confederacy and Indian Affairs to a head. A special legislative committee was created to look into an amendment to the Indian Act regarding these land surrenders, along with the passage of the Soldier Settlement Act of 1919, replacing the first legislation and broadening the government's power to acquire farmland. Hearings were held in Ottawa and Six Nations sent their legal representatives to protest this encroachment against their sovereignty.

Thirty-five Indians from different reserves in Canada testified before the committee. The final report points out the divergence of the perspectives of the Canadian government and the concerns of Native people brought forth in the committee hearings. In his report, Chairman Boys recommended two critical changes to the Indian Act. He advocated a shift from hereditary councils, where they still existed, to an elective system. Boys argued that the hereditary system was not consistent with the "best interests and progress" of Indians. The government was to ascertain if a majority of males favored an elective system and if they did, "to put it into operation as soon as possible," revealing the haste with which the government was pursuing assimilation and the end of the reserve system. He also recommended the creation of a Select Standing Committee on Indian Affairs, effectively putting off any real discussion of Native concerns.[253]

The Six Nations Chiefs were opposed to this plan for it was announced without their consent and usurped their "internal proprietary jurisdiction." They argued that their

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[251] Taylor, John Leonard, "Canadian Indian Policy During the Inter-War Years, 1918-1939," Department of Indian and Northern Affairs, Ottawa, 1984. This surrender amounted to 62,128 acres from western reserves, in addition to almost ten thousand acres that the Board already controlled, p. 144.

[252] National Archives of Canada, Indian Affairs, RG 10, volume 7930, File 32-32, Pt. 2. Extract from Debates in the House of Commons, Session 1920, June 16, 1920.

[253] Ibid.

special status as allies, rather than subjects, afforded them the power to control their own affairs without interference from the Dominion.[254] Also, the land along the Grand River was a grant from the Crown, rather than a typical Indian Reserve, so the Chiefs argued that none of the regulations contained in the Indian Act applied to them. The thrust of the legal argument set forth in the preliminary report, submitted by their solicitors, was that Six Nations' Indians were in a separate category from other Native Bands in Canada. Their status had not been altered by discovery, nor had the Six Nations ever been conquered by any European force, but instead had moved freely to Canada in concert with the British Loyalists after the American Revolution.

The historical research compiled by the legal team to back up this argument encompassed the oral history involved in founding the League in response to intertribal warfare before the colonial era. Although both France and England sought to declare the Five Nations subjects in the process of colonization, it was argued that the relationship more closely reflected a protectorate, with the Five Nations consenting to a mutually rewarding affiliation with the British in regard to trade and military protection. Internal affairs were historically, always the responsibility of the Chiefs; a "particularly elected Council," in accordance with the ancient customs, ceremonies and laws of the Iroquois in harmony with the "constitution of their League." The crux of the issue was simply that the British North America Act did not alter the standing of the Six Nations, but merely transferred the responsibility to uphold the Protectorate from the British Crown to Canada. The draft concluded with an exhortation to comply with the implicit imperial coda and uphold the rights of the indigenous people. The Dominion government was honor-bound, for the "obligations…stand upon not merely as good a moral and constitutional foundations as any other Protectorate in the Empire, but on a considerably stronger foundation of services and solemn engagements of the nation. It may have been

[254] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Draft of a Report entitled, "The Political Status of the Six Nation Indians of Ontario," by the Law Firm of Lighthall and Harwood, Montreal, to Duncan Campbell Scott, Deputy Superintendent of Indian Affairs, Canada, September 22, 1919.

regarded as a 'scrap of paper' obligation, but one which the people of Canada will not overlook, underestimate or encroach upon."[255]

The first international political salvo resulting from the Six Nations' claim was brought to the attention of the Canadian Minister of the Interior in October 1919. In a formal complaint against the proposed amendments to the Indian Act, one individual from Six Nations, F. O. Loft, registered his protest by lodging his grievance directly with the League of Nations.[256] Loft earned the lasting enmity of Duncan Scott, who fumed, "such a man should be enfranchised."[257] Scott privately told Secretary General Meighen that compulsory enfranchisement would prevent such intelligent and assertive Indians from protesting Indian Department decisions, by separating them from their own reserves and defusing their desires to foster indigenous political organizations, which were bent on opposing Canadian policies. Yet, Duncan Scott clearly did not understand the far-reaching political ramifications of compulsory enfranchisement or understand that Canada could not simply co-opt the political ideology of the Six Nations. Scott, like Canadian bureaucrats in the future, underestimated the potential embarrassment for Canada in the international arena from Native complaints. Scott simply advised Secretary Meighen to ignore the matter.

Scott wrote to the solicitors representing the Six Nations Confederacy Council, A. G. Chisholm and W. D. Lighthall, setting a deadline for submission of the prospectus on which the solicitors were working. They were outlining the historical status of the Six

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[255] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Draft Report, "The Political Status of the Six Nation Indians of Ontario," from the law firm of Lighthall and Harwood, Montreal, for Duncan Scott, Deputy Superintendent of Indian Affairs, Ottawa, Canada, September 22, 1919.

[256] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Memorandum from the Private Secretary's Office, initialed for the Arthur Meighen, Superintendent General of Indian Affairs, Ministry of the Interior, to Duncan Scott, Deputy Secretary of Indian Affairs, Ottawa, October 15, 1919, seeking a report on this development. It certainly might be argued that this pathway, begun in such a quiet way, by one man, eventually bore fruit for indigenous people everywhere, for the League's successor, the United Nations, finally gave a seat to the indigenous people for exactly this purpose in the last decade of the twentieth-century.

[257] John Leonard Taylor, "Canadian Indian Policy During the Inter-War Years, 1918-1939, Ministry of Indian Affairs and Northern Development, 1984.

Nations people from the perspective of the Confederacy Chiefs, researching financial and land claims against the New England Company and considering issues and grievances to be negotiated between the Six Nations Council and the Department of Indian Affairs.[258] Duncan Scott clearly sought to control the flow of information released to the media, to thwart opposition to his policy objectives and proactively head off any groundswell of sympathy directed to the Indians. He also tried to undercut the public perception that the Department was mishandling relations with the Six Nations Council or the returning Six Nations war veterans.

By 1920 an extensive file documenting Six Nations history had been compiled with the aid of counsel and submitted to the Canadian government, along with a petition seeking the "status of an independent protectorate."[259] By this time, the chiefs rightly feared that compulsory enfranchisement would be thrust upon them by the government under the guise of citizenship and vehemently protested any incursion on their

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[258] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Memorandum to Arthur Meighen, Superintendent General of Indian Affairs, Ministry of the Interior, letter to A. G. Chisholm, Solicitor in London, Ontario, and letter to W. D. Lighthall, Solicitor in Montreal, Quebec, from Duncan Scott, Deputy Superintendent General of Indian Affairs, Ottawa, Canada, all dated October 16, 1919.

[259] Joint Committee of the Senate and House of Commons on Indian Affairs, "The Status of the Six Nations in Canada: Their Status Based on History," Third Session, Twenty-fourth Parliament, June 22, 1960, Appendix Ml, p. 1305. The following argument was presented at the conclusion of the 1920 document concerning the status of the Six Nations: "Since Canada has administered Indian Affairs, the Indian Department has by its powers assumed under the Indian Act, and amendments to the same from time to time, suggested by its officers, as to which the Six Nations have never been consulted; sought to apply the same rules under which it manages the affairs of the blanket Indian of the West to its dealings with the tribal affairs of the Ancient Six Nations Confederacy, till practically all their ancient rights and liberties, have been denied them." The Six Nations sought a determination from the Supreme Court of Canada on their petition. "On 27 November 1920, the Privy Council handed down an order-in-council rejecting the Six Nations' demand that the Supreme Court consider their status." The Privy Council was set up at Confederation by the British North America Act and consists of Cabinet Ministers and other senior officials. The Privy Council acted under the authority of the Goveror General and carried out various duties of the Crown that were not under the control of Parliament. Sometimes known as a "royal prerogative," the power was gradually given by statute to the "Governor-in-Council." Many of these Orders-in-Council affected First Nations. See E. Brian Titley, A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada (Vancouver: University of British Columbia Press, 1986) p. 115. See also, Malcolm Montgomery's article, "The Legal Status of the Six Nations Indians in Canada," published in the journal, *Ontario History* 55 (1963), p. 97.

sovereignty.[260] Their fears were well grounded for Duncan Scott clearly favored the compulsory enfranchisement of returning Indian soldiers as a reward for their service. Superintendent General Meighen blocked Scott from implementing this proposal. By 1920, Scott would seek general compulsory enfranchisement for Indians who lived as part of the general populace, for whom "the continuance of wardship was no longer in the interests of the public or the Indians."[261] In contrast, Meighen only supported voluntary enfranchisement when a Native "ceased to follow the Indian mode of life," and stressed that one had to be "self-supporting and fit to be enfranchised."[262] The dispute between the Six Nations' leadership and the Canadian government had "become acute since the war," and the government was determined to undertake an investigation of the problems at the reserve and create a settlement that would ensure law and order.[263] Since the Canadian government would not consider a sovereign government in the "heart of Ontario," Six Nations leaders decided to take their case to King George, and failing that, to the League of Nations.[264]

The Chiefs-in-Council were understandably extremely wary about entering into any negotiations fostered by the Department of Indian Affairs, particularly with respect to their land claims against the New England Company, representing the Anglican Church. As they put it succinctly in their Council meetings, "the New England Company has sought to enrich itself at their [Six Nations] expense without regard to the methods pursued…" Indeed, the Chiefs had specifically sought out the services of a solicitor to

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[260] Johnson, J. S., "Six Nations Indian Protest Against Compulsory Enfranchisement: Chief J. S. Johnson Outlines Attitude of Six Nations Toward the Amendment to the Indian Act – Statement of Claims Based on Treaty Rights," *Brantford Expositor*, March 16, 1921.

[261] Taylor, John Leonard, as quoted in "Canadian Indian Policy During the Inter-War Years, 1918-1939," Department of Indian Affairs and Northern Development, Ottawa, p. 146.

[262] Taylor, John Leonard, "Canadian Indian Policy During the Inter-War Years, 1918-1939," Department of Indian Affairs and Northern Development, Ottawa, p. 144.

[263] "Col. Andrew Thompson to Probe Affairs of the Six Nations: Thompson Family has long been Intimately Connected; Is to go into all Differences and Problems now Existing," *Brantford Expositor*, September 12, 1923, p. 17.

[264] Ibid., See also, "Carry Appeal to King George: six Nations' Delegate to Foot of the Throne Over Enfranchisement," *Brantford Expositor*, May 30, 1921.

file a complex brief concerning these claims. They were shocked to find that the Department of Indian Affairs had excerpted material from the brief and sent it directly to the New England Company – their legal opponents – disclosing critical aspects of the legal case before it had even entered the courts.[265] Chisholm, the Six Nations lawyer, also accused Scott of paying a settlement to the New England Company even before the land claims case was settled, completely cutting the Six Nations Confederacy Council out of the negotiations about their own land claim.[266] Since the Department controlled Six Nations funds and authorized payment for the lawyer, there was no independent probe available for Native groups attempting to investigate the Department's handling of their affairs. This occurred at the same time as the uproar over compulsory enfranchisement and the frustration with the Canadian government provoked an announcement of a threatened exodus of the Six Nations from Canada to their ancestral homeland in the Mohawk Valley.[267]

The Superintendent General had endorsed Duncan Scott's proposal to try to settle the Six Nations land claim out of the courts.[268] By dealing directly with representatives from the New England Company, Scott argued that he had actually saved Six Nations' funds that would, otherwise, have been "diverted to Mr. Chisholm," the attorney for the Confederacy.[269] Chisholm complained in the press that Scott was a despot, given carte blanche over Native affairs by the Canadian government. Scott was certainly paternalistic and arrogant in his beliefs about Six Nations perspectives and capabilities.

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[265] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Extract from the Minute Book of Six Nations Council, certified by Asa R. Hill, Secretary, Ohsweken, Grand River Territory, Canada, January 13, 1920.

[266] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. "Explanation of Unrest of Six Nations," *Brantford Expositor*, March 20, 1921.

[267] "Pagans are Behind Move of Six Nations: Resent Change from a Tribal State and Enforced Enfranchisement," *Brantford Expositor*, March 23, 1921.

[268] Public Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1, Extract from the Minutes of the Six Nations Council, January 13, 1920, certified by Asa Hill, Secretary.

[269] Public Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1, Letter from Duncan Scott, Deputy Secretary General, to Secretary General Meighen, Ottawa, January 30, 1920.

The Deputy Superintendent was equally sarcastic regarding Mr. Chisholm, as well as mocking the ability of the Six Nations Council to manage their own affairs, referring to the Chiefs as ignorant and easily manipulated. He confided to Superintendent General Meighen that the decision of the Council was certainly…"Mr. Chisholm's decision, as he makes the balls and the Six Nations Council fires them."[270]

Unknown to the Council and Chisholm, Duncan Scott had already framed a final settlement regarding the pending legal claims of the Six Nations' with a representative of the New England Company. Scott dutifully reported to Superintendent General Meighen that Weld, the New England Company representative, would "give the Department every satisfaction," in the matters under dispute. Scott informed Meighen that by negotiating directly with the company on behalf of Six Nations, the government might be able to avoid court proceedings. Duncan Scott's paternalism was patently clear, for he reassured his superior of his conviction that: "we are acting in the best interests of the Indians."[271]

Further, Scott admonished Chisholm, stating that Chisholm had no legal right to act as the general solicitor for the Six Nations and that he had misconstrued his role. An independent legal counsel directly representing the Indians interest posed a threat to the Department's power. Scott effectively marginalized Chisholm and scoffed at his effrontery, remarking to Meighen, that Chisholm was "labouring under an illusion" that he was the representing Six Nations. From Scott's paternalistic perspective, Chisholm was representing a Native group that was not an independent entity, but a ward under the protection of the state. In Scott's view it was "entirely competent and proper" for the Department to negotiate directly with the Company for the Six Nations. [272] Under these legal constraints, the status claim was impossible to pursue, so the solicitor, Lighthall,

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[270] National Archives of Canada, Indian Affairs, RG 10, Volume 2284, File 57, 169-1. Letter from Duncan Scott, Deputy Superintendent of Indians Affairs to Arthur Meighen, Superintendent General of Indian Affairs, Ottawa, January 30, 1920.

[271]Ibid.

[272] Ibid.

tried another tack. He accompanied a delegation from Six Nations Council to present their views directly to officials at the Ministry of Justice, rather than Indian Affairs.[273]

The petition that began the Six Nations' status case, eventually pursued all the way to the League of Nations and the Supreme Court of Canada, was constructed from the research initially completed by A. G. Chisholm. This petition consisted of thirteen points including: the history of relations between Six Nations and the Crown and Dominion; the diplomatic and legal construction of the alliance; "independence and right of internal self-government" as a "self-governing Protectorate;" land and financial claims against the New England Company, as well as Indian Affairs; and finally, the request to clarify the status of Six Nations and prohibit the encroachment of the Indian Act on the rights of the Six Nations. This petition was submitted to the Governor General on March 12, 1920 and signed by the "head chiefs" of all Six Nations, Joseph Logan, for the Onondagas, John C. Martin, for the Mohawks, Peter Claus, for the Oneida, Levi General for the Cayugas and Sam Lickers, for the Tuscaroras, as well as Asa R. Hill, Secretary of the Council. W. D. Lighthall submitted the petition as counsel for the Indians.[274] The leader who would personify Six Nations independence was the Cayuga Chief, Levi General. Deskaheh, as he would be known, fought for recognition of the Confederacy as the legitimate ruling body of the Six Nations. He began his quest through this petition, but despaired of finding justice through the Canadian system and turned, ultimately, to the League of Nations for recognition of his peoples' sovereignty.

The Six Nations' initial legal strategy, though, was to circumvent Duncan Scott and meet the Superintendent General of Indian Affairs, Arthur Meighen and the Minister of Justice, directly. Chisholm also sought a meeting with M. P. Boys, Chairman of the Indian Committee of the House of Commons, to hammer out an agreement in response to

[273] National Archives of Canada, Indian Affairs, RG 10, Volume 2285, File, 57, 169-1A, Pt. 2. Letter from W. Stuart Edwards, Assistant Deputy Minister of Justice, Ottawa, to Chief Lickers and the Secretary of the Six Nations Indians, Ohsweken, March 24, 1919.

[274] National Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. Petition to the Governor-General in Council, Dominion of Canada from the Six Nations, Ohsweken, Ontario, Canada, March 12, 1920. The petition requested that the legal status of the Six Nations be referred to the Supreme Court of Canada and considered under Section 60 of the Supreme Court Act.

the Six Nations' petition. When Scott got wind of this plan, he urged Meighen to refuse to meet with Chisholm. Instead, Scott suggested that Meighen and the Minister of Justice issue an Order-in-Council refusing the petition, simply reaffirming the old Order in Council of 1890. Meighen disagreed, however, as did his immediate successor, James Lougheed. They insisted that Scott refer the petition to the Department of Justice for their ruling. Until the petition was considered, the Department would refrain from enfranchising any returning Six Nations soldiers. According to the Indian Act, in order to enfranchise a male Indian, he had to possess land on a reserve, indicated by a "location ticket," as well as receiving permission from the Band. This was the sticking point of the Soldiers Settlement Act, referred to earlier in the chapter. The Chiefs had realized the connection immediately and bitterly protested any allocation of land on the Reserve by the Indian Department leading to enfranchisement of their young men. The Indian Act had been amended in 1922 explicitly to remove the obstacle of band approval for location tickets, in order to accelerate the process of enfranchisement.[275]

Duncan Scott had to bide his time and wait for a decision from the Justice Department on the legal merits of the Six Nations' petition. It would have far-reaching consequences for Six Nations was the largest band in Canada with a reputation for being quite progressive. Duncan Scott, though, seemed to view the majority of the community as perversely self-destructive, for it was fixated on goals of independence, sovereignty and self-determination. From the Confederacy perspective, the community just sought to govern itself, untrammeled by the regulations embodied in the Indian Act. Scott charged that the Six Nations Band was "obsessed with this idea, which influences their attitude towards the Department in all administrative associations. If it could be finally disposed of, it would tend towards harmony." He warned that nothing would satisfy the Band but a formal hearing.[276]

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[275] Leslie, John and Ron Macguire, eds., "The Historical Development of the Indian Act," Department of Indian and Northern Affairs, Canada, 1979.

[276] National Archives of Canada, Indian Affairs, Volume 2285, File 57, 169-1A, Pt. 2. Letter from Duncan Scott, Deputy Superintendent of Indian Affairs, Ottawa, to James Lougheed, Superintendent General of Indian Affairs, July 15, 1920.

Chisholm carried the campaign to Ottawa, writing to James Lougheed, the next Secretary General of Indian Affairs, outlining what he perceived were the aims of the Six Nations people. He argued that the community wanted to control its municipal affairs, not establish an "imperium in imperio."[277] Chisholm interpreted the conflict as one that could be easily solved by simply allowing the Six Nations "to assume a fuller measure of national and tribal responsibility than they can possibly enjoy under the terms of the Indian Act, and still maintain their national existence, especially dear to this people."[278] This, indeed, was the crux of the issue – a measure of respect for Six Nations and a reasonable degree of autonomy to establish a social contract workable for the early twentieth-century. It is so ironic that the Confederacy Chiefs did not seek a rarefied traditionalism, but an enlightened and reinvigorated system. The Chiefs had competing political ideologies, differed in religious beliefs and were clearly cognizant that their institution needed to adapt, while it kept its Six Nations forms and norms, as much as possible. The Confederacy Council at Grand River was functioning as a governing body of a small municipality, choosing a Speaker and a Deputy Speaker to streamline proceedings and as we have seen, adjudicating disputes for many groups within the confines of Grand River. Chisholm compared the status of the New York tribes to Six Nations, researching the case law created in the United States to deal with the Iroquois, particularly the Senecas, for they were incorporated under New York State law in 1845 in response to the policy of Indian Removal. He concluded that the Indians in New York appeared to be in the middle of state and federal authorities and were ill served by both.[279]

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[277] National Archives of Canada, Indian Affairs, Volume 2285, File 57, 169-1A, Pt. 2. Letter from A. G. Chisholm, London, Ontario to James Lougheed, Ottawa, July 23, 1920.

[278] Ibid.

[279] National Archives of Canada, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. See extracts from cases in the United States concerning title to reservation land in New York, from the Report of the Commissioner of Indian Affairs, June 30, 1919. "The peculiar status of these people leads us but to the conclusion that they are practically the wards of both the Nation and the State," the report declared. Yet, one must understand that Eli Parker, the Seneca scholar and Secretary to General U. S. Grant in the Civil War, resorted to this system so his people might avoid Removal. Incorporation and the adoption of a constitution and elective

The response of the Justice officials was negative, for the Deputy Minister, E. L. Newcombe, merely recycled Macaulay's opinion of 1890, reiterating that it would be a "hopeless project" to put the case before the Supreme Court of Canada.[280] This opinion would be proven wrong, but it would take more than fifty years for Six Nations to finally obtain a hearing in the Supreme Court of Canada – justice delayed, is justice denied for Native people. The first point Newcombe, the Deputy Minister, dealt with was the designation of Six Nations people as subjects or allies. He stated that the Crown, through the offices of Sir William Johnson had established the relationship as, "sovereign and subject." In a tour de force of the colonial master narrative, the Canadian bureaucrats issued their ruling: "The flag had been planted, and the laws of the realm extended throughout the Six Nations country…until the nature and character of British law should be understood, and its provisions therefore honoured and obeyed by the aborigines." The "prayer" of the Six Nations aborigines was flatly denied and dismissed by the Department of Justice, with a terse thank you for loyal servitude in warfare. Newcombe's opinion indicated that nothing would come from submitting the petition to the Supreme Court of Canada.

When Chisholm complained to James Lougheed that it was outrageous that a petition of 4500 people was not to be admitted to the Canadian Courts, he was told that he could take his complaints directly to Parliament. Instead, Chisholm went to the press, writing a scathing letter to the editor in which he laid the blame for the discord between Canada and Six Nations directly at the feet of Duncan Scott. Chisholm specifically pointed to 1913 as the genesis of the dispute when Scott was promoted to Deputy Superintendent General and began to flex his power by pressing for the autocratic provisions of the Indian Act to be strictly enforced. Chisholm declared that the high-handed and insensitive practices of the department under Scott's watch marked a sea-

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system was done in response to the threat of eviction. See William Armstrong's text, Warrior in Two Camps: Ely S. Parker, Union General and Seneca Chief, (Syracuse: Syracuse University Press, 1978).

[280] National Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. Letter to Duncan Scott, Deputy Superintendent of Indian Affairs, Ottawa, from Edward Newcombe, Deputy Minister of Justice, September 1, 1920.

change in the way Six Nations had been dealt with historically and exacerbated the problems between the government and the Natives.[281]

Chisholm's attack on Scott struck a nerve. Scott wrote an extensive and detailed rebuttal that lauded the wisdom of the House Committee that had just met in Parliament to discuss Bill 14, which was the name of the bill to amend the Indian Act regarding proposed changes to Soldiers Settlement provisions, enfranchisement, as well as changes from hereditary councils to an elective system. Scott underscored the success of the Soldier Settlement Program at Six Nations, where 55 loans were given, amounting to an expenditure of $126,000. Scott defended the Department's initiative to enfranchise Indians as selective, targeted only at those able and willing to be "competent" citizens, relieving them of the "protection which surrounds them as Indians." Approximately five hundred Indians had been enfranchised in two years of the program across Canada, according to the Deputy Secretary General. Scott's celebration of "progressive" notions, including enfranchisement, were evidence of his growing impatience at the pace of assimilation and were based on the colonial cant of "civilizing" Indians for independent life, so that they might assume "ordinary vocations."[282] Scott abhorred dependency and was frustrated by what he perceived as the inability of Natives to "stand alone" and be self-sustaining citizens. Yet, he responded to criticism in the press that the plan for Indian enfranchisement was moving too quickly. He stated: "I do not want to pass into the citizens' class people who are paupers."[283] One must give Scott his due in that he sought to enfranchise Natives for their subsequent inclusion in Canadian society, but he was certainly far from accepting Natives as capable of approaching any level of equality with Canadian citizens – Scott ascribed to a rigid hierarchy of power.

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[281] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1a, Pt. 2. "Explanation of Unrest of Six Nations, *Brantford Expositor,* March 20, 1921.

[282] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. Report requested by John Harold, Member of Parliament, House of Commons, from Duncan Scott, Deputy Superintendent of Indian Affairs, seeking a position paper on enfranchisement and the Six Nations status case. This was an unsigned, undated eight-page report created in response to the attack on Scott in the Brantford press by the lawyer for the Six Nations, A. G. Chisholm.

[283] Leslie, John and Ron Macguire, "The Historical Development of the Indian Act," (Ottawa: DIAND, 1979), p. 115-6.

Scott did not admit to the press, as he did in his report, that an Indian who was enfranchised might sell his land to anyone that wanted to buy it, if the Band did not seize the opportunity and take advantage of the sale, first. This was exactly what the Chiefs-in-Council feared, for it opened up the door to the end of the reserve system through land speculation.[284] It is important to emphasize, though, that there was no overt discussion of abandoning the reserve system until the 1969 White Paper. It is clear that the chiefs were politically astute to fear the implementation of that measure, long before Canadian officials put it in writing. Yet, the Chiefs policy of simply forbidding any member of the Six Nations community to take part in the Canadian government's policy of enfranchisement reflected their own insecurity and continued anxiety regarding the legitimacy and stability of their own leadership. They warned that anyone who disobeyed their order would be considered a "traitor to the Six Nations Confederacy."[285] Canadian officials viewed this nationalistic sentiment as repressive and backward, in stark contrast to the "progressive" values of advancement and enfranchisement supported by the government.

Liberal, democratic society, based on majority rule, ostensibly represented the highest secular ideal in the political culture of the Dominion. Similarly, the cult of industrial capitalism was viewed as the apotheosis of social and economic development. In many respects, Six Nations society failed to meet either of these objectives in the eyes of the Canadian officials in the early twentieth-century. Native communal societies were

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[284] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. Report requested by John Harold, Member of Parliament, House of Commons, from Duncan Scott, Deputy Superintendent of Indian Affairs, seeking a position paper on enfranchisement and the Six Nations status case. This unsigned, undated eight page report described the conditions of sale of a particular tract of land, owned by a widow at Six Nations, Mrs. Dee. Scott noted she "would be permitted, if she so desires, to sell the property to anyone who might purchase it." This was in direct contradiction to Scott's comments in the press, when he stated on May 6, 1921: "We would not permit her to sell her land to a white man. There are strings attached to such enfranchisements by which it would be sold to the band…" See newspaper article in same file, "Six Nations Will Appeal for Rights to Governor-General; Protest Compulsory Measure," probably an enclosure from John Harold, clipped from the *Brantford Expositor*.

[285] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-2A, Pt. 2. See newspaper article in file, "Six Nations Will Appeal for Rights to Governor-General; Protest Compulsory Measure," with no attribution, but probably an enclosure from John Harold, clipped from the *Brantford Expositor.*

socio-economically dependent on barter and local networks of exchange, rather than representing a capitalistic nexus of commerce.[286] Reserve lands were often remote from urban centers, with little or no infrastructure or available resources. Even local farms were at a distance from efficient transportation networks. Duncan Scott was impatient with the slow pace of cultural and socio-economic change on the reserves and sought to end government policies that fostered the "wardship" or dependency of Indians in Canada. Testifying before a House committee in 1920, Scott believed that given the proper tools, namely, education, enfranchisement and capitalism the Indian problem would cease to exist. Further, there would be a lesser burden on the Canadian taxpayer if Indians were forced to adapt to Canadian society. He argued, "…after one hundred years, after being in close contact with civilization it is enervating to the individual or to a band to continue in that state of tutelage, when he or they are able to take their position as British citizens or Canadian citizens, to support themselves…"[287] Duncan Scott advocated economic independence for the Indian, yet, his own career hinged on continued "tutelage" of the Native, under his watchful eye and strict hand – paternalism and colonialism was his stock in trade. Yet, Scott had abandoned the old paternalism of the nineteenth-century, for he was bent on compelling Natives to adopt the ethic of self-sufficiency and independence, even if it included compelling enfranchisement and authorizing Natives to own their own parcels of land that they could buy and sell themselves.

Meanwhile, the Chiefs-in-Council were trying to shore up support for the status case, passing a resolution at a picnic at the Council House, urging: "…that at this crucial period of our history we unite ourselves as one great family, sinking all differences and rise unanimously to stand behind our ancient and accepted confederate body of Chiefs in

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[286] See Immanuel Wallerstein's world system model as current critique. Even economic models that critique industrial capitalism and encompass the historical process of colonial exploitation, are not entirely "a good fit," when describing the ongoing destruction of indigenous populations and usurpation of their resources. Static models of colonialism and neocolonialism do not account for the ongoing gender, class and racial inequalities that are the hallmarks of the twentieth-and twenty-first centuries.

[287] Leslie, John and Macguire, Ron, eds., "The Historical Development of the Indian Act," Department of Indian and Northern Affairs, Canada, Second Edition, 1979, p. 115.

all their dealings with the Dominion Government." [288] Chisholm filed a comprehensive historical brief backing up Six Nations claims to independence and rights to their own lands, quoting from colonial and postcolonial records, to conclude simply that, "Faith and Honour of the Crown is Pledged for this object."[289]

Mackenzie King would come to the national stage at this juncture, after the death of venerable Sir Wilfred Laurier in 1919. King forged a Liberal government by 1921 following the "longest federal election campaign in Canadian history" against Arthur Meighen. King's new post would call forth all his finely honed skills as a former labor negotiator, for Canadians had elected the nation's first minority Parliament.[290]

By November 1920, James Lougheed, the new Superintendent General of Indian Affairs, informed the Governor General that it would be pointless to submit the Six Nations claim of independent status and appeal for a special exemption from the Indian Act to the Supreme Court. Justice had already rejected the claim, based on Macaulay's 1890 ruling, and the officials all concluded that the outcome was in no doubt, based on this precedent.[291] On November 27, 1920, the Privy Council issued a report reflecting the consensus reached by officials at Indian Affairs and Justice, reiterating that there would be no reasonable expectation of success for the Six Nations to try to establish that they "constitute an independent or quasi-independent nation" or that they are "not subject to the legislative authority of the Dominion." The only probable way it might be efficacious to do so, would be if Indian Affairs deemed it helpful for their administration

[288] National Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. Minutes of the Council Meeting, Ohsweken, Ontario, October 13, 1920.

[289] Public Archives of CanadaIndian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. Letter and memorandum, including historical documents, excerpted for Six Nations Status Case, from A. G. Chisholm, October 8, 1920.

[290] Morton, Desmond, A Short History of Canada, (Toronto: McClelland and Stewart, 2001), p. 199.

[291] National Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. Letter from James Lougheed, Superintendent General of Indian Affairs to the Governor General in Council, Ottawa, November 15, 1920.

of the Band. The Six Nations claim to special status was denied, for despite the "loyalty of their forefathers," they were deemed "subjects of His Majesty."[292]

Ironically, Chief Joseph Brant initiated a similar claim that met a similar fate in 1796, shortly after his dealings with Governor Haldimand and Lieutenant Governor John Groves Simcoe. In a speech to Superintendent General William Claus, whom he addressed in the stylized diplomacy of the League as "Brother," Brant was equally frustrated in his efforts to establish title in fee simple over the Grand River territory to sell or lease thousands of acres of land for the support of his people. Although, Brant's leases were eventually recognized, since it would have been too costly to remove white settlers, he was amazed that "great men here start innumerable difficulties, which is truly astonishing." Brant was disappointed and chagrined with a failure to "…again settle ourselves, and live as we formerly had done, when we had lands that we could call our own property." Brant referred to Haldimand's grant as once giving "great satisfaction," but noted that Governor Simcoe objected to Six Nations leasing arrangements, for, "…You are only Allies and cannot possibly have Kings subjects to be your tenants…" Chief Brant informed Claus: "We have understood (since the division of Canada) from some white people here, that it does not appear from the grant that we are entitled to call these lands on the Grand River our own." Brant explained that this is why he sought a new grant from Simcoe, but found it unsatisfactory, as well: "He has a deed made out for us, but which did not in our opinion intitle [sic] us to do any thing whatever with the property granted, neither to sell, lease or give away." Indeed, Brant's words express frustration with the lack of resolution regarding ownership of the land that continues well into the twenty-first century for Six Nations people. "Governor Simcoe's promise in the Spring was favourable and the fall is come, we yet remain as we were. Form their treatment it appears that they are trifling with us. It is not what we expected or what we deserved."

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[292] National Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A. Pt. 2. Privy Council Document 2719, Certified Copy of a Report of the Committee of the Privy Council, approved by the Governor General, signed by the Clerk, to the Superintendent of Indian Affairs, Ottawa, November 27, 1920.

Brant was thoroughly disenchanted with the colonial bureaucrats; he was infuriated with the "traders" and the officials who kept him and his people in a "state of suspense" and whose "intention was not to do anything for us." He mused, "What must we now think of General Haldimand's great assurances and friendly promises to us?"[293] Frustrated and impatient, Brant used his personal connections to Sir William Johnson's son, the Inspector General of Indian Affairs of Lower Canada, (Grand River was part of Upper Canada) as his ally against the colonial officials standing in his way, and brought his sale of land to conclusion over the objections of colonial officials.[294] The government in the early nineteenth-century acted to stymie Brant's land sales in accordance with their policy of protective paternalism.

The Confederacy in the early twentieth-century was still fighting for outright control of Grand River lands – not to sell as Brant wanted to do to create a mainstay of support for Six Nations, but to preserve the land base for the future generations. This time, though, the government was not their ally in retaining reserve land exclusively for Native use as a homeland. Scott by abandoning the old protective policies of Indian Affairs wanted enfranchised Natives to quickly assimilate completely into Canadian society, owning land as other Canadian citizens and ending their "tutelage" and state of dependence on the government.

The Chiefs of the Confederacy would turn to representatives of the British monarchy, testing their loyalty and steadfastness to the Covenant Chain. The Chiefs also sought to drive a wedge between the Dominion and Britain, to circumvent Canadian officials of Indian Affairs in their status case.[295] The diplomatic stratagems of the

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[293] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A (Pt. 2), Narrative annexed to Captain Joseph Brant's Speech to William Claus, Superintendent of Indian Affairs, appended without signature, received from Captain William Claus on January 25, 1797.

[294] Weaver, Sally M., "Six Nations of the Grand River, Ontario," in *Reserve Communities*, Woodland Cultural Centre, Brantford, Ontario, 1987. Brant alone, sold or leased 350,000 acres of Six Nations land, so that by the early twentieth-century after other land deals, only about 50, 000 acres of the tract remained. See also, letter to Arthur Sladen, Secretary to the Governor General, Ottawa, from Duncan Scott, Deputy Superintendent General, December 27, 1922. RG 10, Volume 3229, File 571, 571.

[295] National Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. Copy of a speech, recorded as given in Council to Wm. Claus, Superintendent of Indian Affairs, Newark, Upper

Confederacy were still linked to the ancient League in which survival and victory is assured by adaptation, as well as tradition.

For the Confederacy in the twentieth-century, the status case would be a considerably setback, but despite the negative decision they received, they refused to give up. After the Order in Council in November, the Chiefs' Committee designated Chiefs William Smith, Levi General and George Nash to mount another assault on Ottawa, to take up the status case. They dismissed their former solicitor, Lighthall, but authorized a new committee to interview an American lawyer, George Decker and Dr. Bates about preparing a petition to Parliament.[296] This, of course, put them at odds with the Indian Department, who arrogated all authority to itself to approve the minutes of the Six Nations Council, as if the Chiefs were incapable of making a decision for themselves.[297] The Six Nations community discussed the issues at stake during a public meeting at the Cayuga Longhouse. The controversy revolved around the Deputy Superintendent's imposition and administration of Bill 14, the ownership and control of the land on the Reserve, as well as Six Nations status.[298] One of the men who gave a speech at the Longhouse, David Hill, was noted by Gordon Smith, the Indian Agent, to be a long-time advocate for advancement and education, but had turned bitterly against these

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Canada, November 24, 1796, by Captain Joseph Brant, Mohawk Chief, Six Nations Confederacy. See also, an extract from a letter from Peter Russell, Administrator of Upper Canada to the Duke of Portland, West Niagara, January 28, 1797. It is argued in the documents following that the genesis of a boundary dispute regarding the Grand River tract was that Governor Haldimand, might not have had the power, nor the intention to give more land than was initially purchased from the Mississagas, for the land was not yet properly surveyed when Haldimand purchased the land for the Six Nations settlement. This dispute later caused friction between Six Nations and the Crown, as well as the Dominion, evidenced when Chief William Smith went to London in 1889 to pursue a land claim with Colonial Secretary. See, as well, "Six Nation Indians and Grand River Territory," Memorandum providing research conducted by John Ewart, an attorney from Ottawa working at the behest of Chief William Smith of the Six Nations Council, submitted by Ewart to Duncan Scott, Deputy Superintendent of Indian Affairs, May 6 to June 11, 1920.

[296] Public Archives of Canada, Indian Affairs, RG 10, Volumne 2285, File 57, 169-1A, Pt. 2. Extract of the Minutes of a Council Meeting, April 6, 1921, signed by Asa Hill, Secretary, Six Nations Council, March 15, 1922.

[297] Ibid.

[298] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2, "Petition Which Effected Change," Clipping File, Undated.

"progressive" programs for he argued that they resulted in the alienation of Reserve land.[299]

The Six Nations status case attracted attention, particularly in New York State, not only because the press publicized the Six Nations' threat to seek refuge there, but because the New York Iroquois were facing considerable legal difficulties there, as well. Arthur Parker, the famed Seneca archeologist and Director of the New York State Museum, weighed in on the status controversy, too. He argued, that if the British did not relinquish sovereignty to the Dominion, then the Six Nations might just have a case. He wondered also, how the Dominion could impartially decide such a case, with such a conflict of interest readily apparent? Parker made the observation that there is a great deal of difference between the letter of the law and "what it ought to be, by virtue of modern necessity."[300] Duncan Scott, was unmoved by this philosophic argument; he merely sent Parker copies of the relevant Order-in-Council, the Indian Act with recent amendments regarding enfranchisement, commenting that "nearly 500 Indians," mainly from Six Nations were already enfranchised.[301] Duncan Scott was determined to solve the Six Nations "problem" on his watch.

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[299] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2, Letter to Duncan Scott, Deputy Superintendent of Indian Affairs, Ottawa, from Gordon Smith, Indian Agent, Brantford, May 4, 1921.

[300] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2, Letter to Duncan Scott, Deputy Superintendent General of Indian Affairs, Ottawa from Arthur Parker, Archeologist, State Museum, New York, May 4, 1921.

[301] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2, Letter to Arthur Parker, State Archaeologist, State Museum, Albany, New York, from Duncan Scott, Deputy Superintendent General, Indian Affairs, Ottawa, May 7, 1921.

Chapter Four

Red Coats, Redskins: Representation, Race and Sovereignty of the Six Nations

The emergence of Levi General, or Deskaheh, as the leader of the assault on Ottawa is a result of his skill and power as an orator in the Cayuga language, a familiar pathway to earn respect in the Six Nations community. Yet Deskaheh would be far from a traditional leader as he lobbied delegates for Six Nations rights in far-off European capitols. He and Rochester lawyer and Native advocate, George Decker, would pursue the Six Nations status case all the way to the League of Nations. As evident from his correspondence with Decker during the period from 1921 until his death in 1925, at age 52 on the Tuscarora Reservation at Niagara Falls, New York.

Deskaheh served as the quintessential referent of the Red Indian particularly on several trips to Europe.[302] He was often referred to as a "picturesque" representative of his race.[303] Yet, as he easily presented and cultivated the role of traditional Confederacy chief for a European audience, Deskaheh grappled with shifting and complex cultural changes in identity as he became a global citizen. I argue that the crisis of ethnographic modernity was experienced by the Native, as well as the ethnographer for it was the Native who was clearly "at the center of scattered traditions," as he was thrust into the public sphere. [304] Eager to learn about European society and promote the Six Nations

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[302] Public Archives of Canada, Indian Affairs, RG 25, V. 1330, File 3162, Pt. 1, Assertion of Sovereignty, Six Nations, Telegram from the British Ambassador, Geddes to the Governor General of Canada, December 15, 1922.

[303] See copy of article from the monthly journal, *Headway*, of the League for reference to Chief Deskaheh and the Six Nations' case in Decker papers. League of Nations Union, Volume 6: Number 8. August 1924: 743.

[304] Clifford, James, The Predicament of Culture: Twentieth-Century Ethnography, Literature, and Art, (Cambridge, Mass.: Harvard University Press, 1988) p. 2-6. After a long struggle I have come full circle to agree with James Clifford in regard to his analysis of the concept of "authenticity" as a notion akin to the flowing sand on a beach – constantly changing and fluid, without any stasis, but constantly changing. Chief Deskaheh, I will argue is an archetype of a Native leader experiencing this ethnographic uncertainty in a complicated fashion, for he identifies with, and is still objectified as the essence of "tradition." Clifford offered a critique of the 1920s Western ethnographer searching for new possibilities in a "…truly global sPublic Archives of Canadae of cultural connections and dissolutions…" where "…local authenticities meet and merge in transient urban and suburban settings…"(p.4). Chief Deskaheh is an excellent reflection of Clifford's fictive example. He was an indigenous leader who had a fascination with modern life and

cause, Deskaheh astutely and seamlessly incorporated elements of "modern" Euro-Canadian society within his own vital and ongoing "traditional" construction of Native identity.

The chief was apparently not trapped in a representation of static tropes of Native identity, although he certainly redeployed them for the benefit of the Six Nations' cause. Instead, he assimilated and created a multiplicity of representations of identity as an Ongwehònwe leader thrust into a complex situation, confounding his opposition with his rhetoric, his versatility and his persistence. Representation is power and by using his skills and agency to shape his own representation of Six Nations identity to diverse audiences of all ages and from many nations and classes, Deskaheh challenged colonial depictions of the "Red-Skin," as he was known in Europe. He even forged and articulated his own stirring political message to the League of Nations and skillfully used the media to shape mass culture's understanding of Six Nations identity. These efforts had enormous long-term impact on the Six Nations community.[305]

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technology, while embodying a spirit of local authenticity. Chief Deskaheh embodies the principles outlined by Clifford of the ethnographer who employs the practice of "perpetual veering between local attachments and general possibilities."(p.4). This process was not confined to Western ethnographers, though, but part of lived experience for those individuals who were their subjects. For example, Six Nations cultural leaders had been extensively interviewed regarding their local knowledge of the Longhouse, ceremonial lore and historical information regarding the Confederacy. The community was regularly a part of the ethnographic process for the latter part of the nineteenth-century as academics sought to transcribe the oral practices and traditional ceremonies of the Longhouse and record the Constitution of the League with the aid of local "informants." It was not that much of an intellectual leap to stand this analysis on its head, so Native leaders became quite adept at the critique of the "Other," as well. See the considerable list of ethnographic authorities cited by Annemarie Shimony in her bibliography. Shimony focused on identifying the structure and content of "Orthodox culture." These ethnographic authorities reified the local practices, ceremonies and local history, unwittingly imposing a rigid paradigm on a fluid and living cultural and historical system. This would have enormous implications for the local community in the future and I would argue, make it less flexible and adaptable to change.. See Conservatism of the Iroquois at the Six Nations Reserve, (Syracuse: Syracuse University Press, 1994), p. 299-308.

[305] Chief Deskaheh became the latter-day hero of the Mohawk nationalist movement for he spoke to the themes and issues with which they were grappling, following the release of the White Paper and the militancy of the Red Power movement. These issues were namely, self-government, opposition to the government of Canada over land claims, control of indigenous representation, as well as an aboriginal movement to bring issues of indigenous rights to international forums. His persona as a Cayuga chief who represented Six Nations on the international level at the League of Nations was celebrated for it was an excellent model for the Confederacy chiefs seeking an international voice, such as Onondaga Chief, Oren Lyons, who worked to represent indigenous people at the United Nations.

Levi General had been a lumberjack and a farmer on the Reserve before he took a leading role in the Confederacy Council in Ohsweken. He was born at Grand River in 1872 and was "stood up" as a Chief of his "Young Bear Clan of the Cayuga Nation on July 4, 1917." Deskaheh was ill equipped, however, for his prominent role as legal secretary and correspondent to the new solicitor representing Six Nations, George Decker, who was recommended to Six Nations by Dr. Bates, an American academic. General painfully struggled to achieve command of written English to better understand and communicate the details of the Six Nations' case to his audience, both Native and Canadian.[306] One can only imagine the personal cost of this painful transition.

His first ally and loyal friend in this struggle was the American lawyer, George Decker, who was retained by the Confederacy Chiefs on April 6, 1921, to act as their legal counsel. They requested that in the beginning of May, Decker accompany them when they traveled to Ottawa…"to lay our objections against enforcement of citizenship under Great Britain upon us, as proposed and threatened by the Dominion of Canada" and to secure "the right of sanctuary and independence of the Six Nation people on their Grand River lands."[307] Decker and Deskaheh were to prove a formidable team as they forged a plan to resist the Indian Department's plans for Indian "advancement." Another threat to Six Nations they would try to block was the proposed sale of the Glebe lands near the neighboring town of Brantford that have long been a source of dispute with the Dominion. Some members of the community opposed the chiefs and sought to obtain a quick profit from the sale of the land.[308]

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[306] Mohawk Nation, ed. Akwesasne Notes, Basic Call to Consciousness, (Summertown, Tennessee: Book Publishing Company, 1991), p.18.

[307] See two resolutions, one dated April 6, 1921 signed by four chiefs and the second signed by eleven chiefs on May 2, 1921 as well as accompanying petition to the Governor General of Canada, dated May 10, 1921, (Rochester, NY: Decker Papers, St. John Fischer College) See also, Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. The petition in the Canadian Archives is signed by William Smith, Levi General, David Sky [his mark], A. G. Smith, George Nash and David S. Hill.

Duncan Scott drafted a lengthy response citing legal precedents to dispense with the status claim, but offered assurances that the Chiefs' other concerns regarding compulsory enfranchisement and alienation of reserve land were overblown. Scott emphasized that the department would move very slowly while taking the interests of the entire band into account and only modifying the legislation in question, if necessary. Scott maintained that even if a few Indians chose enfranchisement, or returning soldiers took a loan to improve the land and then defaulted, no land would be lost to the reserve. The land would ostensibly be sold to another Band member.

Scott, a progressive, liberal bureaucrat, argued consistently that the most practical, pragmatic solution to the "Indian problem" was to educate, civilize and merge the Indians into Canadian society. He emphasized his view that assimilation into the Canadian population was the "ultimate destiny" of the Indian people.[309] In this view he was in step with the Canadian policy that evolved out of British colonial policy and the over-arching, European hierarchy of colonial subjects. Six Nations, although viewed as racially gifted from the beginnings of colonial settlement, was advanced, but weakened demographically and surrounded by Canadian settlers' culture. Canadian policy, while clearly a form of white domination, developed along protectionist, paternalistic and assimilationist lines to gradually civilize and integrate Native populations within the majority society. As problematic and painful as the impact of this belief system might be for much of the Native population in Canada, it is important to distinguish this view from harsher colonial policies in Africa in which indigenous people were often placed under regimes of brutal white domination. Assimilation with its attendant programs of education and racial uplift were simply not offered in South Africa, for example, since the indigenous population was separated from European settler' society. The painful, reductionist logic of colonial policy left no Native population unscathed, however.

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[308] "Pagans are Behind Move of Six Nations: Resent Change from a Tribal State and Enforced Enfranchisement," *Brantford Expositor*, March 23, 1921.

[309] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt.2. Letter from Duncan Scott, Deputy Superintendent General of Indian Affairs, Ottawa to David S. Hill, Six Nations Council, Ohsweken, June 11, 1921.

Scott often indicated that the confederacy was "obsolete" and that only "sentimental reasons" were keeping it in place. An elective system would be a critical step in Six Nations' advancement. If it happened during his administration of course, then it would also advance his own career. Indian Affairs has often been a stepping-stone for political advancement since the Superintendent General also attained the rank of minister. Scott vowed not to impose an elective system upon Six Nations even though it was legally possible to do, until the majority of people wanted it themselves.[310]

In the beginning of the campaign for recognition of Six Nations grievances Decker was much more adept in using the media to the Six Nations' advantage when compared to Lighthall and Chisholm, the former lawyers working for Six Nations. Decker had prior experience in defending Seneca and Oneida land claims in the United States. He had used the press to underscore the romantic trappings attributed to Indian culture and society making use of tired metaphors and tropes representing the heyday of the Confederacy. Decker was especially adept at manipulating the duality of cultural stereotypes; probing the depths of the colonial attraction to Natives, as well as the distance that civil society sought to preserve. Decker also pricked the conscience of Euro-American culture by making use of the media to draw attention to the loss of Indian lives and lands.

In his legal representation of Six Nations Decker was adept at playing one nation against another. One of the first press reports he filed reported that a Six Nations delegation had traveled to the seat of the Confederacy in the United States, to Onondaga territory, to ask for Haudenosaunee support. Decker made sure that Confederacy resistance on each side of the international border was consistently reported in the press. Joint actions between the Native groups in the United States and Canada were especially useful for his strategy. For example, David Sky, along with Harrison Hall, George Nash and William Martin, represented Ongwehònwe living in Canada at a 1921 meeting with

[310] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. Letter to John Harold, M. P., House of Commons, Ottawa, from Duncan Scott, Deputy Superintendent of Indian Affairs, Ottawa, May 7, 1920.

Native spokesmen for the reservations in New York State. The press reported that the Six Nations people domiciled in Canada were so opposed to forced enfranchisement that they vowed to seek asylum from President Harding to return to their ancestral territory in New York State; a political slap in the face of Canada.[311] Decades of benevolent, "Friends of the Indian" meetings at Lake Mohonk provided fertile ground in New York for debates about the fate of the Iroquois on both sides of the border. Decker couched the Iroquoian political struggle as one of self-determination designed to resonate in American mythic consciousness amid the romantic nationalism prevailing after the first World War. He was regarded as a foreign troublemaker by the Canadian administrators at Indian Affairs and maligned for his ethnic German ancestry.

Deskaheh and the Chiefs had been very concerned about the impact of "Bill 14," dealing with compulsory enfranchisement as well as the Soldiers' Settlement Act for it portended to them a rapid extension of external control over Six Nations' land, government and identity. Indian advancement had been historically envisioned in Canada as a slow, but steady process, increasing the mingling of Native and European populations within mainstream society. Assimilation would foster Natives' desire for modernity by ushering in the elective process and liberal democratic institutions. The ostensible reward for giving up the Indian mode of life as "blanket Indians" was to be accorded the right to vote for an elected council, setting up a system akin to a municipality. To the Canadian officials' surprise and chagrin not many aboriginal people had taken advantage of this "privilege." Bill 14 was an effort to increase the pressure on Natives to become enfranchised and to independently strike out for themselves – giving up communal life on Reserves.

Only a hundred Indians had sought enfranchisement from Confederation up to 1918, when Parliament passed an amendment allowing the Superintendent General to

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[311] National Archives of Canada, Indian Affairs, RG 10, Volume 3227, File 552, 536. Clipping File notices from a Syracuse newspaper article, entitled "Canadian Iroquois Demanding Asylum, March 13, 1921. See also, letter to Joseph Pope, Under Secretary of State for External Affairs, Ottawa, from Duncan Scott, Deputy Superintendent General of Indian Affairs, Ottawa, mentioning these men as part of a Native delegation to London to protest Canadian enfranchisement as reported in the Montreal press June 1, 1921.

greatly simplify the process at his discretion.[312] Suddenly a Native who no longer lived on a reserve or owned land there could become enfranchised and obtain the band's consent for a monetary payout, relinquishing his share of the band's territory.[313] No such consent was needed if an Indian woman married a non-Indian. The Chiefs saw this as a direct threat leading to the loss of all Native land. In 1920 the Department went even further allowing the Governor-in-Council upon the recommendation of the Secretary General to enfranchise any Indian man or woman over twenty-one, even without their consent, as long as they had the approval of two officers from the Department and one Band member appointed by the Band Council.[314] If the Band appointed no representative, the Department could appoint a requisite individual. The Department was ostensibly directed to take care to "operate in the best interests of the Indians" and to employ the "utmost discretion in using these statutes." [315] This policy foreshadowed the dissolution of the reserves and termination of the guardianship of Indian land according to Indian activist groups, such as the Allied Tribes of British Columbia and the Six Nations Confederacy Council.[316]

These new statutes gave Duncan Scott exactly what he needed to end the "Indian problem" at Six Nations. Scott modeled his proposals on statutes under consideration in the United States House of Representatives for he told the U. S. Indian Commissioner that he admired the American policies and used them to change Canadian law. Duncan Scott was eager to strip Native people of Indian status and land, merging them into the

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[312] Taylor, John Leonard, "Canadian Indian Policy During the Inter-War Years, 1919-1939," published by the Ministry of Indian Affairs and Northern Development, Ottawa, Canada, 1984, p.143.

[313] Taylor, John Leonard, "Canadian Indian Policy During the Inter-War Years, 1919-1939," published by the Ministry of Indian Affairs and Northern Development, Ottawa, Canada, 1984, p. 144.

[314] Ibid., p. 151.

[315] Public Archives of Canada, Indian Affairs, RG10, Volume 2285, File 57, 169-1B, Pt. 3. Memorandum to Charles Stewart regarding the Six Nations' Status, Unsigned, May 9, 1922. The memo added: "It seems particularly dangerous now to give way to any agitation from a hostile section of the Indians, who have imaginary grievances and who do not show any disposition to co-operate with the Department."

[316] Taylor, John Leonard, "Canadian Indian Policy During the Inter-War Years, 1919-1939," published by the Ministry of Indian Affairs and Northern Development, Ottawa, Canada, 1984, p. 149.

general population. Scott put forth his own proposal for compulsory enfranchisement bill in a special committee of the House of Commons in 1920 that was passed by Parliament. He was much more certain about the efficacy of this new law than his superiors, Meighen and Lougheed, who seemed much more conservative in approach to the Native population and willing to let things evolve at a slow pace.

Scott's own personal goal was to acculturate the Indian population so completely that in an oft-cited, infamous quote he sought to ensure that: …"there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question, and no Indian Department…"[317] Scott knew that this would obviate land claims and moreover, "check the intrigues of smart Indians," who resisted the arrogant measures of the Indian Department and refused to allow their identity, history and culture to be erased. The Liberals led by Mackenzie King vehemently opposed compulsory enfranchisement in 1922, arguing that it was a coercive policy that took no account of the longstanding Indian opposition to this process. The Indian Act was further modified by the Liberals, so that an Indian had to request enfranchisement. Although the law remained in force as part of the Indian Act the compulsory provision was never invoked due to the concerted opposition of Indian groups and the Liberal leaders supporting them.[318]

The Soldiers' Settlement Act was still regarded with great suspicion, though. The Canadian government held mortgages on reserve land for returning veterans, which was viewed at Six Nations as a covert way for the Crown to alienate land by foreclosure, if the soldiers could not pay their loans.[319] The Soldier's Settlement Bill, it was argued, put large land tracts on the Reserve in jeopardy, "liable to sale on foreclosure to outsiders," without Six Nations agreement.[320] It was feared that the loans made to the soldiers

[317] Taylor, John Leonard, "Canadian Indian Policy During the Inter-War Years, 1919-1939," published by the Ministry of Indian Affairs and Northern Development, Ottawa, Canada, 1984, p. 147.

[318] Ibid., p.153.

[319] Titley, E. Brian, A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada, (Vancouver: University of British Columbia, 1986) pp. 114, 115.

threatened the land base of the band due to possibility of default on outstanding mortgages.

Pressure to cede or sell Six Nations lands to the Crown and alienation of land by the New England Company together with sales by individuals (foremost among them Chief Joseph Brant) had diminished the reserve from approximately 694,910 acres to 40,000 acres, including the contested "Glebe lot" near Brantford.[321] The Reserve was just a fraction of its original size of six miles on either side of the Grand River by the early twentieth-century. The land claims case with the New England Company was still pending, despite Duncan Scott's efforts to settle the case out of court. Solicitors Chisholm and Lighthall had continued with their work on the claims for Six Nations, along with seeking an accounting of Six Nations' funds held by the Department of Indian Affairs. In February 1921, the two Canadian lawyers had been informed by the Indian Department that no further funds for legal work would be disbursed out of the Six Nations' account. The Council still sought their solicitor's services, however, passing a resolution in March asking them to prepare a petition and circular letter to Parliament regarding the status case, even though they were already in contact with George Decker. By April, though, the Council had dismissed both lawyers, with a request for the files involving the cases in which they had represented Six Nations.[322] Local accountability for expenditures of the Council was certainly a factor in the difficulty of the Confederacy's to pursue the land claims. Transactions involving Six Nations funds were carefully scrutinized and discussed in the community, the local press and the Agricultural Clubs and Societies both on the Reserve and nearby towns.[323] The expenditures were also highly scrutinized by the Indian Department.

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[320] Decker Papers, Petition to the Governor General, May 1921.

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[321] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt 3. Unsigned memo to Charles Stewart, regarding the Six Nations' Status, May 9, 1922.

[322] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. Letter to W. D. Lighthall, Barrister, Montreal from J. D. McLean, Assistant Deputy of Indian Affairs, February 17, 1921. See also, Minutes of Six Nations Council, Number 21 and March 8, 1921, Number 4, April 5, 1921.

No matter how stalwart the protestations of Canadian officials the Department was suspected of having a vested interest in keeping the Six Nations without legal representation, especially with regard to the loans to returning soldiers.[324] Historically, Canadian officials were blamed for a huge financial loss incurred by Six Nations due to the Grand River Navigation project. The Grand River Navigation Company was formed in the heyday of the canal and steamboat era; it turned out to be short-lived and a financial disaster.[325] The company was initially started with a capital investment of 50,000 pounds; approximately 36,000 pounds were taken from Six Nations capital fund, invested without the consent or knowledge of the Six Nations Indians by several white trustees. All of these funds were lost to the Band and the Chiefs sought compensation from the Canadian government, to no avail.[326]

As George Decker began his representation of the Six Nations he chose to focus on the immediate dangers, namely, involuntary enfranchisement and the Soldiers' Settlement Act. While they were the immediate causes of the dispute between Canada and Six Nations, the deep-seated issues revolved around much more. Six Nations leaders, both supporters of the Confederacy Chiefs and the elective system, all sought to reinvigorate political control of their own affairs and status with regard to reciprocity from Western societies, particularly cultural authority and respect. These factors were

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[323] See references to the "Farmers' Sun," in letter of June 26, 1922, the "London Advertiser," (London, Ontario) in correspondence from Duncan Scott, in Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571, 571.

[324] National Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571. Itemized List of "Loans to Six Nations Indians Under the Soldier Settlement Act," notes that loans were disbursed to 68 men, for "land and permanent improvements" of $124,283 and $42,259 for stock and equipment. The soldiers reportedly still owed $167, 893 to the Six Nations Band.

[325] St. Louis, A. E., Archivist, "Grand River Navigation Co. Investment 1834-1844," Historical Research and Claims Office, (Ottawa: DIAND, 1952), p. 2. This report concerned litigation regarding the investment in 1943-52, when the Indian Affairs Department Archivist was so appalled that he wrote a confidential report detailing his knowledge of the case. He argued that money was not only invested without Six Nations consent, but was done with the "connivance" of officials who were "appointed to protect their interests."

[326] Public Archives of Canada, Indian Affairs, RG 10 Volume 2285, File 57, 169-1A, Pt. 3, "The Iroquoian League of Nations: Ne Gayanen'Sa'go'na,' *Brantford Expositor*, January 4, 1924.

voiced in the complaints to Ottawa articulated by Decker and the delegation of chiefs, who came "with sorrow in their Hearts" complaining of the "wrongs done in the name of the Dominion government" in May 1921:

> We cannot consent that outsiders shall hold or acquire any of the small domain we still retain. If a few of our people prefer your customs, or yield to the inducements offered by parliament to receive them as citizens, they are free to renounce us. If they do, we must treat them thereafter as outsiders. If the Parliament holds itself justified in seeking and accepting individuals of our people into citizenship, we must hold ourselves free to receive outsiders who may wish to become one with us.[327]

It is noteworthy that this conveys a rather open-ended and inclusive notion of Six Nations identity, without emphasis on racial restrictions. Further, it presents the decision of leaving the band and accepting the remuneration offered by the government as well as enfranchisement, as a matter of individual choice.[328] Notably, the chiefs who signed this petition represented a cross-spectrum of the Confederacy: A. G. Smith was a well-known progressive while Levi General, along with David Hill and William Smith would be stalwart supporters of the Council. As the conflict heightened, though, Deskaheh

[327] Public Archives of Canada, Indian Affairs, RG 10 Volume 2285, File 57, 169-1A, Pt. 2. Telegram to Duncan Scott, Deputy Superintendent General of Indian Affairs, Ottawa, from Gordon Smith, Agent, Brantford, Ontario, May 9, 1921. This must have been one of the first documents drafted with Decker's assistance after he was retained and authorized to go to Ottawa by the Council. The Canadian lawyers who had been working for the Six Nations' Council were dismissed, but A. G. Chisholm was drawn back into the conflict by George Decker and Chief Deskaheh who sought Chisholm's good offices as a mediator with the Indian Department. As Michael Taussig noted in his text, Mimesis and Alterity, the proclivity of indigenous people to exercise the "Time-Honored Principle of Playing One Outside Power Off Against Another," (p.137) is manifested in the decision of the Council to hire an American lawyer to embarrass Ottawa. Members of the Six Nations discussed the possibility of seeking asylum in the United States, to try to reclaim the old land of the Iroquois Confederacy in New York. See "Six Nations Seek Ruling From Courts as to Rights Under Treaty with British Crown," *Brantford Expositor*, March 14, 1921, p.2.

[328] This was also the way this matter was presented in the newspaper, which cited one family in particular that had several members "anxious for the franchise." See "Pagans are Behind Move of Six Nations," *Brantford Expositor*, March 23, 1921, p.6. Weaver traced increasing political pressure from within the reserve supporting the franchise from the late nineteenth century when Six Nations' people were briefly offered the opportunity to vote in federal elections, noting that the Council itself "petitioned to have it returned" when it was withdrawn in 1898. See Weaver, cited above, p. 532.

increasingly portrayed individuals who disagreed with the beliefs of the Confederacy Council as traitors to their race.[329]

In June Duncan Scott issued a lengthy response to the Chiefs' petition to the Governor General. Scott referred the Chiefs to a report of the Department of Justice stating, "that it would by a hopeless project" to try to establish Six Nations independence before the Canadian Supreme Court. Scott also referred the Chiefs to an Order-in-Council of 1890 dismissing their claim to "exemption from the laws of the land" and independent status.[330] He cited a recent decision of Justice Riddell in the 1921 Sero v. Gault case involving the prosecution of Six Nations Indians at the Tyendinaga Reserve for fishing without a license in the Bay of Quinte. A widow had made a seine net used by others in the community – fishing for food and for sale – how threatening was this enterprise to the Dominion? Obviously, any enterprise by Natives to survive by fishing and hunting was a threat to the Canadian plan for acculturation. Scott echoed Riddell: "…there is no evidence that fishing with a seine was one of the customs of the Indians in 1793." This static interpretation of Native life and culture, as if the ancient customs alone were the appropriate benchmark signifying legal protection, caused irreparable harm to Native societies, for it yoked Native peoples to a paradigm of reified tradition. It also de-legitimated the strides made by Native cultures to adapt from within, through continually evolving Native precepts and philosophies. The scope of colonial power and control that underlay the Dominion's hegemony over its Native population was exactly the legal foundation that the Chiefs in Council and George Decker were challenging, through precepts of international law.[331]

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[329] "The Last Speech of Deskaheh," Akwesasne Notes. Volume 1: Number 2. Summer, 1995: 59.

[330] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, P.C. 2719, "Certified Copy of a Report of the Committee of the Privy Council," November 27, 1920.

[331] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571. Letter to the Editor, *Brantford Expositor*, from George Decker, September 22, 1922. After laying out the similarities of cases between Iroquois communities on both sides of the international border, Decker stressed the supremacy of international laws and treaties over local statutes. The editors disavowed his views, arguing his perspective would appear to the average Canadian to be both "injudicious and impertinent."

The case of Sero v. Gault also involved a claim of separate status for Six Nations people, who argued that there should be no seizure of nets for unlawful fishing when the fishermen were aboriginal and not subject to the same laws as Canadians. Judge Riddell dismissed this argument with a sarcastic historical reference. Riddell quoted an Attorney General of Upper Canada from 1824, John Beverley Robinson, who stated that making a treaty with Mohawk Indians regarding "lands purchased for them and given to them by the British Government is much the same as to talk of making a treaty of alliance with the Jews in Duke Street or with the French Emigrants who have settled in England."[332]

Scott echoed Riddell's argument that since 1826 Natives were subject to Canadian law. His evidence was a murder case involving an Indian that was referred to England in 1822 for legal consultation. The Lieutenant Governor of Canada was instructed by British legal authorities to use his discretion, but that there was "no basis" to judge a Native by his own customs. Ultimately, Riddell reified his own anecdotal experience as legal precedent: "The law since 1826 has never been doubtful. I may say that I have myself presided over the trial over an Indian of the Grand River when he was convicted of manslaughter, and sentenced. I can find no justification for the supposition that any Indians in the Province are exempt from the general law or ever were."[333] In the case of murder special statutes were created to guide Native-North American relations, but the statutes were narrowly written rather than being applicable to all offenses.[334] Scott also quoted Blackstone's Commentaries cited in Sero regarding the allegiance of "natural born subjects" as a "debt of gratitude, which cannot be forfeited, cancelled, or altered by any

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[332] Public Archives of Canada, Indian Affairs, RG 10 Volume 2285, File 57, 169-1A, Pt. 2, Letter to David S. Hill, Six Nations Reserve, from Duncan Scott, Deputy Superintendent General, Indian Affairs, Ottawa, June 11, 1922.

[333] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. Transcript of Sero v. Gault.

[334] In the August 1921 "Memorandum on the Relation of the Dominion Government of Canada with the Six Nations of the Grand River," the Chiefs admitted that with regard to "extradition of murderers" they had agreed to allow the British to punish offenders. Yet, they argued, "We contend that the few instances in which murderers have been since taken within our domain and punished under British law under such consent did not for that reason constitute an invasion of our domestic sovereignty," see the Decker archival materials at St. John Fischer College.

change…but the united concurrence of the legislature." Here was the crux of the conflict, for Six Nations chiefs decried this notion of being "natural born subjects." They challenged this Euro-centric mantle of authority and its contingent hierarchy of colonial relations, along with the overweening hubris of this belief system.

Duncan Scott had no such reservation about serving as both judge and jury: "With reference to enfranchisement I may say that the policy of the Government is to carefully protect and educate the Indians and to thus contribute towards their civilization in order that they may eventually be merged in the general body of citizenship. If this in any way conflicts with the aspirations of Indians whose faces are set against this ultimate destiny, it can only be regretted." There it was – no matter what Six Nations Chiefs and their supporters desired as a people, it was not acceptable to Duncan Scott.[335] Scott fancied himself superior and civilized, ministering to a misguided, superstitious and ignorant people. Scott had written directly to Justice Riddell for a copy of his ruling in the Sero v. Gault case, for he knew Riddell from attending meetings of the Royal Society. Scott was not a Canadian legal authority, but he was a consummate bureaucrat intent on assimilating Native people. The Six Nations Confederacy Council refused to accept the parameters of Canada's Indian policy as articulated by Scott, setting themselves on a collision course with Indian Affairs.

The precedents researched by Justice Riddell were fairly narrow, for he did not seek international precedents outside of Canadian law. In the United States, the benchmark case that sets the precedent for giving tribes sovereign status was decided in 1832. Chief Justice John Marshall ruled that tribes retain all attributes of sovereignty, not specifically surrendered. In the case, Worcester v. Georgia, Marshall set forth the doctrine of retained sovereignty, based on the indigenous right of the soil, as well as his finding that there was no voluntary surrender of sovereign status to the United States by the Cherokee Nation. Riddell, in contrast, was insular in reifying his own objectivity and ostensibly "progressive" principles. In his correspondence with Duncan Scott, he found

[335] Public Archives of Canada, Indian Affairs, RG 10 Volume 2285, File 57, 169-1A, Pt. 2, Letter to David S. Hill, Six Nations Reserve, from Duncan Scott, Deputy Superintendent General, Indian Affairs, Ottawa, June 11, 1922.

an ideological soul mate. Scott was firmly convinced that a new, elective system was bound to be an improvement. He cast aspersions on the "futilities and stupidities of the old system," rather than thinking about the difficulties the Council had surmounted in setting up a functioning system melding the ancient principles of the Confederacy, with new responsibilities to solve the problems of a modern society.[336] Scott and Riddell were fixated on British and Canadian legal precedents, cosseted by the colonial calculus of power and unshakeable in their small-minded, hardscrabble convictions.

As Riddell informed Scott after the trial: "The matter as a question of law, is not arguable – the authorities are so perfectly plain that anyone born in his Majesty's territory is his Majesty's subject." [337] Purportedly, then, one is objectified as a colonial subject and does not exist outside of the colonial imagination, rather than possessing an individual, cultural identity. Riddell and Scott both belonged literally, to the same club, the Royal Society, which allowed class cohesion and shared institutional values to smooth their discourse as "experts," tasked with solving a nagging problem in Canadian society. Reflection and moral uncertainty appeared not to trouble either one of these men – the bureaucrat or the judge. Neither one, secure in his omniscience and privileged by his ongoing sense of colonial entitlement through which he benefited, ventured outside his own intellectual milieu. Both disavowed and ridiculed the "imagined community" of the Six Nations as sentimental and impractical, for they were averse to matters that did not fit with the prevailing ideology they had internalized. In contrast, members of Six Nations had to reconfigure an identity encompassed by oral tradition, forged in blood and sweat as well as in myth and imagination. Ironically, the ostensible "traditionalists' seemed to be often on the cutting edge, in order to adapt and survive in modernity.

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[336] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. Letter from Duncan Scott, Deputy Superintendent General of Indian Affairs, Ottawa, to John Harold, M. P., Paris, Ontario, October 26, 1920. See also, John A. Noon's classic study of the adaptations of the Confederacy Council, Law and Government of the Grand River Iroquois, (New York: Viking Fund, 1949) Noon argued that the Chiefs transformed the League government to a local government.

[337] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. Letter form Duncan Scott, Deputy Superintendent General of Indian Affairs to Justice William Riddell, Supreme Court, Ontario, Canada, April 4, 1921.

Prompted by Decker and frustrated in their latest attempts to have their status and treaty rights confirmed, a delegation of chiefs, including Deskaheh, traveled to England in August 1921 and presented a petition asking the King for protection from the Dominion. Travel for a Six Nations Chief was complicated by the dispute with Ottawa, for the Indian Affairs Department sought to nip a public relations disaster in the bud by denying the Chiefs passports to travel. Duncan Scott sought the cooperation of the Department of State for Internal Affairs, to prevent Indians from taking their "imaginary grievances," based on "ignorance and fanaticism," to the Continent.[338] He also wrote to a local Member of Parliament, John Harold, who had been invited to speak at the Reserve's annual picnic. Scott urged him to discourage the Chiefs' travels for he warned that no passports or money would come from the Department and further threatened that the Chiefs American lawyer was not going to be recognized by the Dominion.

Harold induced Scott to attend a conference to answer questions from the Chiefs, perhaps hoping to put the agitation to rest at Six Nations. Instead, the Chiefs were more irritated when Scott offered no new information and no concessions to resolve the conflict. Scott, also impatient and irritated at having to explain the unpopular positions of the Department, proved to be singularly lacking in diplomatic skills. When confronted or questioned, he struck back – creating an adversarial contest instead of a public relations opportunity. For example when asked by Chief William Smith about the genesis of authority to hold a mortgage on reserve land Scott retorted testily, setting off a public argument regarding legitimacy and power. Scott antagonized and lectured the Chiefs as

[338] National Archives of Canada, Indian Affairs, RG 10, Volume 1227, File 552,285. Memorandum to James Lougheed, Superintendent General of Indian Affairs, from J. McLean, Acting Deputy Superintendent General, Ottawa, July 26, 1921. Canadian officials sought to understand if Indians used their own funds for travel, for they were forbidden to use Band funds, or else they might become "stranded" in Europe. The Six Nations community had raised approximately $700.00 by the time of departure and would enough to defray their passage, according to Indian Affairs. See also, letter from Scott to Dr. W. H. Wood, Mount Brydges, Ontario, June 21, 1922, where Scott comments on press coverage of the "agitation" on Six Nations Reserve.

if they were children, so that rather than ameliorating conflict he exacerbated the political struggle.[339]

Status, enfranchisement, class and political favoritism were several significant issues that arose in the dispute over the Chiefs' trip to Europe. For example, a prominent, enfranchised, retired Six Nations' physician was allowed to get a passport, while ostensible "troublemakers," such as Levi General and David Seymour Hill were not. It was this uneven treatment of Six Nations people that made ordinary people on the reserve aware of corruption in the Department of Indian Affairs. Political allegiance to Canadian authority brought political privileges and material wealth to those Natives who co-operated with the Indian Office in Brantford. Denied passports from Canada the Chiefs-in-Council created, authorized and issued Six Nations passports. Not only did Levi General use this passport to travel to England, but Six Nations people still use this passport to travel all over the world. This was an excellent maneuver for Six Nations Natives in one stroke used a commonly accepted form to gain international status as an indigenous nation long before an indigenous rights movement was created.[340] Rather than provoke an incident in reaction to the Chiefs' use of Six Nations passports to travel to England, the Superintendent General, James Lougheed, overruled his subordinates and stated he would take no action, either for or against the travels of the Indian delegation.[341]

Six Nations had momentarily outflanked the enemy for in a gesture laden with colonial mimicry, it was reported that a "Red Indian" had landed at Plymouth to

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[339] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1A, Pt. 2. Transcription of question and answer session on the Six Nations Reserve between Duncan Scott, Deputy Superintendent General of Indian Affairs, John Harold, M. P., House of Commons, from Paris, Ontario and the Six Nations Chiefs' Committee.

[340] Confederacy passports are used by many of our chiefs and delegates on both sides of the international border for travel to other indigenous communities throughout the world, particularly with their work through the United Nations. See for example, Laurence M. Hauptman's text, The Iroquois Struggle for Survival: World War II to Red Power, (Syracuse: Syracuse University Press, 1986), p. 207.

[341] National Archives of Canada, Indian Affairs, RG 10, Volume 3227, 552, 285. Report of a telephone conversation and a telegram from the British Consul General in New York regarding the passports issued by Six Nations Council of the Grand River, to J. D. McLean, Acting Deputy Superintendent General of Indian Affairs, Ottawa, from H. H. Walker, Acting Under Secretary of State for External Affairs, August 5, 1921. These passports are still issued to the present day from the Confederacy Councils on both sides of the international border and are used for Six Nations' people to travel abroad.

undertake his fight to retain a "tribal form of government."[342] Deskaheh presented a petition, a letter and memorandum to King George V through the Colonial Office.[343] The documents were replete with historical references that resonated with the colonial language of British and Iroquois diplomacy. Six Nations identity was in transition for the chiefs represented themselves as progressive farmers who were "no longer children of the forest." The missive also included a topical political reference to self-determination: "We do not wish to be destroyed as a separate people. We have the same love for our heritage that the Great Spirit implanted in other peoples, and we have an equal right to hold fast to ours."[344] Deskaheh's letter stressed the lack of confidence Six Nations Council had in the administration of the Indian Department and concern over laws pressing for compulsory enfranchisement. Canadian efforts to conscript Six Nations men in World War I was also mentioned as a sore point, although Deskaheh stressed Six Nations continuous loyalty noting that 40 out of 300 Six Nations soldiers had died in the war effort.[345] A complaint was made concerning the Dominion's grant of loans and Six Nations lands to returning soldiers without authorization of the Chiefs. They believed this jeopardized Six Nations land holdings. Finally, the Chiefs sought an accounting of

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[342] "Red Indian Appeal to the King," *The Times*, London, August 16, 1921, p. 8. Also, see Michael Taussig's work on colonial mimicry in his text, Mimesis and Alterity, (New York: Routledge, 1993), p.xiv, for it is a perfect guide to this colonial encounter from the colonizer's standpoint. Taussig does not give enough agency to the colonial subject or consider the ways that the colonial subject has limited access to the tools to shape cultural representation.

[343] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Letter from Winston S. Churchill, Secretary of State for the Colonies, to the Governor General of Canada, Lory Byng, September 23, 1921.

[344] George V was in Scotland so the documents were presented at the Colonial office. The crux of the Six Nations' case was the stipulation that they were entitled to the Crown's intercession to protect them from encroachment of the Dominion's power, because of the Six Nations historic role as British allies, rather than as subjects of the Crown. The original grant for the reserve, Chief Deskaheh carried with him. See editorial from the *Brantford Expositor*, August 8, 1921 in which a special relationship to the Crown was duly noted, as well as "Six Nations Affairs within Competence of the Dominion," *Brantford Expositor*, October 15, 1921, p. 1. Also the "Petition & Case of the Six Nations of the Grand River," August 25, 1921 and Report to the Secretary of the Six Nation Council, September 24, 1921, in Decker Papers, cited above. The British and Canadian perspectives on these events are included in the "Assertion of Six Nations Sovereignty," in the Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1.

[345] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Letter and Petition from Chief Deskaheh to King George V, forwarded by Winston S. Churchill, Secretary of State for the Colonies, to the Governor General of Canada, Lord Byng, September 23, 1921.

the money taken without any oversight from the sale of Six Nations land by the Indian Department.[346] The Indian Act of 1869 was the crux of the problem for the new Dominion had sought to consolidate its power over Indians quickly after Confederation. The Chiefs maintained they had never consented to, nor accepted, the legitimacy of the Dominion's rule over their people or their lands.

The "Memorandum on the Relation of the Dominion Government of Canada with the Six Nations of the Grand River," submitted in August 1921, underscored the historical development of "reciprocal obligations" between two free and independent state entities, namely the Six Nations and the Crown. It cited a series of accords fashioned between the two peoples built through accretion, layer upon layer, to create an "ancient Covenant Chain." As alleged by the Chiefs, this spirit of reciprocity, characterized by harmonious relations between the nations was violated by the Dominion's interpretation of the British North America Act of 1867; this was the critical accusation Deskaheh brought "to the foot of the throne."[347] Probably drafted by Decker the report boldly disclaimed Dominion control or responsibility for Six Nations internal affairs noting that at first the intended task of Indian Department officials was to keep watch over their own nationals not the Indians with whom they interacted. Instead the report argued Indian Department bureaucrats slowly began to designate themselves as ultimate authorities over Six Nations and aimed to "subjugate" and "absorb" the Six Nations by "legislative fiat of the Dominion."[348]

The ideology of self-determination was laced liberally through the document and was defined in terms of the Native nations rather than the Western nation-state. Stressing Six Nations independence as a formal "protectorate" while lauding the political "principle

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[346] Public Archives of Canada, Indian Affairs, RG10, Volume 2285, File 57, 169-1A, Pt. 2. Letter to the Secretary of State, Colonial Office, London, from Chief Deskaheh, Speaker, Six Nations Council, August 25, 1921.

[347] "The Six Nations Appeal," *Brantford Expositor*, Editorial, August 8, 1921.

[348] George Decker Archive, "Memorandum on the Relation of the Dominion Government of Canada with the Six Nations of the Grand River," Submitted by Chief Deskaheh to the Colonial Office, August 1921, (Rochester, New York: St. John Fischer College).

that the adult national" who might purport to "have his own wish respected as to any change of allegiance" Decker's argument played carefully into the Wilsonian vision of the League of Nations, "to uphold the right of weak peoples" to chart their own course.[349] In order to disseminate information about the Six Nations' appeal, the petition was printed as a pamphlet and circulated widely while Deskaheh presented his case directly to the English public through speeches and an interview published in a weekly London magazine, Canada. The photo of Deskaheh shows him in a dark business suit, not in buckskin and beads, holding two wampum belts designated by the article as "wampum records." The article refers to Deskaheh as a man of fifty, "sturdily built, with the calm, stolid countenance typical of the Indian…" Further, it attests to the fact that the Chief had the original Haldimand Pledge in his possession written on parchment by Robert Mathews, Haldimand's secretary, and carried in the same small tin case that Joseph Brant used over a hundred years before. [350]

The response of the Governor General of Canada, Lord Byng of Vimy, was to explain to the British Ambassador to Washington, Sir Auckland Geddes, that two orders-in-council had been rendered regarding Six Nations claims to sovereignty and Canadian officials had found that Six Nations claims were not sustained. The Governor-General maintained that Six Nations were subjects of the British monarchy. He warned: "The Dominion Government is endeavouring to settle the differences by reasonable treatment and by constitutional and legal means and intervention does not seem to be either necessary or desirable."[351]

While in London George Decker engaged a publicity agent for Deskaheh, who advised the chief to appeal to the "romantic sense" of the English public. With

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[349] Ibid.

[350] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57,169,-1B, Pt 3. "The Rights of the Six Nations: Canadian Indian Chief's Mission to the King," August 27, 1921. See also, Titley, cited above, p.117.

[351] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Letter from the Department of External Affairs, Lord Byng of Vimy, to Sir Auckland C. Geddes, British Ambassador to Washington, December 27, 1922.

unintended irony the agent scheduled Deskaheh to appear at the Hippodrome for a performance of "The Peep Show." The management of the theater requested that Deskaheh appear in the full "regalia of his office" and appear on-stage during intermission, to be introduced to the artists and to pose for the "kinematograph folk." The agent argued that the "chief's appearance in the Box of a Theatre would be an excellent method of gaining public sympathy which is the most powerful weapon you could possibly have."[352] Titillating the senses of the British public with a glimpse of an actual Indian chief dressed in buckskin and feathers might be considered part of a long-running colonial "peep show," but one which Decker and Deskaheh sought to manage and profit from politically by controlling this cultural representation..

The exhibition of Natives as exotic figures to provide entertainment as well as reinforcement of a sense of imperial order and superiority over the "primitive" was ongoing in London. For example the Crystal Palace offered its curious mixture of "Bands, Organ Recitals, Japanese Village, Pleasure Fair and Imperial War Exhibition" during Deskaheh's visit.[353] A poem circulating at the time entitled, "The Red Man's Burden," drew attention to the suffering of Natives by comparing their lot to Africans and urging White men to consider fighting for Native rights, just as they had for slaves.[354] These conflicting images indicate the shift in nineteenth-century cultural tropes as an expression of the tensions within colonialism toward subject and objectified peoples. Natives now filled the role of victim and vanishing hero, as well as savage and exotic spectacle. In contrast within the Dominion's press accounts the Indian attire worn by Deskaheh was mocked by Duncan Scott, who reported to his boss that "David [sic]General"…put on a leather suit and feather bonnet."[355] The lack of respect indicated

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[352] Letters from Keith Ayling to George Decker dated August, 27 and August 31, 1921 as well as "Arrangements for the Reception of Chief Deskaheh at the London Hippodrome," September 1, 1921 in Decker Papers.

[353] *The Times*. London. August 16, 1921. p.8.

[354] Unknown Author, "The Red Man's Burden," George Decker Archive, (Rochester, NY: St. John Fischer College).

by Scott's remarks, particularly his confusion conflating the names of Levi General and David Hill, signals Scott's inability to put aside his own ego and strike a rapprochement with the Confederacy chiefs who put a premium on respect and gravity in one's bearing with regard to personal relations.

The colonial desire of Europeans to appropriate Native culture through the process of symbolic adoption, wearing of tribal clothing, as well as the acquisition of Indian names, religion and material culture had a long history as well.[356] Deskaheh's letter to the King and the Six Nations' petition, though probably drafted by Decker, yet illuminates how a Native perspective on cultural appropriation can be used to evoke a spirit of reciprocity.[357] For example, in a letter seeking help with the Six Nations' appeal the Prince of Wales was gently reminded that he had been adopted by the Six Nations and made an honorary chief, "Chief Dawn in the Morning" during a ceremony on the reserve, while he was touring the Dominion in 1920. This was a subtle way of reminding the British nobility that there was a political price for the their photo opportunities with the "noble savage." Deskaheh appeared to pick up this subtle use of Native power, from his first meetings with Decker – he was a quick study of power and cultural relations. For example, the ship's captain on the return voyage from Europe was given an Indian name by Deskaheh, meaning "the man who crosses the great waters," in a ceremony featuring

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[355] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, file 57, 169-1B, Pt 3. Memorandum to James Lougheed, Superintendent General of Indian Affairs, from Duncan Scott, Deputy Secretary General of Indian Affairs, Ottawa, September 30, 1921.

[356] Michael Taussig's text, Mimesis and Alterity, shaped my perceptions concerning the circular movement between colonizers desire to take Pt. 1n exotic cultures unlike their own through immersion and appropriation of material objects, language, religion, performance and the arts, though careful to maintain their own carefully nurtured and distinct sense of difference. Colonizers preserved a sense of superiority, yet awareness of their own limitations and boundaries of expression and experience . Taussig used the terms mimesis and alterity to explain this yearning for cultural experience and identification on the part of the colonizers, coupled with a decided rejection of Native identity, in order to preserve a safe sense of difference. The dance between two points on the colonial continuum is what fascinated Taussig and illuminated my understanding of Chief Deskaheh facing this very phenomenon when he was in Europe. Deskaheh was able to intuitively grasp this concept of colonial desire for difference, yet rejection of its manifestations, and use it to his advantage when he was trying to further the Six Nations political cause.

[357] See Peter Hulme's discussion of ritual and reciprocity from a Native perspective in Colonial Encounters: Europe and the Native Caribbean 1492-1797. (New York: Routledge, 1986), pp. 147-152.

the "smoking of the calumet" and a display of wampum. This was clearly an attempt to broaden media exposure for the Six Nations' cause.[358]

Publicity about the colorful Six Nations Chief, Deskaheh, brought forth several new allies from a diversity of associations and groups in Europe such as the Anti-Slavery and Aborigines Protection Society, based in London. The society made a formal inquiry into the treatment of the Six Nations through the British government and sought to know if the agreement between the Crown and the Six Nations was being altered or abrogated.[359] Another firm and persistent advocate for Six Nations came from the Highland Clans of Scotland, the Donnachaidh, or Robertsons. Noting that the new Superintendent General of Indian Affairs in Canada, Charles Stewart was descended from the Stewarts of Atholl, Sarah Robertson Matheson, sought to take advantage of the change of party in Canada. She urged Stewart to come to the "rescue" of the Six Nations people as her ancestors had "espoused the cause of the unfortunate of other clans."[360] Mrs. Robertson Matheson even wrote an article for Scottish Country Life celebrating Deskaheh's stand for his peoples' independence. She linked the Six Nations struggle to the Scottish wars for independence, stating: "These Indians are the descendants of the men who fought for Canada side by side with our Highlanders. They never forgot that; they have also heard of Bruce and Wallace, and well understand the patriot hearts of

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[358] Draft of letter for Chief Deskaheh's signature to the Prince of Wales, August 27, 1921 and press release of the International Mercantile Marine Company, September, 1921 in Decker papers.

[359] Public Archives of Canada, Indian Affairs, Volume 2285, File 57, 169-1B, Pt. 2. Letter from Travers Buxton, Secretary of the Anti-Slavery and Aborigines Protection Society, London, to Marquess Curzon of Kedleston, Secretary of State for Foreign Affairs, London, December 15, 1921. Winston Churchill, Under Secretary of State for Foreign Affairs, referred this correspondence to the Governor-General of Canada, Lord Byng, along with a transcript of a question and answer session in which Churchill was asked whether the Haldimand Treaty had been denounced. Churchill responded that the matter regarding the Six Nations was in the hands of the Canadian Parliament. This debate took place in the House of Commons on March 6, 1922. See letter to the Governor General, dated August 24, 1922.

[360] National Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571, 571, Letter from Mrs. S. Robertson Matheson, Scotland to Charles Stewart, Superintendent General of Indian Affairs, Ottawa, May 26, 1922. Ms. Robertson, too, had acquired an Indian name, Katsitsaronhen or Gathering Flowers. RG 10, Volume 3229, File 571, 571.

these immortals."[361] Mrs. Robertson Matheson intimated that she was monitoring Stewart's aid to the Six Nations as were other "friends of the Indians" at Court among them Mrs. Milne-Howe, a direct descendant of Sir William Johnson who was the mentor of Chief Joseph Brant. [362]

Milne-Howe also wrote in behalf of the Six Nations citing her great-grandfather's friendship with Six Nations and noting that in her ancestor's time Six Nations had "no complaint to make of the laws laid down to them by Sir William Johnson." She kept up her campaign through 1923, writing to the Governor General, Lord Byng, charging: "…the Indians are being victimized by land grabbers as in the days of my distinguished ancestors." Sir William Johnson was known as the "man who never deceived us," by the Six Nations and when he took Molly Brant, Joseph's half-sister, as his common-law wife, he and his followers became members of the Six Nations' family. Mrs. Milne-Howe warned Canadian officials, the Indians "resent deeply anything which seems like "double dealing, - and artifices.- [sic]," advising "strict integrity" in dealings with the Six Nations regarding the Haldimand Treaty.[363] She also underscored the rights being accorded to small nations, arguing that Six Nations' views should be respected with regard for their loyalty and honor.[364] Duncan Scott was typically derisive and dismissive of Mrs. Milne-Howe's efforts remarking that it was "hardly possible for her to understand the complexity of the situation."[365] Yet, behind the scenes, the two women "privately"

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[361] Public Archives of Canada, RG 25, Volume 1330, File 3162, Pt. 1, "Assertion of Sovereignty of Six Nations," Article entitled, "The Indian Allies of Britain in Canada," by Mrs. Robertson Matheson, in Scottish Country Life, February 1923.

[362] National Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571, 571, Letter from Mrs. S. Robertson Matheson, Scotland to Charles Stewart, Superintendent General of Indian Affairs, Ottawa, May 26, 1922. Ms. Robertson, too, had acquired an Indian name, Katsitsaronhen or Gathering Flowers. RG 10, Volume 3229, File 571, 571.

[363] Public Archives of Canada, Indian Affairs, RG 10, Volume 3385, File 57, 169-1B, Pt. 3. Letter to Lord Byng, from Mrs. Milnehome of Weddernburn, Edinburgh, Scotland, February 6, 1923.

[364] Public Archives of Canada, Indian Affairs, Volume 2285, File 57,169, 1B, Pt. 3. Letter from Mary Milne-Howe of Weddeburn, Edinburgh, Scotland, May22, 1922.

[365] Public Archives of Canada, Indian Affairs, Letter from Duncan Scott, Deputy Superintendent of Indian Affairs Ottawa, to Arthur Sladen, Secretary to the Governor General, Ottawa, December 27, 1922. Rg 10, Volume 3229, File 571,571.

presented Deskaheh's petition directly to the King. They also requested and listened to a report of what was being done for the Six Nations, directly from Winston Churchill and his wife, at court.[366] The proclivity of prominent British figures to further the cause of "Red Indians" was useful for Deskaheh during his travels in Europe, for it extended to him a sense of welcome and empathy that may have sustained him through this struggle. Several prominent women became advocates for the Confederacy cause. They privately facilitated critical social and political connections helping Deskaheh disseminate his message and vouched for his legitimacy.

The notoriety of the Indian Chief abroad as celebrated in popular discourse, steeped in class and race, surrounded the public appearances of the Six Nations' delegation and was to some extent, self-consciously employed by Deskaheh and Decker to garner support. Yet, even in private, the forms of Six Nations' etiquette and address were matters of great significance to Deskaheh, not to be taken lightly. Although dependent upon Decker's legal expertise, Deskaheh did not hesitate to assert his own authority in the course of their epistolary encounter; it was clear that Deskaheh expected Decker to acknowledge and respect him and the office of a Chief and Speaker of the Six Nations. In a casual postscript he admonished Decker: "I made Mr. David Hill a chief and now you will call him chief and take you[r] hat off when you meet him."[367] In contrast, the utter disrespect with which the Chiefs were treated, when they visited officials in Ottawa to discuss their status, was a recurring theme in Deskaheh's correspondence with Decker. Deskaheh charged that the Superintendent General of Indian Affairs and his Deputy, Duncan Scott, shut the door "before their faces."[368]

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[366] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169,-1B, Pt. 3. Letter to the Governor General of Canada from Sarah Robertson Matheson, February 25, l922.

[367] Letter from Chief Levi General to George Decker, November 2, 1921 in the papers of George Decker, a Rochester attorney, who represented Six Nations in their 1921 Appeal to the Crown. The archived collection of correspondence and papers of the Rochester Attorney contains documents also related to the Six Nations appeal to the League of Nations, regarding the Six Nations status case. The George Decker Collection is housed at St. John Fisher College, Rochester, New York.

Not everyone was so insensitive in Ottawa as Duncan Scott. Charles Stewart, Scott's new boss in Mackenzie King's Liberal administration, stands out as one official who attempted to understand Native perspectives. Mackenzie King ordered in 1922: "Tell Sir Joseph Pope that I have asked Mr. Stewart to have a statement of our case prepared and sent to the British Ambassador at Washington."[369] Yet since Stewart was new to the job Duncan Scott was ordered to prepare the report – this was a major flaw in Canadian administration of Native Affairs for the bureaucrats were in control of policy and very resistant to change.[370] Stewart traveled to speak to the Six Nations' community in order to allay their concerns about Ottawa's plans and policies. Scott reported privately to his contacts in the surrounding community that despite the Chiefs misrepresentation of the facts, graver issues had prompted his superiors to agree to "appoint a Commission of Judges, under certain conditions," to inquire into the grievances of the Six Nations. Ever the long-suffering bureaucrat, Scott quoted Plutarch in his correspondence on the need for patience.[371]

Despite the Department's protestations that the soldiers' settlement would not impact land holding on the reserve, in April 1922, county constables tried to enforce an eviction. The constables were challenged and routed by a group of Six Nations men who were defiantly opposed to Canadian jurisdiction. It was legal at this time for the Indian Department to issue "location tickets" to the soldiers, without consultation with Indian bands. The attempted eviction at Grand River stemming from the sale of a farm under the Soldiers Settlement Act attracted the notice of Mackenzie King. King, an experienced labor negotiator, endeavored to defuse the tension at Grand River, by

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[368] Memorandum and Letter, Undated, from Chief Deskaheh to George Decker, regarding the use of slides to accompany Deskaheh's European lectures regarding the Six Nations' case, The George Decker Collection, St. John Fisher College, Rochester, New York.

[369] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Note from the Prime Minister's Office, December 30, 1922.

[370] Ibid.

[371] National Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571. Letter from Duncan Scott, Deputy Superintendent General of Indian Affairs and Dr. W. H. Woods, Mount Brydges, Ontario, June 21, 1922.

intervening from Ottawa.[372] It appeared that a returning soldier had allowed a tenant to farm his land in his stead. Then to his chagrin, the soldier found that he could not evict the tenant farmer from his land – the conflict resulted in a standoff. The Council, under Levi General supported the tenant, while the Indian Department supported the soldier. Asa Hill, Secretary of the Confederacy Council, informed Superintendent General Stewart about the incident. It would not be the first time that Asa Hill would take a controversial political stand at Six Nations. Hill argued that an "insane element" at Grand River was making "impossible demands under the advice of their N. Y. lawyer." Hill sought the arrest of Levi General (Deskaheh) and his deputy, David Hill, as political agitators.[373]

Meanwhile the Confederacy Council was running out of patience with the Dominion. They passed a resolution authorizing Deskaheh to refer the claims of the Six Nations to the International Court of Justice in accordance with George Decker's advice opening an international dimension to the conflict.[374] By June Charles Stewart was ready to approach the Chiefs with an offer to settle all the disputes pending between Six Nations and the Canadian government. Stewart proposed a Royal Commission composed of three Canadian Supreme Court judges empowered to hear evidence testimony and render decisions concerning the Six Nations grievances with Indian Affairs. The justices would be chosen by both parties: one member of the judicial panel was to be selected by the Canadian government; one by the Six Nations Council; and one member would be selected jointly by the two parties.[375]

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[372] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, "Donnybrook on the Reserve," *Brantford Expositor*, Undated, as enclosure from A. R. Kennedy, editor of The London Advertiser, in letter to W. L. Mackenzie King, Ottawa, April 21, 1922.

[373] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3. Letter to Charles Stewart, Superintendent General of Indian Affairs, Ottawa, from Asa Hill, Secretary of the Six Nations Council, Ohsweken, Ontario, July 20, 1922.

[374] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3. Minutes from the Six Nations Council, Asa Hill, Secretary, Ohsweken, May 15, 1922.

[375] National Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571, 571. Letter to Asa R. Hill, Secretary Six Nations Council, Ohsweken, Ontario from Charles Stewart, Superintendent General, Charles Stewart, Ottawa, June 13, 1922.

This hearing was envisioned as a simple matter of arbitration – binding upon both the government of Canada and the Six Nations. The government sought the firm commitment of all adult males of the Reserve, age twenty-one and over, to abide by the decisions of the commission; to accept the recommendations of the panel; to facilitate the implementation of its directives; and to regard the arbitration of the issues explored as final. Topics to be considered were not only the status question and financial affairs, but also, resolution of all claims, including land claims, as well as examination of all inquiries relevant to the Six Nations' dispute with the government of Canada. The Royal Commission's costs were to be paid by the government that would implement the recommendations of the panel, whatever they might be, to reach a final settlement in all of the matters in the dispute. It would be the responsibility of the Six Nations' Council and the Canadian government to select heir own lawyers to represent them before the three judges, drawn from the Canadian bar.[376]

The local Indian agent, Gordon Smith, reminded Duncan Scott not to mention voting in any of the documents or political negotiations on the Reserve since voting was an anathema in Iroquoian political culture, forged in the tradition of consensus. Voting signified Western political ideology with its reification of majority rule and democratic tradition. It was so foreign to the Six Nations' decision-making process – even the word itself would alienate those Natives who might favor the Royal Commission.[377] This was not well understood by the Canadian officials who persistently sought to offer voting as an inducement for assimilation. For example, according to the Dominion Elections Act, any Indians who served in the armed forces during the Great War might vote, along with

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[376] National Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571, 571. Letter to Asa R. Hill, Secretary Six Nations Council, Ohsweken, Ontario from Charles Stewart, Superintendent General, Charles Stewart, Ottawa, June 13, 1922. This letter was drafted by Duncan Scott at the insistence of Charles Stewart, with Scott reminding Stewart to reinforce the need for laws and order on the Reserve and respect for Indian Affairs.

[377] Ibid.

Indians who resided off reserves, but only in Provincial elections.[378] Natives might fight for Canada but not vote in a national election, complained two progressive Mohawk chiefs: "The Six Nations tribe put more men in the field against Germany than the people of any other similar area in the Dominion. Yet the Six Nations are not privileged to cast a vote. This is a great injustice."[379] Instead one must ostensibly undergo a period of civic tutelage to prove one's fitness for participation in Canadian political culture.

Six Nations culture certainly shaped a distinctive political discourse in the face-to-face world of the Grand River community, different from the West: legitimacy and respect were accorded to acts and expressions of solidarity and reciprocity. For example, Deskaheh's perception of his role as a Cayuga chief and as a newly appointed Speaker of the Council with its attendant responsibility for all the Six Nations' people was markedly different from Decker's interpretation of that role. Decker's perspective was enmeshed within institutional rationality and a legalistic frame of reference. Deskaheh explained to Decker that some of the returning Six Nations soldiers, who had accepted loans from the Canadian government on Six Nations land, had come to him for help after their deal with the Dominion:

> The Return[ing] men began to find out how they were fool[ed] by the official[s] of the department. And were forced to buy lands on our domain. And now they realized how danger[ous] it is to break up of our land. They say the officials have been telling false[hoods] or lie[s] and they were swayed to buy these lands. They thought all the time they were getting help. But now the[y] find out it meant to break up the reserve. And they came to me to give them advice...They all say they went to war to defend their treaties & rights. But not to break the reserve [,] our domains. They want to preserve the Indians.[380]

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[378] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57,169-lB, Pt. 3. Letter from J. D. McLean, Acting Deputy Superintendent General of Indian Affairs, to W. C. Good, M. P., House of Commons, Ottawa, April 7, 1922.

[379] "Six Nations Chiefs Ask for Good Roads," *Brantford Expositor*, March 4, 1921.

[380] Letter from Levi General, Speaker of the Six Nation Council, to George Decker, March 29, 1922, The George Decker Collection, St. John Fisher College, Rochester, New York.

When Deskaheh asked Decker for his advice in order to help the young men, the lawyer responded, "you have a right to blame your young men who got you into trouble by accepting loans...without your consent."[381] In contrast, the main point to Deskaheh was not blame and assignment of individual responsibility, but that the young men had finally come to understand the link between preservation of the land and preservation of "the Indians," as a cultural entity and humanitarian value.[382] Deskaheh was fighting for the Council's right to retain each available tract of land for the Six Nations community as a whole for the future and to place good farmers on the land, rather than allow the Indian Department to act as a land speculator.

A case in point was the "Mill Flats" dispute, centered on land that had been flooded for a dam that had gradually deteriorated over the years. Deskaheh proclaimed in Council: "I'll never give up that property until my blood is cold." He surmised that the "empty land" would end up in the hands of the Crown rather than providing sustenance for Six Nations people in the future.[383] The Department's agent, Gordon Smith, viewed this case as central to General's power and he worried that it would take from "25 to 30 mounted policeman" to take and maintain a farm under dispute on the Reserve.[384] Chief General viewed this conflict with Smith and county constables as inevitable; clashes over land surrounding the reserve claimed by Six Nations to be unfairly alienated are endemic

[381] Letter from George Decker to Levi General, Speaker of the Six Nations Council, Undated, The George Decker Collection, St. John Fisher College, Rochester, New York.

[382] Letter from Levi General, Speaker of the Six Nation Council, to George Decker, March 29, 1922, in Decker papers.

[383] National Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571, 571, Letter from Gordon Smith, Indian Superintendent, Brantford to Duncan Scott, Deputy Superintendent General of Indian Affairs, Ottawa, June 14, 1922. The quote was reported by Gordon Smith, the Indian Department's agent on the Reserve. Scott interpreted Smith's report to Charles Stewart, the Superintendent General, as evidence showing weakening support for Chief Deskaheh, even though Smith was reporting for the most part, gossip on the Reserve.

[384] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3. Letter from Gordon Smith, Indian Superintendent to Charles Stewart, Superintendent General of Indian Affairs, June 8, 1922.

to Grand River since settlement. It was also complicated by the agent's over-bearing attitude and oversight of Six Nations' funds that created constant frustration for the Chiefs who were bent on handling their own affairs without interference.

The implicit threat of violence caused several chiefs such as Asa Hill to withdraw their support from Levi General. Hill condemned General in a personal and private letter to the Band's former lawyer, A. G. Chisholm, condemning him as "nothing but an agitator of the worst type with no desire to come to any understanding. I am afraid that his actions will mean the breaking up of the Confederacy."[385] Chisholm, violating legal and ethical imperatives, passed Hill's letter directly to Duncan Scott and suggested that the Department sponsor a secret ballot on the Reserve regarding the offer of the Royal Commission.[386] No one would have taken part in a ballot, secret or not, but the back-channel strategem brings up a point to ponder: Would cooler heads have prevented the clash in 1924? Perhaps, if Hill and Stewart might have been the principal negotiators, with Chisholm as the attorney, would reason rather than passion have carried the day? Nation-to-nation status was a non-negotiable point for the chiefs, though and sovereignty was the lynch-pin to the Confederacy's sense of pride, identity and historical ethos. One clear problem was the way power was exercised within the council by the Speaker and Deputy Speaker which placed less emphasis on the chiefs of each constituent nation within the council. The structure of the Council had been adapted for rule on one small shared territory, so adjustments were necessary. One must also remember that the office Pine Tree Chief in the ancient Confederacy elevated an individual to a position of individual leadership, outside the usual pathway of clans, rather it was based on merit and leadership.

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[385] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B. Pt. 3. Letter from Asa Hill, Brantford, Ontario, to A. G. Chisholm, Ottawa, July 6, 1922. Asa Hill, up to this point, was a strong supporter of the Six Nations cause, speaking before the Ontario Historical Society and publishing a short account entitled, "The Historical Position of the Six Nations," in 1922. See "Reserve Communities," published by Woodland Cultural Centre, Brantford, 1987 and File 57, 169-1A, Pt. 2, above, Minutes of the Six Nations Council, Ohsweken, June 7, 1921.

[386] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3. Letter from A. G. Chisholm, London, Ontario to Duncan Scott, Deputy Superintendent of Indian Affairs, Ottawa, July 8, 1922.

Following the advice of their current attorney, George Decker, the Chiefs rejected Stewart's offer of a Canadian tribunal because it would only be composed of Ontario Supreme Court justices to adjudicate their disputes. As Chief David Hill argued: "There are only three Supreme [Court] Judges in Ontario. Why could we not choose from the whole Canadian Judiciary? Why should we be limited in this manner?"[387] Hill was a chief who sought to reach across political divisions: "We must now cooperate with our neighbors, but I appeal to the Dominion Government to come and meet us half way, and by conferences work out a scheme that is of benefit to us all, and that will make Canada greater and better."[388] Deskaheh was reported as stating that the Indians had been treated paternalistically as children by the Canadian government, blocking any movement toward settlement: "You are men, and you are allies of the British Crown. You are on a footing of equality with the Dominion Government, but this is not realized in the Canadian capital." George Decker was the next speaker and true to his advocacy and 'take no prisoners' rhetoric, he argued: "You must have home rule. If you don't have home rule you are slaves." He added, revealing some of his own racist attitudes: "You must live out the ideals of your forefathers and continue the contributions to civilizations that the *Indians have made from time to time* [emphasis mine]. These are things you cannot hand over to the white man." This series of speeches at a local public event revealed the internal dynamics among the team pressing the Six Nations case at the League: Deskaheh, as the leader, focused on the conceptual overview of the negotiation, while Dave Hill remained fixed in political reality – what goals were attainable? Decker, seemed the loose cannon in terms of political rhetoric, perhaps because he had less to lose, but his work with Six Nations represented a fairly radical position for the time. George Keene, a local Brantford citizen argued that the Six Nations had public sentiment

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[387] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, "Rhythmic Beat of Tom-Toms Blends with Wild War-Cry at Pow-Wow of Six Nations," Toronto Globe, September 4, 1922. This article is remarkable for the stereotypical excess encoded in its descriptive passages. For example, the column referred to the "savage yells of the redskins who executed the scalp dance…" and who were accompanied by their "…squaws and papooses…" It continued: "Chiefs in their fantastically plumed headgear, tomahawks in their belts, and their faces smeared with the red paint of war, gravely seated themselves in a semicircle to decide on the program for the day. After repeated "ugh-ughs," they finally decided that speeches…were to be given before the games took place."

[388] Ibid.

on their side but should be careful not to alienate the community regarding the keeping of the "Sabbath observance." The surrounding community enjoyed fairly good relations with Six Nations, with the exception of the lacrosse games that were often held on the reserve on Sunday, which raised the hackles of local Christians. The local Member of Parliament, Good, stated that he would "support your requests with the government," for he noted, "You have taken a just and sound position…"[389] This statement appeared to presage a good outcome for all parties.

Six Nations speakers complained about the continuing lack of the oversight and support of Britain for the Six Nations stance, for it was Britain with whom the original agreements were forged. While continuing to press their case with the Crown, leaders sought further negotiation with the Dominion. As an alterNative, the use of an international court or an "impartial tribunal" was proposed to settle any differences remaining, as befitting allies and equal nations.[390] A compromise was also suggested so that if the government picked one justice and the Six Nations picked the second, then the third member of a panel, to specifically arbitrate differences, might be selected by the first two judges. Most importantly, the Six Nations' leaders sought to exempt their "political independence for all purposes of home rule" at Grand River from consideration of any commission.[391] A resolution was passed in support of this position at a public meeting in Ohsweken and forwarded to Charles Stewart, the Superintendent General of Indian Affairs, by Levi General, Speaker of the Six Nations Council.

Decker played to both sides of the border, "saber-rattling" in press accounts of the conflict in Rochester, New York, that the Canadian government was emulating the "ruthless imperialism of Congress in its treatment of American Indians." Deskaheh and

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[389] Ibid.

[390] "Indians for Arbitration," *New York Times*, July 16, 1922, p. 18.

[391] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571. Letter to Chief Deskaheh, Speaker, Six Nations Council, from Charles Stuart, Minister of Interior, Ottawa, September 27, 1922. Also, see "Canadian Indians Want Case Submitted to Hague Court," in the *New York Times*, July 14, 1922, p. 1.

Decker constantly played up the rivalry between Canada and the United States, using it as a gambit to gain political leverage. They threatened that the Six Nations might move back to their ancestral homeland in the United States, if Canada did not resolve its differences with the Confederacy Council. Yet, when speaking on the Six Nations Reserve, Decker toned down this argument. His press releases for a Canadian audience emphasized the community's desire for "home rule" and their abhorrence of dependency, pointing out that unless Six Nations resisted the Canadian authorities, they would "remain as slaves."[392]

Media coverage of the conflict ran the gamut from ironic, bemused indulgence, to anger and outrage at this novel application of Wilsonian self-determination. Markers of Indian identity were celebrated in a racialized discourse common in the early twentieth-century. This conflict was a curiosity focusing on the romantic history of the "Red Indians" in the British press.[393] Journalists frequently commented upon the fact that Iroquoian languages were still used in the daily conduct of political affairs at the Council House. Descriptions of individuals on the reserve made note of their dark skin and classic, chiseled features, which were attributed to being "full-blood." Six Nations people of Native and European ancestry were referred to as "mixed-bloods" and often characterized as progressives seeking assimilation.[394] A sense of reserve with reporters and other strangers was characterized as traditional Indian modesty, or an inherent lack of emotion, ascribed to Native stoicism. Critical commentary circulated in the newspapers was largely confined to the practices and ceremonies labeled as artifacts of "paganism."[395] Pagans were also sometimes referred to as Deists, in recognition of their belief in monotheism.[396]

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[392] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571, Clipping File, "Indians Prepared: Hold Conference," Rochester, New York, July 7, 1922 and "Police Angry at Inciting of Six Nations, *Brantford Expositor*, September 5, 1922.

[393] "Red Indians Appeal to the King," *The Times*, London, August 16,1921.

[394] "Pagans Are Behind Move of Six Nations," *Brantford Expositor*, March 23, 1921.

The potential for violent confrontation with the Canadian authorities was an undercurrent in the local press and international press. The threat to law and order supposedly emanating from Confederacy council supporters prompted Charles Stewart to station ten Mounted Police on the Reserve. [397] This was exactly the wrong move at the wrong time, for it struck a nerve in the entire community, heightening tensions and escalating the conflict, especially since there had been no violence.

During the annual Tuscarora pow-wow at Ohsweken as five thousand dancers peacefully celebrated, the colonial stereotypes of savage warfare proved to be a dramatic metaphorical backdrop for the simmering political conflict. Reporters referred to the "blood-thirsty yells" and the "hideously painted faces" of the "Redskins" assembled, with "squaws and papooses looking on with the ancient stolidity, awe and pride."[398] Yet, modernity had made its mark on the Reserve, for women were adorned in gingham, rather than buckskin, men in overalls, rather than breechcloth and Indian chiefs, anticipating the white referents of "Indian authenticity" wore Plains attire, rather than clothing of their own tribal tradition. As one observer complained, the absence of "buckskin, beadwork and feathers," drumbeats and war whoops, tomahawks and scalps, left "only dark-hued imitations of the white man" living in houses, not the "teepees" expected by reporters and visitors who imagined the life of all Indians in imagery immortalized in paintings depicting the golden age of Plains culture. [399]

Political commentators in the Dominion were quick to seize on the "absurdity" of applying the principle of self-determination to a relatively small Indian Band, deriding

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[395] "Six Nations Seek Ruling From Courts as to Rights Under Treaty with British Crown," *Brantford Expositor*, March 14, 1921, p. 2. See also, "Pagans Are Behind Move of Six Nations," *Brantford Expositor*, March 23, 1921.

[396] "Pagans Are Behind Move of Six Nations," *Brantford Expositor*, March 23, 1921.

[397] "The Six Nations Excited: Mounted Police on the Reserve," *The Times*, London, January 18, 1923.

[398] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571, "Deskaheh at Demonstration of Six Nations: Painted for War," *Brantford Expositor*, September 5, 1922.

[399] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571, "Indians Hail Hague," *Boston Evening Transcript*, June 22, 1922.

this claim as a "joke" of "misguided red men, who are neither numerous or powerful." Ironically, one source drew an interesting parallel comparing Six Nations' demands with a manifesto issued by the Irish Republican League of Canada against British imperialism and championing Irish self-determination. Self-determination as a political principle was not merely a tool of Wilsonian diplomacy, to many editors' surprise, legitimated the aspirations of ethnic and racial minorities in emergent communities across geo-political boundaries challenging the British colonial empire.[400] Indigenous communities would incorporate these principles to struggle against what later became known as "internal colonialism," or "domestic colonialism." This domestic colonialism simply replicates imperialistic relationships within a single nation by reducing one or more national entities to the rank of second-class status.[401]

Charles Stewart summarily dismissed the notion of using international arbitration to resolve an internal dispute with an aboriginal population. British subjects, both white and Indian, he argued, were quite well served by the Canadian system of justice. In addition, Stewart stressed the principle of obedience to the law of the land. He made an ominous reference to allegations by the Ontario Attorney-General that Indians at Six Nations were not obeying legal warrants, issued by the Ontario courts.[402] He pledged his government's utmost support for the rule of law, coupled with his reiteration of good will toward the Six Nations, as long as they obeyed Canadian officials.[403] Scott's imprimatur was obvious, for it was his belief that the "agitation" on the Reserve was "fanatical" and should be "sharply checked" for the good of Indian administration across Canada. Scott

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[400] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571, "Comedies of Self-Determination," *Toronto Saturday Night,* July 22, 1922.

[401] Hind, Robert J., "The Internal Colonial Concept," Society for Comparative Study of Society and History, Sydney, Australia, 1984, p.543-568.

[402] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571. Resolution of the Six Nations Council, Ohsweken, September 5, 1922. The Council sought to "secure a stay" in the execution of warrants of arrest issued by the Ontario provincial authorities for Six Nations Band members, while negotiations were ongoing between the Dominion and Six Nations, on the grounds of appropriate jurisdiction.

[403] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571. Two letters from Charles Stewart, Minister of Interior, Ottawa, to Chief Deskaheh, Six Nations Council, Ohsweken, Ontario, September 27, 1922.

assumed the opposition stemmed from the Indians' "vanity and general ignorance" and if not quickly dampened, would allow the "worst element" to "talk and vapor to no end."[404] This statement, particularly the Victorian allusion to "vapor" or hysteria captures Scott's personal contempt for the Native population he was bent on assimilating. Scott's lack of intellectual curiosity concerning the legal and political principles involved in the Six Nations' struggle is sadly revealing. His judgment of Indians as infantile, ignorant and incapable of rational discussion is substantiated in his private reports and correspondence, despite his public posture.

The Chiefs found cold comfort in Stewart's assurances that Six Nations would be secure in the laws of the land. Decker continued to develop their case, focusing on the principle of home rule and fashioning a rebuttal to the legal precedents cited by Canadian authorities. Deskaheh's response to Stewart would claim that Six Nations were a "separate people," so that submission of the status case to the Canadian Supreme Court justices would indeed prove to be a "hopeless project." Deskaheh also complained about the lack of an impartial auditor to address Band funds and land claims. Boldly addressing the warning in the Minister's letter, the Chief argued that if the Canadian government refused "impartial" mediation, then "we shall strive, nevertheless, to find protection in such a tribunal, encouraged by the belief that the justice of our cause will open the way." In words that would later haunt him, he proclaimed, "We cannot believe that your Government will send physical force within our peaceful homes, either to seize our people, or to impose its foreign will upon us."[405]

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[404] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571, 571. Memo from Duncan Scott, Deputy Superintendent General to Charles Stewart, Superintendent General of Indian Affairs, Ottawa., September 13, 1922. See also, a letter marked "personal" dated, April 2, 1922, to Scott from the Inspector of Indian Agencies, Charles Parker, who was negotiating with the Council over the Glebe land claim. Parker issued a similar condemnation of the leadership as characterized by "ignorance, fanaticism and opposition to the law." RG 10, Volume 2285, File 57, 169-1B, Pt. 3.

[405] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571. Letter from Chief Deskaheh, Speaker, Six Nations Council, Ohsweken, Ontario, to Charles Stewart, Superintendent General of Indian Affairs, Ottawa, October 13, 1922.

This response was taken very seriously by Duncan Scott in particular, for he feared the Chiefs would "select an American, probably Ex.[sic] President Wilson, or commit some folly of that kind." He pressed Stewart to get legal advice as to the standing of a Royal Commission as a means to address the claim of aboriginal self-determination as a principle of international law. Scott thought the government should back away from arbitration and temper its response to Six Nations, at least for the time being. He assumed that if local constables were called upon to quell any resistance the Indians on the reserve would refrain from resistance out of sheer habit of obedience to Canadian law.[406] Charles Stewart signaled the Council that he was willing to speak to the Six Nations community in December, but planned to meet the Chiefs in Brantford, a more neutral venue, rather than on the Reserve.

As the rhetoric of the Department hardened, support for Deskaheh weakened, as Duncan Scott had predicted. The reality of opposition to the Canadian government left the Six Nations Confederacy Council in an untenable position – without control of their money, their lands and borders or the rest of their own people. Allegiance was sharply divided on the reserve for people hesitated to swear fealty solely to a Six Nations national government. The first division exploited by the Indian Agent, Gordon Smith, was that of Christian vs. "pagan." This false dichotomy was erroneously depicted as mirroring the political differences at Grand River and frequently played up in the local press. While some of the Chiefs in the Council who were affiliated with the Longhouse religion of Handsome Lake were assailed as traditionalists, or "pagans," others had never adopted those tenets and espoused a much older belief system linked to the clan system and the Great Law of the Confederacy. Christians, who may or may not have espoused loyalty to the Canadian government, were mistakenly viewed as always being "progressives." On the ground, of course, Six Nations Natives quietly, fluidly and seamlessly incorporated a range of religious precepts and political beliefs into their life-ways. Along with the spiritual tenets associated with the epistemology of ancient Ongwehònwe life, calendric ceremonies and practices, many much older than the Longhouse faith as codified by

[406] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571. Memorandum from Duncan Scott, Deputy Superintendent of Indian Affairs, Ottawa, to Charles Stewart, Ottawa, October 23, 1922.

Handsome Lake, there were the beliefs of the Delaware and the Ojibway peoples who intermarried with Natives of Six Nations that impacted spiritual beliefs on the reserve. [407] Christian denominations were numerous on the reserve including the Anglicans, Baptists, Methodists, Mormons and the Seventh Day Adventist sects. Syncretism was the reality at Six Nations Reserve, rather than a dichotomy between "pagan" and Christian beliefs.

Many Christians did belong to the "association of loyalists," headed by A. G. Smith, a Seventh-Day Adventist, Andrew Staats, William Loft, and Asa Hill, the former Secretary of the Council. Nevertheless, many were also cultural traditionalists and were very familiar with language and lore of the community. A good example is A. G. Smith who could speak all Six of the Six Nations languages fluently.[408] This group sought a meeting with Superintendent General Charles Stewart to discuss the political conditions at Grand River and to vouchsafe their loyalty to the Dominion.[409] This was portrayed in the press as a demand for law and order in the Province. The dissident Chiefs, identified as prominent, progressive Mohawk farmers, were portrayed as "going over the head" of Deskaheh, to restore a progressive and enlightened policy at Grand River, based on an almost Jeffersonian triad of education, Christianity and agriculture.[410] Cultural signifiers such as the historic Mohawk Chapel were cited as "proof" that the founder the Six

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[407] One of the problems with historiography of Six Nations is that *a priori*, it was assumed that Six Nations independent status was lost because of the loss of religious unity. See Noon's classic study, Law and Government of the Grand River Iroquois, (New York: Viking Fund, 1949), p. 14. Both Shimony and Weaver, the major academic authorities on Six Nations history and culture reached a much more subtle understanding of Six Nations culture by the end of their careers, but they both began with the notion of factions, divisions in the community between the Longhouse and Christians and traditional vs. progressive. It has taken us nearly one hundred years for Six Nations leaders to focus their energy on political self-determination, rather than religious difference and political faction and work to undo this damage. For example, see the May 2 issue of the *Tekawennake*, one of the local Six Nations newspapers, to read about the reinvigoration of the clan system on Six Nations Reserve and the rapprochement between the Mohawks who are not followers of the Longhouse and the other members of the Confederacy. A great deal of harm has been done by absorbing such Western dichotomies and must be undone by reaching for Six Nations consensus.

[408] Beaver, George, A View from an Indian Reserve, (Brantford, Ontario: Brant Historical Society, 1993) p. 92.

[409] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571. Letter from Asa Hill, Brantford, Ontario, to Charles Stuart, Minister of the Interior, Ottawa, October 16, 1922.

[410] The change in political ascription is striking, for Mohawk nationalists became the face of resistance to the Dominion in the latter part of the twentieth-century.

Nations community at Grand River, Joseph Brant, wanted his people to be Christians, rather than remain in the "pagan long houses."[411] The group of pro-Canadian chiefs, echoing the spirit of the United Empire Loyalists and expressing nativist sentiments, wanted nothing to do with "outsiders," especially George Decker, an "American German lawyer." Asa Hill had been particularly incensed when Deskaheh ordered the Union Jack taken down from the front of the council house in Ohsweken, signifying a break with the Crown. Deskaheh proposed that a Six Nations' flag be created and flown in front of the Council House, instead. This order was confirmed by a resolution in Council.[412] This symbol of Six Nations sovereignty has endured and remains part of Ongwehònwe identity to the present day.[413]

Asa Hill, angry that he was deposed as Secretary of the Council due to a trumped-up charge of fraud, wrote to Stewart and to Duncan Scott, offering to help them establish a provisional council. He also submitted an article to the local newspaper about the loyalists' opposition to Chief Levi General.[414] The new association, named the Loyalist party, elected A. G. Smith as President and Asa Hill as secretary.[415] They chose the

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[411] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571, 571. "Indians Demand Law and Order: Do Not Want to go Back to Pagan Longhouses, They Say." *Toronto Globe*, October 9, 1922. The Mohawk Chapel was built by Brant in 1786 for those Indians adhering to the Anglican faith. It housed the famed Queen Anne communion plate and bible brought from the Iroquoian lands after the Revolutionary War.

[412] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571, 571. Letter to Duncan Scott, Deputy Superintendent of Indian Affairs, Ottawa, from Asa Hill, Brantford, Ontario, November 18, 1922.

[413] The purple and white flag was based on the Hiawatha Wampum Belt showing the Great Tree of Peace at the center and the Onondaga Nation, at its center. The other five nations are symbolized by four white squares, two on each side of the Tree. The squares are connected by white lines, symbolizing the pathway to peace among the original five nations, from left to right, the Mohawk, Oneida, Cayuga and Seneca. It is flown at Grand River Territory, particularly to underscore land claims and reclamations sites. For example, it is being flown at Kanonhstaton, the current land in dispute between Canada and Six Nations. The land being occupied is adjacent to the neighboring town of Caledonia, see photo and article in the *Tekawennake*, April 4, 2007.

[414] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571, 571. Clipping File, undated article entitled, "Ordered Union Jack Taken Down."

[415] A.G. Smith was my grandmother's uncle – he was known as a progressive and as a supporter of the Mohawk Institute, widely reviled as the "Mush Hole." He was instrumental in her placement there to be educated away from the influence of her own mother who was a traditional Six Nations Native and only spoke Cayuga. My grandmother, Ellen Hill, was given a very privileged education at the Mohawk Institute,

Stone Hill Methodist Church as their meeting site. Asa Hill also offered to be an informant – reporting on the Confederacy – for he sought the Department's backing for the new association. He also wanted a meeting for himself, Smith, William Loft and Andrew Staats with the Minister of Indian Affairs.[416] Asa Hill suggested that the Canadian government remove the Indian constables who were loyal to Deskaheh and the new secretary, David Hill, – this was political hardball.[417] So bitter were the feelings on the Council that the Loyalist Association even suggested to Charles Stewart that the Department of Indian Affairs simply arrest David Hill and Levi General as agitators for inciting Indians to disobey the law.[418]

Meanwhile, negotiations proceeded between Charles Stewart and the Confederacy representatives. Stewart wrote a memorandum of understanding to Deskaheh, noting that he would waive the stipulation that the judges would be from the Ontario Supreme Court, asking that they simply be British subjects. In turn, Six Nations would accept the scope of the investigation as outlined in the initial proposal. As far as the determination of the proposed commission, Six Nation leaders could decide if they accepted the findings as final, or not.[419] This olive branch from Stewart appeared to work, for the day after the meeting, the press trumpeted an agreement, citing the Chiefs' acceptance of an offer of a Royal Commission. It looked as if Stewart had struck a deal, so that no embarrassment at Six Nations would cloud the administration of Mackenzie King.

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learning English customs and manners. She had a proper Anglican upbringing, but she chose to embrace the life of a Mohawk farmer's wife. Her experience was not typical, perhaps due to her uncle's influence with the Indian Department.

[416] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571, 571. Letter to Duncan Scott, Deputy Superintendent-General of Indian Affairs, Ottawa, from Asa Hill, Brantford, Ontario, November 18, 1922.

[417] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571, 571. Undated letter from Asa Hill, Brantford, Ontario to Charles Stuart, Superintendent General of Indian Affairs, Ottawa.

[418] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571, 571. Resolution of the Loyalist Association, forwarded to Charles Stewart, Superintendent General of Indian Affairs, November 28, 1922.

[419] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571, 571. Letter to Levi General, Chief, Speaker of Six Nations Council, Ohsweken, from Charles Stewart, Superintendent General of Indian Affairs, December 4, 1922.

These negotiations also included a closed-door session of the chiefs where Deskaheh had reportedly been voted down in regard to the nationality of the Six Nations representative on the commission. There was also an open meeting at which a great many questions were answered and recriminations, aired. Asa Hill was pointedly questioned about his alliance with the loyalists. He was dramatically called to account before the Chiefs in front of a table displaying the Confederacy wampum belts, the symbols of authority exhibited at every Council meeting. Stagecraft and drama were important elements of Confederacy lore and social control.[420]

Several issues were discussed at the open meeting including the impact of enfranchisement on the land base of the Reserve. According to the Dominion's accounting, if a male Indian, over twenty-one, was enfranchised, an elector was picked up by the county and his share of land was deducted from the total acreage of his reserve. An Indian was "granted a patent to his land, which was then lost to the reserve." This paralleled the disastrous policy of the United States following the Dawes Act in the nineteenth-century and many Natives feared this would break up the reserves. They fought the legislative attempts to allow orders for arbitrary or compulsory enfranchisement, since this would be linked to land patents, granted in fee simple, and eventual detribalization.[421]

Stewart pointed out that from a Canadian perspective no parliamentary body could make an agreement that would stand "in perpetuity," so the measures regarding enfranchisement and Band control over reserve land would always be open to political revision. This became a fiercely contested issue for the Confederacy historically had conducted diplomacy from a Native tradition, as if agreements were immutable.[422] The

[420] Public Archives of Canada, RG 10, Volume 3229, File 571,571, "Indians Overrule Alien Counsellor: Union Jack Replaced," *Toronto Globe,* December 5, 1922.

[421] John Leslie and Ron Macguire, "The Historical Development of the Indian Act," Department of Indian Development and Northern Affairs, 1979, pp. 115-22.

[422] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571, "Indian**s** Overrule Alien Counsellor: Decide to Accept Offer of Royal Commission to Probe Grievances, Union Jack Replaced," *Toronto Globe,* December 5, 1922.

two perspectives regarding proclamations, deeds and treaties clashed culturally, for agreements were viewed differently between Western and Native societies. Perhaps this was the genesis of the problem regarding consensus on the purported meaning of the agreement between Chief Joseph Brant and Governor Haldimand, for legal agreement was never reached on the oral negotiations over the Haldimand Deed at the beginning of settlement at Grand River. Certainly, Brant had never been satisfied with the translation of his oral agreement with the Crown, concerning the legal deed to the Grand River tract either in the Haldimand Proclamation of the Simcoe Patent. Natives could not procure an agreement legally constructed to guarantee their oral understanding of their rights or the safety of their land for all time. While Western cultures prided themselves on legal tenets and a legislative process that was open-ended, geared to adaptability, the exigency of circumstances and responsiveness to the merits of change, as well as beholden to individual and national interests, Natives sought an agreement forged on consensus that would not change through time.

Stewart's message to the Six Nations steadfastly asserted Canadian sovereignty and law. It was hardly conciliatory for he included a strong admonition to the chiefs to correct perceived Native shortcomings, or Canadian law and order would be enforced. The closed-door meeting eventually held on the Reserve did not just include the Confederacy Chiefs, Charles Stewart and Duncan Scott, but also a local Member of Parliament, W. G. Raymond. Stewart was anxious to appear reasonable, rather than coercive in contrast to the conservative bureaucracy in Ottawa. At the same time however, national politics dictated that he project mastery of the situation and an attitude that would brook no disorder. For example, in regard to the sale of liquor, Stewart warned that the Canadian government would act to combat the sale of liquor to Six Nations people since drunkenness was regarded as a particular weakness of the Indian race. Temperance also figured largely in Christian missionaries' "outreach" to Natives

and it was also employed by many philanthropic groups to ostensibly save the "Red men" from extinction, social degradation and moral turpitude.[423]

After his stern admonition to uphold Canadian law and order at Grand River, Stewart offered three "carrots" to the Council for smoother relations: compulsory enfranchisement was considered moot; accountability for Six Nations finances would be forthcoming; and the word, "land" would be removed from the Soldiers Settlement legislation in order to assuage the unrest at Six Nations. Charles Stewart sought to settle all extraneous matters before attacking the status question, for it would not be advantageous for the Canadian government to appear as if they were denying their indigenous peoples' rights to self-determination. Stewart was adamant, though, about the necessity for the Chiefs to cooperate with Canadian authorities and to forbid any foreign influence in Indian policy or usurpation of the authority of Canadian courts. This was the political quid pro quo Stewart proffered to seal the deal: no embarrassment for the Canadian government, if substantive negotiations were to proceed. Stewart urged that a speedy investigation of any outstanding issues be conducted: "The delays are stirring up trouble and we don't want that," the Minister complained.[424] Stewart was in an unenviable position, attempting to circumvent the bureaucrats at Indian affairs, such as Scott, to forge a political agreement that would spare his boss, Mackenzie King, political embarrassment.

Stewart was certainly being pressed by the Conservatives to adopt a tougher stance toward Six Nations. For example, Senator Fowler declared in 1922, that the sooner Six Nations Indians "are taught that they are not allies of Canada, but subjects of Canada,…the better, because we do not want any such anomaly in this country." He complained bitterly that Canada had enough problems with immigrants, without trouble

[423] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571, "No Usurpation of Law on Reserve by Chiefs' Council; No Alien Representative, *Brantford Expositor*, December 5, 1922.

[424] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571. "No Usurpation of Law on Reserve by Chiefs' Council; No Alien Representative, *Brantford Expositor*, December 5, 1922. This meeting included the following chiefs: Deskaheh, David Hill, William Johnson, Jacob Lewis, Albert Hill and Chauncey Garlow. It excluded the Loyalist party, but since Asa Hill, as former Council Secretary, was still entrusted with the combination to the safe, they were still well informed of the ongoing negotiations.

from its Native population, too. Fowler charged that the Indian Department "has not handled those people with sufficient firmness…"[425] By reversing the hard line of the Conservatives, who had forged legislation authorizing compulsory enfranchisement, for adult males, their wives and underage children, at the discretion of the Superintendent General, Stewart was pursuing the historic and familiar strategy of voluntary enfranchisement to accomplish gradual assimilation and eventual acculturation.

Sadly, though, on the issue of prohibition – specifically the sale and production of liquor on the reserve – Stewart's carefully engineered agreement foundered. The Confederacy Chiefs dramatically denounced an "invasion" of the Royal Canadian Mounted Police onto the Grand River territory that Deskaheh echoed in Europe. In his memorandum to Stewart accounting for the incident, Duncan Scott stressed the over-riding need to establish law and order and the ongoing problems with a "disloyal element" at Grand River. The Six Nations' community was already viewed as fairly licentious by the Puritanical officials in the Indian Office, as well as the surrounding community, due to the Sunday lacrosse games held on the reserve. [426] The Indian agent, Gordon Smith, reported to Duncan Scott that whiskey was sold openly during the games on Sundays, which had the local clergy in an uproar.[427] Supporters of the Confederacy Council known as the National or Mohawk Workers was formed in 1922 and used the lacrosse games as well as community picnics and socials to raise funds for the Six Nations' legal defense fund.[428]

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[425] John Leslie and Ron Macguire, eds., "The Historical Development of the Indian Act," Department of Northern and Indian Affairs, 1979, pp.119-20.

[426] Letter from George Keen, editor, The Cooperative Union of Canada, to George Decker, September 18, 1922, in the George Decker Collection, St. John Fisher College, Rochester, New York.

[427] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571, 571. Letter to Duncan Scott, Deputy Superintendent of Indian Affairs, Ottawa, from Gordon Smith, Indian Agent, Brantford, Ontario, September 6, 1922.

[428] Sally Weaver, "Six Nations of the Grand River, Ontario," in Northeast, ed. by Bruce Trigger, vol. 15, in Handbook of North American Indians, ed. by William Sturtevant, 1978.

Scott reported to Stewart that after the meeting "it became necessary to deal with some infractions of the Dominion Act," in other words, to destroy the stills used to make homemade alcohol. Scott seemed to have taken the Minister's warning on the Reserve as a green light to crack down on what he saw as the impudent disregard, even "contempt" of provincial law. The memo reads as justification for his bad judgment and appallingly poor political timing. Deskaheh complained bitterly to Stewart, remarking that this incursion was the first such incident suffered in the history of Six Nations. He decried the injustice of the raid and protested, "they had no right to shoot any Indian. They shot him five times…is this what you call a protection according to our treaty.[sic][429] Scott argued that the Department had received reports of fifty Indians with shotguns ready to resist the R.C.M.P. and prevent them from making an arrest on the Reserve. Scott mentioned the existence of civil warrants and alleges that the resistance was violent. Scott advised Stewart to set up a permanent R.C.M.P. Post at Ohsweken, the central village on the reserve, with the concurrence of the provincial police, as a cost effective way to monitor the Indians. This idea was an anathema to the Six Nations community and was continually resisted. Placing a federal police force on the reserve only exacerbated the situation, as Six Nations people viewed the force as a heavy-handed response to a local incident.

On the international front Duncan Scott mentioned to Stewart, almost as an aside, that the Confederacy Chiefs had departed for New York and Washington to pursue their status case with the League of Nations. Coming on the heels of Stewart's promise of good will, the raid on the reserve proved the duplicity of the Dominion to the Chiefs. Deskaheh and David Hill submitted a formal appeal for protection against Canada to the Charge d'Affairs, J. B. Hubrecht, at the embassy of the Netherlands in Washington. The appeal solicited the aid of the Queen and her government, asking them to intervene with the British government and transmit their petition to the League of Nations. The Dutch were selected as the intermediary, the Chiefs recounted, because of their history of

[429] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, Letter from Chief Deskaheh, Speaker, Six Nations Council, to Charles Stewart, Superintendent General, December 5, 1922.

excellent relations with the Confederacy in British colonial America.[430] When this appeal came to the attention of the British Foreign Office, an ambassador caustically noted that the Dutch "…might find themselves arraigned before the Council by some of their East Indian subjects." The Dutch ambassador was warned not to encourage "any discontented community" to seek "a remedy against the government of their own country by appealing to the League."[431]

Despite these developments Scott went ahead with the negotiations at Grand River along the lines of the recent deal in the works between Charles Stewart with the Confederacy Council, leading to accusations of bad faith from the Chiefs-in-Council.[432] After negotiations were terminated Scott threatened the Council with a provision of the Indian Act that specified control of all Band funds by the Superintendent General to reminding them that there was no money for an international appeal.[433] Six Nations still refused to accept the legitimacy of the Indian Act, claimed special status and denounced the Canadian government for illegally holding their funds.

The chiefs' perception that they were being tricked and their authority flaunted by duplicitous Canadian officials is critical to understanding Deskaheh's fierce resistance to a relatively minor incursion of an armed contingent of Canadian officers on June 13, 1922 onto the reserve to seek and destroy liquor distilleries. The Confederacy Chiefs themselves previously recognized the danger inherent in such an environment.[434]

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[430] Public Archives of Canada, RG 10, Volume 3229, File 571, 571. "Indian Chiefs Air Grievances in U. S., *Toronto Star*, December 19, 1922. See also, "Indians in Ontario Appeal to League," *The Globe*, Toronto, December 18, 1922.

[431] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, "Assertion of Sovereignty, Six Nations, Letter to Ambassador Auckland Geddes, Foreign Office, from G. W. Villiers, March 20, 1923.

[432] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571, 571. Memorandum to Charles Stewart, Superintendent General of Indian Affairs, Ottawa, from Duncan Scott, Deputy Superintendent General of Indian Affairs, Ottawa, December 21, 1922.

[433] Public Archives of Canada, RG 10, Volume 3229, File 571,571. Letter to Levi General, Chief, Six Nations Council, Ohsweken from Duncan Scott, Deputy Superintendent General of Indian Affairs, Ottawa, February 1923. Legal bills were an issue, with the appeal mounted by Chisholm and Lighthall amounting to $8000.

Deskaheh claimed that Charles Stewart had agreed to act in conjunction with the Chiefs to deal with the problem. Newspaper accounts of the meeting held on the reserve quoted Stewart as warning the community that law officers would come to Six Nations, if the production and sale of liquor were not stopped "immediately."[435] The Chiefs claimed the Mounted Police and local officers from the nearby town of Brantford acted unilaterally. Deskaheh was outraged at this breach of faith on the part of the Canadian government. This led to the complete unraveling of the agreement reached just days earlier with Stewart.

Contributing to the deepening sense of distrust and betrayal between the government and the Council was a dispute over the language in a letter affirming the Chiefs' unanimous acceptance of the deal.[436] When Stewart refused to accept a deputation to iron out these fine points, but still sought to move forward by beginning the selection of the experts who would decide the case, the Chiefs suddenly rejected the proposal and terminated negotiations with the Dominion.[437] Deskaheh asserted that the quartering of an armed force on the Grand River tract was indicative of the malicious intent of Canadian forces. He confronted Charles Stewart declaring the Department officials would surely "impose your will upon us in violation of our treaty rights."[438] Stewart indicated that he was not backing down in his decision to bring the Reserve under the yoke of Canadian law.

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[434] Letter from David Hill to George Decker, July 14, 1922, in the George Decker Collection, St. John Fisher College, Rochester, New York.

[435] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571. "No Usurpation of Law on Reserve by Chiefs' Council; No Alien Representative, *Brantford Expositor*, December 5, 1922.

[436] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571. Letter to Charles Stewart, Superintendent General, Ottawa from Levi General, Chief, Ohsweken, December 7, 1922.

[437] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571. Letters to Levi General, Speaker, Six Nations Council, Ohsweken from Charles Stewart, Minister, Ottawa, December 21and January 16, 1922.

[438] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571. Letter to Charles Stewart, Superintendent General of Indian Affairs, Ottawa, from Chief Deskaheh, Speaker, Six Nations Council, January 24, 1923.

Deskaheh bitterly condemned the invasion of the reserve by the Royal Canadian Mounted Police and the Dufferin Rifles of Brantford. Particularly, he personally reproached Stewart for breach of faith and the violence with which the men had conducted their search. Deskaheh and the Secretary of the Council composed and circulated their own account of the incident in Europe, complaining in a letter to the Queen of the Netherlands: "While our Government was engaged on its part in good faith in preparation for entering upon that arbitration the Canadian Government opened war upon us on the very next day, without notice or declaration on its part, and invaded our country with an armed force which maltreated many peaceful and unarmed of our members, and carried several of them and threw them into Canadian prisons where they now languish."[439] He charged that the armed contingent had intimidated and harassed people who had nothing to do with the production or sale of liquor. This was a familiar tactic that infuriated Natives, for often Canadian authorities seized the most respectable, honorable individuals and arrested or harassed them as a public example of their power. Deskaheh charged that armed men forced their way into homes and "in broad day light (noon) fired eight times to a fleeing old man of 60 years of age." He added sarcastically, "The Chiefs would be pleased to know that these were not your orders."[440] In his correspondence with Decker, Deskaheh identified the man as Pat Martin, a Six Nations' Indian, who "never stop[ped]" in the hail of gunfire but "run to the bush" [sic] to escape the Canadian officers.[441]

Pat Martin was my grandfather's brother and according to his version of the story, he climbed a tree and watched the men searching all about for him, adding an additional

[439] Public Archives of Canada, RG 25, Volume 1330, File 3162, Pt. 1, "Assertion of Sovereignty of Six Nations," Letter to the Government of Her Majesty the Queen of the Netherlands, from Chief Deskaheh, Speaker of the Six Nations Council, December 7, 1922.

[440] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571. Letter to Charles Stewart, Superintendent General, Ottawa, from Levi General, Speaker, Six Nations Council, Ohsweken, December 8, 1922.

[441] Letters from Levi General, Speaker of the Six Nation Council to Charles Stewart, Superintendent General of Indian Affairs, December 8, 1922, and two letters to George Decker, both dated December 8, 1922, in the George Decker Collection, St. John Fisher College, Rochester, New York.

element of parody and farce to this tale.[442] This is classic Six Nations humor, for Uncle Pat was a handsome man with a winsome personality, well-known on the reserve as a bit of a rake. He was a colorful character and there are innumerable stories about his "goings on," preserved as local folklore, "down the bush." Pat was anything but a fearsome warrior. He had merry blue eyes and a wonderful sense of humor. He may have been a bit of a black sheep, but he was definitely not the skulking warrior depicted in news accounts of this incident.

Manipulating colonial expectations was an art long familiar to Six Nations people, though. Deskaheh assimilated these tropes and re-deployed them for his own uses in diplomatic relations.[443] Using images and representations of Iroquois identity in international relations and power politics meant entering a new and unfamiliar high-stakes game unfamiliar to the Ongwehònwe. Deskaheh, unlike Brant, could no longer cash in diplomatic chits in terms of trade, warfare or alliance, nor use their personal relations with powerful British leaders such as William Johnson, as in the colonial era – especially with Winston Churchill as the British Under-Secretary of State for Foreign Affairs. Yet, they still could use their dignity, honor oratory and ancient culture to claim a space very different from the Western nations. As a lone spokesman for his people, Deskaheh had struck a chord that reverberated through an international forum. Diplomats

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[442] Telephone interview with Lynette Jamieson Justiana, November 9, 1996. This estimable lady was a life-long Indian activist with the Indian Defense League of America, working closely with Chief Clinton Rickard after Chief Deskaheh died. Her father was Chief Chauncey Garlow. Her stories of the Mounties coming onto the Reserve in 1924, when she was coming home from school frightened her and sparked her own activism and interest in the "Indian question." She was an ardent defender of Six Nations rights and initially told me where to look for the records of George Decker to begin my research.

[443] See Robert Berkhofer's text, The White Man's Indian: Images of the American Indian from Columbus to the Present, for a data-based introduction to the representation of Indian identity in one of the first texts devoted to a Native perspective concerning Native relations in the United States, (New York: Vintage Books, 1979), but the cultural historians employing postmodern language and strategies, such as Stephen Greenblatt, Homi Bhaba and Michael Taussig, have more thoroughly mined the tropes and metaphors used to distinguish the Native Other in ways that illuminate the subtleties of objectification of indigenous people throughout the colonial empires. These practices continue to imPublic Archives of Canadat colonized peoples, just as Frantz Fanon and Albert Memmi established through their work, until the present day. The best explanation of the processes of colonization and the workings of power, however, flow easily and artlessly from the experience and the reflection of John and Jean Comaroff in their text, Of Revelation and Revolution: The Dialectics of Modernity on a South African Frontier, Volume Two, (Chicago: University of Chicago Press, 1997).

in the League of Nations pondered the right of indigenous peoples to continue to exist on their own lands in their own ways, perhaps for the first time in modern European history. Yet, for Deskaheh himself, one must wonder at the personal cost of a painful cultural reality. Confronted and perhaps trying to manage stereotypical representations portraying him alternately, as a warrior outfitted in a Plains headdress, or as a romantic symbol of the last of his race, Deskaheh was alone in a way he had never been before, fighting the political battle of his life in an alien culture. He was certainly advised by many people, but whom could he trust? He was certainly naïve sometimes, altogether too trusting and sometimes taken in by the wrong people, as we will see with his relations with a disreputable character by the name of Ockleslaw-Johnson.

Yet Deskaheh was undeniably very astute at tapping into and manipulating the stereotype of the Indian warrior and cast Six Nations' resistance in terms that portended violent resistance on the reserve: "The Iroquois warriors are lying low...to give their sachems one more chance to save life and Six Nation sovereignty through peaceful effort."[444] As a trope Native masculinity and resistance were embodied in the familiar image of a menacing warrior for the press, but stripped of an alterNative and vital dimension of resistance entailing mimicry and parody that would have been central to Native cultural production on the reserve. Humor and gossip were central elements of resistance and the attractive package in which oral history among Natives was wrapped for cultural survival. This incident was only one of many recounted and savored in a different way for later generations in order to reposition the historical record by adding the Native perspective to the "official" story. The role of local historical memory is very important to Six Nations people in developing and encoding our own voice as a critique on official texts and proclamations of Indian Affairs. Access to the media and government channels has always been difficult for First Nations; even obtaining the official records of one's own people is fraught with difficulty.

The report of the first raid on the reserve by Canadian officers in 1922 set off a flurry of diplomatic activity between senior representatives of the Dutch, the British and

[444] *New York Times*, December 16, 1922.

Canadian governments, to which Six Nations had no access. Secret dispatches were sent between the British Ambassador in Washington and the Governor General of Canada, reporting on the stance of the Netherlands government regarding the Six Nations appeal for help.[445] Unfortunately, despite this paper shuffling at the upper level of the diplomatic corps, when the draft of the reply was composed the responsibility inevitably fell to the Canadian bureaucrat-in-chief, Duncan Campbell Scott.[446] Scott, severely limited in the art of diplomacy and devoid of vision or nuance, but highly skilled in bureaucratic survival, was the architect of a century of discord between Six Nations and the Canadian government, as well as fomenting distrust on the reserve itself among the Six Nations people.

Six Nations people would need all of their pride and determination to confront their oppressors in March 1923, for Charles Stewart recommended that a formal inquiry be mounted into Six Nations affairs, including "education, health, morality, election of chiefs, powers assumed by council, administration of justice, soldiers settlement, and any other matters affecting the management, life and progress" of the community. Stewart nominated Lieutenant Colonel Andrew T. Thompson as Commissioner, paying him the handsome sum of one hundred dollars per day for his labors.[447] Scott had suggested that Thompson, an Ottawa lawyer, was singularly qualified for this task for Thompson was reportedly held in high esteem by the Six Nations community.[448] The Thompson

[445] Public Archives of Canada, RG 25, Volume 1330, File 3162, Pt. 1, "Assertion of Sovereignty of Six Nations, Letter marked "Secret" to Governor General of Canada, Lord Byng, from Ambassador Devonshire, British Ambassador at Washington, DC, forwarded through Downing Street, London, April 7, 1923.

[446] Public Archives of Canada, RG 25, Volume 1330, File 3162, Pt. 1, "Assertion of Sovereignty of Six Nations," Letter from Duncan Scott, Deputy Superintendent General of Indian Affairs, acknowledging receipt of the dispatch from the British Ambassador at Washington, to Sir Joseph Pope, Under Secretary of State for External Affairs, Ottawa, April 11, 1923.

[447] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571, Letter to the Governor General from Charles Stewart, Superintendent General of Indian Affairs, March 1, 1923.

[448] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571, Memorandum from Duncan Scott, Deputy Superintendent General, Indian Affairs, Ottawa, March 1, 1923.

Commission would be the blunt instrument used to extract the Canadian government's pound of flesh for their embarrassment at the League of Nations by Deskaheh.

Chapter Five

The "Red Indian" At Home and Abroad: Colonialism, Native Identity and Representation

Over the course of Deskaheh's interaction with European diplomats, socialites, philanthropic groups, lawyers and media figures, Europeans became familiar with the Six Nations' case. Travers Buxton, counsel for the Aborigines' Protection Society, took it upon himself to advise Deskaheh and strongly encouraged Six Nations' representatives to accept the Dominion's former offer of a Royal Commission negotiating for judges who would be more favorable to the Confederacy's case.[449] The society urged the Six Nations Chiefs to accept the nomination of a former colonial judge, W. H. Stoker, as their representative to the Royal Commission. Stoker had already served as chairman of a British arbitration panel so it was presumed that he would be an ideal choice to both sides in the dispute. The society sent a deputation to Canadian representatives in London to pave the way for this accord.[450] Duncan Scott, however, argued stridently against re-opening the negotiations even though he was informed that the Aborigines' Protection Society was pressuring Six Nations to accept a negotiated settlement with the Dominion. Scott advised Stewart that the Six Nations Chiefs would most likely pursue their status case all the way to The Hague no matter the outcome of a Royal Commission. Scott was probably correct, but he viewed the chiefs' opposition as fanatical rather than a logical extension of the Chiefs understanding of international legal principles. Affirmation of a cultural and indigenous identity along with protection of human rights were principles worth fighting for, but they did not resonate with Scott. Ironically, the principles cited by Six Nations conformed to the spirit and mission of the League in preserving national identity and self-determination for national minorities facing domination and aggression from their neighbors. This is where Canada would fall short in terms of the United

[449] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571, Letter from Travers Buxton, Anti-Slavery and Aborigines Protection Society, London, to Lucien Public Archives of Canadaaud, Office of the High Commissioner for Canada, March 6, 1923. There is quite a bit of correspondence in both the Decker archive, as well as in Ottawa attesting to the repeated efforts of these groups to help Chief Deskaheh in his struggle to resist the Canadian government's usurpation of power.

[450] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571, Telegram to Charles Stewart, Superintendent General, Indian Affairs, Ottawa, from London, February 26, 1923.

Nations during the 70's since its policies toward Native women infringed on human rights and cultural survival of Native groups, discussed in Chapter Fourteen.

Duncan Scott was certain that Six Nations' resistance to his progressive Indian policies was rooted in ignorance and paganism. Scott was confident of his own expertise and equally sure that the Aborigines Protection Society had no local knowledge of the Reserve and did not comprehend the root of the agitation there.[451] Unchallenged by his superiors who had little interest or experience in Indian affairs, Scott's vitriolic opinion usually carried the day. Charles Stewart, perhaps stung by the public rebuke he initially received from Six Nations in his attempt to personally handle the negotiations, heeded Scott's advice and refused to reopen discussions. Unfortunately, this decision was clearly a missed opportunity for a political settlement to the impasse. The Chiefs had in the meantime passed a unanimous resolution accepting the Dominion's prior offer of an arbitration board. This mix-up may actually have been a salient point of cross-cultural misunderstanding for within the oral tradition of the Confederacy negotiations went on until consensus was reached, no matter how long the deliberations. In terms of a contractual or diplomatic dispute in Western societies one cannot shift ground in quite the same way in negotiations for the processes are notably different: deliberations proceed step by step; when matters are moved "off the table," there is a distinct reluctance to revisit prior deliberations. From the perspective of the Canadian bureaucrats, it was clear that it was simply too late to negotiate prior offers. The Confederacy in contrast, would continue to negotiate until a settlement was reached that all parties could honor. The Chiefs clearly were uncertain as to whether Colonel Thompson's commission replaced the concept of an arbitration board, or if the board was still a viable alterNative.[452] In fact, the arbitration offer was taken off the table and Thompson's Commission was the next focus for Indian Affairs. Scott sought to use the report to rid himself of the entire Six Nations problem.

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[451] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571, Memorandum to Charles Stewart, Superintendent General, from Duncan Scott, Deputy Superintendent, February 27, 1923.

[452] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File, 582,102, Letter to Duncan Scott, Deputy Superintendent of Indian Affairs, from Asa Hill, Secretary, Six Nations Council, March 29, 1923.

Working as the legal representative of the Aborigines Protection Society, W. H. Stoker ended up acting as an advance man and diplomatic consultant in England for Decker and Deskaheh. Stoker was involved in all aspects of the Six Nations campaign in Europe: making hotel reservations, advising and planning strategy, gauging the shifting political terrain, as well as helping to draft an application to the League for protection. He even contacted politicians in Britain sympathetic to the Six Nations' cause.[453] Beginning in the fall of 1920, Stoker and Decker were in constant communication about the possibility of putting the complaints of the Six Nations before the Paris meeting of the Council of the League of Nations. This initial effort failed. Stoker was not encouraging about this avenue of appeal when he initially wrote to Deskaheh, advising him that the matter had been informally discussed, but the Canadian delegates discouraged the other members from taking up the claim. Stoker also thought that including Americans in the effort would backfire for they had not joined the League, although President Woodrow had championed its creation. Deskaheh even inquired about giving lectures abroad to raise consciousness about the campaign, but Stoker pragmatically remarked: "Your lectures will arouse sympathy, but nothing more."[454] Yet in 1923 Stoker must have seen a glimmer of opportunity for he wrote a letter to the Morning Post, explaining the significance and legitimacy of the Six Nations perspective in the dispute with Canada.[455]

Under Stoker and Decker's influence, as well as by integrating the international discourse to which he was continually exposed, Deskaheh increasingly articulated the oppression of the Six Nations in global and racial, rather than provincial terms. In the last speech he gave before his death in 1925, Deskaheh offered a sweeping view of the Six Nations' case as an example of the oppression of a racial indigenous minority by

[453] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, Letter to Lord Byng of Vimy, Governor General of Canada from W. H. Stoker, London, August 24, 1923. See also, the Decker Papers, numerous handwritten letters from Stoker to George Decker, dated October 5 and 15, 1920, December 7, and 29, 1920 and a letter from George Decker to Chief David S. Hill, Secretary of the Six Nation Council, September 9, 1923.

[454] Letter from W. H. Stoker, London, to Chief Deskaheh, December 29, 1920, in the Decker Papers.

[455] Public Archives of Canada, Indian Affairs, Letter to the Editor of the *Morning Post*, from W. H. Stoker, August 23, 1923, London.

imperial powers. This was a leap for the Chief, for as an "organic intellectual" he had encountered the conceptualization of Six Nations struggles in global terms when he journeyed to Europe and created his own critique of internal colonialism, long before it was a subject. He clearly expressed the fear that with the loss of land on the Grand River the Six Nations would become homeless, uprooted wanderers for they had not only been driven out of their ancestral lands, but had also been hounded out of their Grand Rivers lands by local townspeople.[456] Perhaps, by re-deploying his own fears that he was cast adrift, alone in Europe, Deskaheh was able to project those worries onto his own people, wondering if the Six Nations would:

> ...live in little rooms in which we would suffocate. We would then be scattered and lost to each other and lost among so many of you. Our boys and girls would then have to intermarry with you, or not at all. If consumption took us off or if we brought no children into the world, or our children mixed with the ocean of your blood, then there would be no Iroquois left.[457]

Fear of hybridity and miscegenation was clearly not limited to the dominant society, as the fear of racial others was shared by peoples on the periphery as well as the core. His blunt articulation of that fear in language reminiscent of early twentieth-century "racial science" or eugenics was brought to the fore by Deskaheh's interaction with a few members of the aboriginal protection societies with whom he engaged in extensive correspondence. One woman in particular, Rica Fleming-Gyll was an ardent supporter of Chief Deskaheh connected to the London society, but littered her correspondence with references to racial purity and "pride of race." After Deskaheh's death, Fleming-Gyll extolled his virtues and cited him as a "splendid example of the best

[456] Oral history is replete with Indians being forced off their lands at the whim of local authorities. My grandfather, Joseph Martin, often recounted how he had been forced to flee as a child across the Grand River in winter, from Middleport where the family's old home was located. He had no shoes and the water was freezing, so he always remembered and made it a point to tell his nine children about this incident. He vowed his children would never be forced out in the cold without shoes – he passed that bit of oral history to my mother, his youngest daughter.

[457] "Deskaheh: Iroquois Statesman and Patriot," (Rooseveltown, New York: Akwesasne Notes) p. 17.

and finest Indian manhood...[who sought the] freedom and safety of his race from a white peril more real than any black or yellow peril."[458] Fleming-Gyll idealized and essentialized the "noble savage" motif in racial and gendered terms, invoking her own fear of miscegenation while illuminating an elaborate hierarchy of racism within a colonial context.

Deskaheh conceived of the assault on Six Nations identity in myriad ways. In terms of racial mixing on the reserve the lineage of many families included those intermarried with "whites" dating from the colonial period. Six Nations society under the Confederacy Council's auspices was generally based on blood relationships, kinship, and clan, circumstances of birth or adoption, residence and occupation of territory through familial ties.[459] Individuals were continually added to the Band List as children were born on the reserve following the guidelines of the Indian Act. The "Indian List" that was kept at the "Indian Office," was nominally in control of the Chiefs, but had less and less to do with Six Nations norms as the Canadian government usurped more power through the administration and control of Indian Affairs. The Confederacy Council's control of the list had been continually undermined by the Department since the late nineteenth-century. This was particularly due to the rejection of the matrilineal basis of social organization, which will be discussed in a later chapter. The Band list remains an extremely important instrument used to determine Indian identity, as well as economic, social and legal status, which is the key to receiving economic and educational benefits to the present. Yet, the genealogical records on the reserve tracing Native lineage are often

[458] Letter from Rica Fleming-Gyll to the Acting Assistant Deputy and Secretary, Indian Affairs, Ottawa, December 31, 1925, in the George Decker Collection, St. John Fisher College, Rochester, New York.

[459] See John Noon's study, Law and Government of the Grand River Iroquois, (New York: Viking Fund, 1949), p. 99. Noon's text is useful as one of the earlier anthropological assessments of the Six Nations Council and life on the reserve in transition between the ancient Confederacy and the Six Nations Confederacy Council. Noon argued that membership was dealt with on an ad hoc basis by the council, which embroiled them in intimate discussions over marital relations, births, desertions and divorce. This was particularly difficult since the matrilineal descent used in former times was supplanted by patrilineal descent favored by the Canadian government. Before these rulings the council had established band membership or "citizenship" on its own terms.

fabricated, misleading, ignored and very often, just simply incorrect.[460] Band lists were also altered for political and economic gain, or sometimes as an act of political retaliation. For example, during the course of his activities on behalf of the Confederacy Council, Deskaheh's ownership of a tract of land was challenged by an Indian who was not from Six Nations' band, but whose claim was backed by the Indian Office. Even though Deskaheh argued that the individual claiming his land was "placed there [on the band list] through politics" he ultimately lost his case.[461] The control and construction of band membership constituted contested terrain through the latter part of Confederacy rule – this was the backdrop at Grand River while the Chief waged his solitary battle in Europe. While he faced the diplomats at Geneva it is important to assess the complexity of Six Nations identity expressed on the Grand River. Deskaheh had to integrate various aspects of this identity as he moved between the European milieu of international relations and diplomacy to the home rule discussions at home on the reserve where the issues at stake revolved around Six Nations life-ways and cultural, ideological and spiritual survival.

While Deskaheh projected a united front of the Confederacy Chiefs in Ohsweken at the Council House, the Loyalist Association was active on the Grand River in collusion with Indian Affairs. A. G. Smith was privately corresponding with Duncan Scott, although he postured as one opposed to the Indian Department in public. Smith was widely regarded as a progressive and sought to pin Scott down on the principal question being debated on the Reserve, namely, would a change to an elective system affect the treaty rights or the "tenure of our lands?" This was the crux of the debate on the reserve for ninety years for the group who backed Deskaheh and the Confederacy Council argued that Six Nations Indians would lose their identity, treaty rights, as well as the land, if they accepted an elective system.[462] Land and treaties were sacred to the Chiefs and

[460] If one views the genealogical record on which their Six Nations membership is based, one often finds multiple mistakes in family names, band, and tribal or national membership. The early records were simply hand-written three-by-five cards kept in a file drawer at the local band office.

[461] Copy of unsigned letter to Charles Stewart from Levi General, October 11, 1922, in the George Decker Collection, St. John Fisher College, Rochester, New York.

generations were taught not to participate in any part of the "white" political system, particularly by voting, for it was viewed as a Faustian bargain. The Loyalists, backed by the Indian Department, argued that an elective system would have no bearing on the rights and privileges Six Nations people held, nor would it affect the land tenure of Six Nations.

The Chiefs-in-Council portrayed their fight with the Indian Department as a battle for national survival and represented Six Nations as the besieged and beleaguered heart of the ancient Iroquois Empire. They were reified in the European press as the last survivors of a dying race, as the "witanagemot of Red Men," convening the ancient council with the ceremonial wampum, often compared to the mace convening a session of Parliament.[463] The Anglo-Saxon institution was often cited to show the backwardness of the colonized in comparison to British development, so this was high praise indeed. Deskaheh was a quick study in using the press, both at home and abroad, to publicize Six Nations' cause and the Council's resistance to the Dominion.

Dramatic scenes unfolded in the Council House when Deskaheh was Speaker, as he challenged the government's positions and led debates about the crisis. At his home in Ohsweken, though, he played down his prominence by wearing his ordinary clothing rather than the elaborate garments and feather-headdress he often wore abroad. One distinguishing feature of the Six Nations' Chiefs, often mentioned by Canadian reporters, was their long hair, certainly a long-standing, cultural marker for "red men" in the early

[462] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B., Pt. 3. Letters to Duncan Scott, Deputy Superintendent General, from A. G. Smith, Hagersville, Ontario, and Asa Hill, Brantford, Ontario, June 8, 1923.

[463] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, "Protest Against Tragedy of National Extinction," *Toronto Star*, May 1923.

twentieth-century.[464] Deskaheh appeared in photographs to always have short hair in the manner of a typical farmer on the reserve at the time.[465]

Deskaheh, or Chief General, became the focus of many news interviews in Canada soon after his trip abroad. He was the voice of the Confederacy in both Europe and at home and he had to move fluidly between those two venues, articulating Six Nations identity to a multiplicity of interests and constituencies at Grand River and abroad. Returning home also kept him anchored and "down-to-earth;" aware of the tribulations of the local population and reinvigorating him for the coming diplomatic battles in Europe. He was described in the local press as exhibiting flashes of self-deprecating humor and understatement, belying the saber-rattling attitude he displayed toward the Indian Department. The Toronto press conducted a long interview with him at his humble two-story home. Homes on the reserve were fairly small and like Chief General's, often made from cement blocks, or were fairly simple wooden structures with no plumbing, electricity or running water. The reporter noted that his way of life under-cut his sobriquet "uncrowned king of the Six Nations." In this interview, General worried that the Six Nations faced dissolution and despair through the Canadian policy of enfranchisement. He argued that fully one-half of the Indians who had been enfranchised, touted by Duncan Scott as shining examples of his progressive policies, were back on the Reserve "destitute and dependent."[466] Deskaheh often made the same argument about the returning soldiers who accepted Soldier Settlement farms, only to lose their investment in labor and return to Six Nations penniless.[467]

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[464] Ibid. Indians often wore Plains-style headdresses, for they understood that the popular stereotype in Euro-American culture was based on tribes of the Plains; they were expected to look like Western Indians and the chiefs accommodated the public. Clinton Rickard, friend and ally of Deskaheh's always wore a buckskin suit and a large feather headdress through the 1960s when he attended public events.

[465] See the photo of Chief Deskaheh in the George Decker Papers at St. John Fisher College in Rochester, New York.

[466] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, "Protest Against Tragedy of National Extinction," *Toronto Star*, May 1923.

[467] This would seem to be born out even for those soldiers who eventually made a successful transition to Canadian society. Oliver Milton Martin joined the Air Force from Six Nations in the war and became a pilot, but when he came home in 1919 he lost his farm acquired through the Soldiers' Settlement. Martin

Deskaheh also vehemently denied press accounts characterizing Indians as lawbreakers or "pagans." He explained that the Longhouse religion's very strict code of morality forbid such activity since its inception by Handsome Lake, the Seneca prophet. To combat the breakdown of Iroquois society in the early nineteenth-century the code of Handsome Lake expressly forbade drinking, witchcraft and violent behavior. Ceremonies were added to the existing annual cycle to reinforce Handsome Lake's teachings. The midwinter ceremonial cycle not only included the Bowl Game, the Thanksgiving and Feather Dances but also the Personal Chant. The Code was constructed to lead the Iroquois to recover their spiritual beliefs and revitalize the culture.[468] Deskaheh was known for his fiery speeches in the Cayuga Longhouse, which served as an important site of political, cultural resistance and spiritual sustenance during this crisis of the Confederacy Council of Chiefs. Deskaheh challenged the reporters to try to find a "pagan" on the Reserve and complained that the press only wrote about sensationalized practices, such as the white dog sacrifice and not about the moral principles of his religion.[469]

In a poignant example of a Six Nations leader whose own perspective was colored by colonialism Deskaheh essentialized the differences between the white and red races in this interview. A sense of backwardness had imperceptibly seeped into his identity and consciousness during the colonial process for he declared: "The Indian has not the same

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also served in the Second World War, becoming a brigadier and commanding the 13th and 14th South British Columbia Army Division, then commander of the Seventh Division of the Canadian Army in the Hamilton-Niagara District in 1945. Martin later became a York county magistrate, the first Indian appointed to the judiciary in Ontario. See the article by Enos T. Montour, "Officer in War, Magistrate in Peace, Six Nations Man Made his Mark," in the *London Free Press*, June 18, 1966.

[468] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3., "Protest Against Tragedy of National Extinction," *Toronto Star*, May 1923. See Shimony's text and Anthony F. C. Wallace's, The Death and Rebirth of the Seneca for a thorough explication of these issues.

[469] Public Archives of Canada, RG 10, Volume 2285, File 57, 169-1B, Pt.3. "Protest Against Tragedy of National Extinction," *Toronto Star*," May 1923. See also the secondary literature on the Longhouse written by Dean Snow in his text, The Iroquois, Annemarie Shimony's excellent study on Conservatism Among the Iroquois at the Six Nations Reserve and Teachings from the Longhouse, by Chief Jacob Thomas. For more on Handsome Lake, see The Life and Death of the Seneca, by Anthony F. C. Wallace. The white dog sacrifice was even discussed in Apologies to the Iroquois, by Edmund Wilson, although it was no longer practiced.

financial ability as the white man; he cannot compete against him, under modern industrial conditions." [470] During this time the former Indian farmer and lumberjack was spearheading a movement challenging the Canadian government at the League of Nations, financing it on the proceeds of his small Native community's local fund-raising, but he did not see this as an extraordinary endeavor. He unwittingly devalued and diminished his own efforts and that of Six Nations people. He was very aware of the oppression of Indian Affairs and the Canadian government, but at this time he did not make the necessary connection to the racism embedded within the colonial process that had filtered through the Canadian society and affected his own view of himself as well as the agency and ability of Six Nations people. [471]

The ability and agency of indigenous and tribal peoples to compete as equals within dominant societies was questioned for the aboriginals were historically defined as premodern. The seven principles of the colonial process as described by John and Jean Comaroff as a result of their fieldwork in South Africa were extremely informative as they clearly illustrated the steps implementing the colonial schema to define indigenous peoples as unable to compete with Europeans and to elucidate the methods for replacement of Native cultures with European social norms and forms . Aboriginal populations such as Six Nations were colonized in stages – first, by the British Empire, then their Canadian surrogates. Although this process is often inchoately recognized at

[470] For the most valuable and clear scholarly discussion of the "anthropology of colonialism," see the introduction to the text, John L. and Jean Comaroff, Of Revelation and Revolution: The Dialiectics of Modernity on a South African Frontier, Vol. Two, (Chicago: University of Chicago Press, 1997), p. 1-62.

[471] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3., "Protest Against Tragedy of National Extinction," *Toronto Star*, May 1923. I referred to analysis developed by cultural anthropologists to explore Chief Deskaheh's perspective and interpret this ambivalence. I consultred the work of anthropologists Annemarie Shimony and Sally Weaver, who served an important function at Six Nations with their work. By attesting to the importance of the political and cultural significance of Six Nations society and also by recording history, politics, religious and ceremonial practices, language – the norms and forms of everyday life over time – they both contributed to a record that was viewed as a collaboration with Six Nations people. Both of these anthropologists also served to counter the assimilation policy of Indian Affairs to a degree by giving sPublic Archives of Canadae for Native peoples to articulate their own stories in their own voices. I was looking for a broader understanding of how the colonial process imPublic Archives of Canadats the colonized representative of his culture and ultimately found what I sought in the work of the John and Jean Comaroff who used postmodern theory to explicate the process of colonialism without losing the indigenous perspective.

Six Nations, it is clearly instructive to read it set forth so clearly, without academic jargon or ironic distance and apply it to this case study.[472]

One of the Comaroff's first points mirrored in my analysis concerned how the process of colonialism becomes vested in the political economy and culture. Power and authority was not only exercised over Six Nations land and funds, but over countless petty details in Native life for such control over minutiae is the telling sign of colonization. Underscoring the everyday nature of the colonial process affecting Six Nations under the British and later, Canadian rule was central to my project. Colonial control was exercised by the local Superintendent for his approval was mandated for a multitude of duties formerly handled by the Confederacy Council or privately arranged in the community by local leaders. For example, allocating relief money, giving food and clothing to the poor or the ill was now budgeted and overseen by the Superintendent as "provisions" designated for the "care of destitute Indians."[473]

Small stipends to students boarding in Brantford to attend the Collegiate Institute had to be requested and obtained directly from the Superintendent since there was no local high school on the reserve in the early twentieth-century.[474] Whether one needed twenty dollars in seed money for the Ohsweken Fair or to fix a hole in a local road, the Superintendent's approval had to be sought. Personal affairs such as the birth of a child or filing a will was also under the purview of the Superintendent. This caused a great deal of resentment in the community and also errors, for it was the chiefs and clan mothers who knew the genealogy of Six Nations families intimately, assuring that the

[472] Comaroff, John L. and Jean, Of Revelation and Revolution: The Dialiectics of Modernity on a South African Frontier, Vol. Two, (Chicago: University of Chicago Press, 1997), p. 1-62.

[473] Public Archives of Canada, Indian Affairs, RG 10, Volume 2287, File 157, 169-1, Pt. 6, Expenditures for Six Nations, 1920-29. The theoretical section of the Comaroffs's treatise is very helpful in illuminating how colonial power works from the "bottom-up." I used the Comaroff's theory as it was the most useful analysis I encountered to explain perspectives of both the colonized and the colonizers. Also, while it was generated out of their field data in South Africa and I was analyzing aboriginal culture in Canada, the data was very helpful in understanding how colonialism becomes entwined in everyday life and absorbed as a given by the people it is designed to dominate.

[474] The Superintendent had to be asked for the small subsidy given to those Indians who went to "High School" off the reserve, adding to the stress of boarding in Brantford, working and going to school away from the reserve and family for the first time.

clans were maintained and membership in each national group was accurate.[475] There was also deep resentment about questions posed by the Indian Affairs officials who acted as moral authorities and questioned parents openly about the legitimacy of their infants. Meddling into the most intimate affairs of a family was viewed as necessary by the Indian agents to ascertain the father of each newborn. This assumed new importance under the Indian Act in order to assign each person to the appropriate list within the Six Nations band.[476]

The second point of the Comaroff's analysis underscored the operation of local agents in the colonial process. The cast of historical characters in the Six Nations experience is indeed, telling, for the progressive experts, missionaries, local businessmen and medical personnel in neighboring towns can be viewed as the indirect agents of a colonial strategy to assimilate them. Anglicans at St. Paul's Church for example, organized the Ladies Auxiliary; it was well-known in my grandmother's time for its "ice-cream socials" and competitions for "box-luncheons" in which Six Nations women competed to create elegant Victorian luncheons complete with tea, scones, jam, pickles and preserves and served with hand-crocheted linens and flowers.[477] Simpler, Six Nations fare such as corn soup and corn bread that were staples of the local diet were not

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[475] As parents registered newborns, they were required to put them under the father's nation, rather than the mothers, to give them an English name and not to record the clan which began to erode the entire organization of the Six Nations. My grandfather, Joseph Martin, was a Mohawk Worker and had to go to the Indian Office to record my mother's birth in 1911. She was named after her mother but put on the Mohawk list, not the Cayuga list of her mother, with no Indian name or clan recorded.

[476] "Judgment Reserved in Complicated Case Over Indian Registry," *Brantford Expositor*, June 7, 1972. This case in the Brant County Court involved an illegitimate child of a Six Nations woman and a non-Indian and focused on the registration of the child on the band list. According to the Indian Act at the time, the child could legally be struck from the band list by the elected council even if the child was already a Six Nations member "if the council feels that the child is not an Indian as defined the act." This case was tried at the time a decision was pending in the Lavell and Bedard cases. The lawyer for the elected council, Burton Kellock, argued that "an Indian woman and a non-Indian is a half-breed, and has no right of band membership."

[477] These references are from oral history and many items in the local newspaper celebrating Six Nations' women's achievements. Beatrice Smith's clipping file was replete with notices concerning the Ladies Auxiliary and the Agricultural Society, for her husband supported that organization as a progressive farmer and supporter of the elected council. Hilton Hill, the first Chief Councilor and his wife, Mabel, both belonged to the Agricultural Association. She also was a church clerk and organist in the Baptist Church for a quarter of a century. See the ***Brantford Expositor***, "Active in Indian Affairs: Mr., Mrs. Hill Wed 50 Years," Undated Clipping in Beatrice Smith's clipping file from the *Brantford Expositor*.

similarly celebrated or awarded prizes in these competitions organized to reshape Native culture.

No better example can be cited of the way material culture was historically used to reinforce this process of colonization by the Crown and its agents than the Queen Anne communion service and Bible. These objects were given to the Mohawks after four of their chiefs' visited the court. These objects have been revered by the Six Nations people since they were first used in 1714. The tableaus depicted by the eight stained-glass windows of the famous Mohawk Chapel were also signal examples of the dominance of the Church and the Crown over Native lives and history. The windows commemorated the founding of the League of Peace, the presentation of wampum belts to Queen Anne, the alliance of the Six Nations and the British, the sacrifice of both the United Empire Loyalists and the Indians during the Revolutionary War and the resettlement at Grand River, as well as dedication of H. M. Chapel of the Mohawks. The windows also commemorated the work of the New England Company in building the Mohawk Institute and teaching religion and morals to the Indians. As James Axtell noted, this was truly "an invasion within" for the "Queen's Window" shows Bibles, translated into Mohawk, being distributed in front of the chapel.[478] In addition, students from the Mohawk Institute were assigned to work for townspeople. Students were boarded in area homes while working as laborers or domestic servants in the local towns. Farmers throughout the region employed entire Six Nations families as migrant workers to pick vegetables, fruit and tobacco in season.

Elucidating Deskaheh's complex position in Europe as a Six Nations Native suddenly swept into a cosmopolitan culture, was aided by the third principle of the Comaroff's findings. Particularly instructive for my understanding of Deskaheh was the argument that: "Colonialism was as much involved in making the metropole, and the identities and ideologies of colonizers, as it was in (re)making peripheries and colonial

[478] "Indian History Depicted in Mohawk Chapel's Stained Glass," *Brantford Expositor*, Brantford, Ontario, June 4, 1962. See James Axtell's text, The Invasion Within; The Contest of Cultures in Colonial North America, for a history of the power of religion in the colonial process, (New York: Oxford University Press, 1985).

subjects." Deskaheh was the agent bringing a Native interpretation of the colonial experience back to Europe. Perhaps the chief was uncomfortable in an unfamiliar milieu, but he frequently made his European audience even more so. He embodied the contradictions and inequities of the colonial process in an extremely effective way. By challenging assumptions about indigenous people's position as relegated to the past without an understanding of modern institutions or society, he provoked a debate about the structure and place of indigenous nations in world affairs by "reimporting" these ideas. As the "Red Indian" at the League of Nations he fascinates European audiences, speaking to boy scouts, diplomats and anti-slavery societies. He re-deploys many of the colonial tropes and metaphors that are familiar to Europeans through popular culture, but argues that the Six Nations remain a forceful, insightful people who are moving forward into modernity with their "traditional" culture intact. Significantly, Deskaheh seemed to grasp the power of this counter-representation and use it very effectively.[479]

The realities of the colonizer and the colonized often intersect and overlap over time. The two groups begin to mirror one another and flow back to affect one another, often synthesizing new referents. In other words, the symbols, language and patterns of expression circulate so that the process of colonialism becomes a "two-way street."[480] Similar tropes, metaphors and signifiers of empire often become integrated within the colonized peoples' sense of identity and then, move back and forth from the periphery to the metropole to influence colonizers identifications, stratagems and interventions. The colonized and the colonizers often appear not to be so different in terms of political, social and cultural realities for class formation and status affect both groups and blur boundaries and content of lived experiences in colonial contexts. Duncan Scott for example published poems, essays and ethnographic material about Six Nations and

[479] Comaroff, John L. and Jean, Of Revelation and Revolution: The Dialiectics of Modernity on a South African Frontier, Vol. Two, (Chicago: University of Chicago Press, 1997), p. 19-24.

[480] Similar tropes, metaphors and signifiers of empire often become integrated within the colonized peoples' sense of identity and then, move back from the periphery to the metropole to influence colonizers identifications, stratagems and interventions. This also applies to the British surrogate, Canada, with regard to its neo-colonial relationship with Six Nations. My analysis is influenced by the concept of the "mimetic capital" in Stephen Greenblatt's text, Marvelous Possessions: The Wonder of the New World, (Chicago: University of Chicago Press, 1991) p. 6.

becomes quite an adherent of "the better sort" of progressive Christian Indian. Six Nations leaders, both adherents of the Confederacy and the Loyalists continually reified their historic association with the British Empire and its monarchial emblems, even when representatives of the Crown time and again turn their backs on their petitioners. Petition after petition from the Confederacy chiefs failed to move the Department of Indian Affairs, the Foreign Office, or the Crown as the chiefs openly acknowledged. Imperial culture was etched so deeply within Six Nations history and the Six Nations communal identity that it was well-nigh impossible to extricate. As Six Nations people were beset by this political and cultural juggernaut it is not surprising that those associated or integrated with the elites at the Indian Affairs Department, the Mohawk Institute and the Christian Churches identified with them as they fostered an image of themselves acceptable to authority.[481] So, whether leaders at Six Nations were ostensibly allied with colonial agents or opposed to them, the context of representation – namely, their identity and the over-arching language, symbols and tools of colonialism – drew them together in unusual ways for their shared realities were rooted in the same colonial context.[482] They were part and parcel of the same colonized reality.

Principle five of the Comaroff's description of the process of colonialism gets to the heart of why colonized populations seem entrapped within identities that appear as dualities and dichotomies. The reification of these differences and distances are essential to the colonial ethos, hence the focus on faction as an explanatory vehicle in the study of the Six Nations community over time. "To the extent that European colonial hegemonies took root, it underlay a grammar of distinctions that insinuated itself into the world of the colonized, entering into their own self-construction and affecting the ways in which they

[481] See the discussion of "counter stereotypic affinities and alliances" in the text by Comaroff, John L. and Jean, Of Revelation and Revolution: The Dialiectics of Modernity on a South African Frontier, Vol. Two, (Chicago: University of Chicago Press, 1997), p. 24-25.

[482] John L. and Jean Comaroff, Of Revelation and Revolution: The Dialiectics of Modernity on a South African Frontier, Vol. Two, (Chicago: University of Chicago Press, 1997), p. 24.

inhabited their identities."[483] Each one of us at Six Nations has to reflect upon this principle for we all are impacted by the power of colonialism in our community.[484]

Particularly instructive for the narrative of Six Nations history is the notion of tradition vs. modernity; a false opposition that fails to reflect the complexity of colonial society in the representation and redeployment of the realities and interplay of Native societies and the metropole.[485] This argument is expressed very well in contemporary Native literature and cultural anthropology which offsets the linear, temporal Western narrative and breaks literary and social science assumptions, questioning the competence of Western genres to represent indigenous narratives and oral history, but also challenging the dominance of the individual voice as opposed to collectivity in respect to Native voices, unencumbered by the "expert," the anthropologist, historian or academic interpreter.[486]

The sixth principle of the exigesis on colonialism by the Comaroffs deconstructs the notion that colonized societies were static or "traditional." Indeed, nothing was immutable and traditions were copied or syncretically adapted from other cultures. In essence, there were no "pure products" in the dimension of cultural reproduction.[487]

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[483] Ibid., p. 25.

[484] While I was interviewing several people on the reserve during this research, as well as reading testimony from the archives, I noted that several people in prominent positions within the community argued that Six Nations had always been a patrilineal culture; remembering their history in terms of the Canadian colonial construct. It doesn't take that long to seriously imPublic Archives of Canadat the oral history of a community in a colonial, or neo-colonail context.

[485] John L. and Jean Comaroff, Of Revelation and Revolution: The Dialiectics of Modernity on a South African Frontier, Vol. Two, (Chicago: University of Chicago Press, 1997), p. 25.

[486] See for examples, anthropologist Richard Price's work in First Time, N. Scott Momaday's work in The Way to Rainy Mountain, (University of New Mexico Press, 1969), Gerald Vizenor in The People Name the Chippewa, ((Minneapolis: University of Minnesota Press, 1984) and an anthology of Native authors, Our Story: Aboriginal Voices of Canada's Past, Tantoo Cardinal, et al., (Toronto: Doubleday Canada, 2004)

[487] Clifford, James, The Predicament of Culture: Twentieth-Century Ethnography, Literature, and Art. (Cambridge, Mass.: Harvard University Press, 1988) p. 1-17. Clifford supports the conception that the dichotomy between traditional-modern, authentic-invented culture is an invented opposition, although his language and lack of cultural sensitivity creates a distance that is difficult to surmount in the essay. His point dove-tails with the Comaroff's, namely that two-dimensional, static descriptions do not describe the fluid interactions that encompass colonial relations and leaves out the agency of dynamic communities of

Native societies are particularly aware that they are expected to appear as traditional, in fact, Six Nations' leaders had grown increasingly conscious of having to appeal to a Pan-Indian representation of Native culture in Euro-American popular culture during the twentieth-century. Perhaps nothing illustrates this so well as the adaptation of Plains attire by Six Nations leaders in the twentieth-century, a trend clearly seen from the picture of Deskaheh that adorns the National Defense Bond and a pamphlet created in 1923 during the campaign to retain the Confederacy system showing him with a full Plains headdress.[488] In contrast, photographs taken of Six Nations leaders such as Oronhytekha, taken in Oxford during the mid-nineteenth-century reflect a bonnet-style, partial-headdress, or "wennasoton," and the white-beaded attire on dark fabric that signaled Mohawk ceremonial dress for an older warrior (even though he was a young man at the time). Orohnytekha was photographed in a long-shirt and "leggins," fully beaded along the borders of the garments, with beaded moccasins, sash and medicine pouch. His beaded head-band with cascading feathers fell to just beneath his shoulders. It was neither the short headdress familiar to the Six Nations, nor was it the floor-length headdress of eagle feathers popularly identified with the Plains Indians, but somewhere in the middle. Oronhytekha's ceremonial dress at Oxford was quite a bit more elaborate than worn at home and it exhibited Victorian embellishments with regard to the fabric and feathers of the headdress.[489] Notably, the headdress of Oronhytekha in the photos can be seen as a bridge between the eastern "gustoweh" with upright feathers long-

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colonized peoples who are clearly aware of the nuances of the possibilities and sPublic Archives of Canadaes in which to articulate sophisticated and complex identities and to skillfully redeploy the signifiers of colonial oppression.

[488] See a reproduction of the Six Nations "National Defense Fund Bond" from the Decker Collection, published in Iroquois Studies: A Guide to Documentary and Ethnographic Resources from Western New York and the Genesee Valley, ed., Russell Judkins, (Geneseo, New York: State University of New York, College at Geneseo, 1987).

[489] Photographs of Oronhytekha, Peter Martin, viewed at the New Bodleian Library, Oxford University, March 19-26, 2006, through the courtesy of Colin Harris.

favored by the Iroquois and Algonquian nations and the cascading warbonnet of the Plains nations.[490]

In regard to substantive issues, Six Nations demonstrated consistently a propensity to adapt to changing conditions. Ironically, their very success at contributing to modernization was the instrument used to bring about the downfall of the Confederacy Chiefs' Council when agents of the Canadian government deemed the community sufficiently progressive to warrant imposition of Indian Advancement according to the Indian Act. What was consistently overlooked in the strategy of the Canadian government to assimilate the Six Nations people was that the community sought to mediate the manner, conditions and pace at which they entered modernity, choosing to accept or reject elements of the Euro-Canadian template for modernization as it suited their needs on the ground.

The seventh and final principle posited by the Comaroffs entailed the analysis of the inherent contradictions of colonialism as it emerged as a process in tandem with the dialectics of capitalism. Despite how complicated this sounds it is grasped intuitively by most colonized people for it reflects the cognitive dissonance of their life experience then and now. The point the Comaroffs were alluding to in South Africa was the surfeit of contradictions within these colonial constructs for all were manifested, expressed and negotiated in Eurocentric terms to reinscribe the hierarchy of power from the Western perspective. The power of these ideologies was to subsume the "premodern," "primitive," or in Six Nations case, "pagan" cultures beneath the modern, progressive cloak of capitalist endeavor:

> Colonizers everywhere purported to export modernity, designating all others as "premodern." They espoused an enlightened legal system but invented and enforced "customary law"; offered that

[490] By the time the portrait of Oronhytekha was donated by the Royal Order of Foresters, which he founded, the popular image of the Six Nations warrior was back to the gustoweh. The portrait was viewed at St. Edmund's Hall, Oxford University, March 20, 2006, through the courtesy of Nigel James. Notably, Six Nations chiefs throughout the 1970s wore full-length Plains headdresses at ceremonial events. For an account of the changes in ceremonial regalia see Costume of the Iroquois, by R. Gabor of the Adwesasne Mohawk Counselor Organization, a reprint published by Iroqrafts, ed., Guy Spittal, 1993.

> their civilizing mission would convert "Natives" into sovereign citizens of empire, autonomous individuals one and all, but abetted their becoming ethnic subjects in a racially divided world; held out he prospect of prosperity but left a legacy of poverty; undertook to save colonized people from the prison-house of tradition but reified and concocted traditions in which to enclose them; spoke of removing difference but engraved it ever more deeply on to the social and physical landscape.[491]

One of the reasons I used this scholarship in spite of my initial reluctance to use postmodern theory, for its vocabulary and theoretical tenets can be off-putting and alienating, was that despite the manner in which it is expressed, the scholarship was ostensibly an attempt to turn the academic and political "truths" upside-down and to give disempowered people a voice, politically and academically. Although this attempt was not realized, as with any new departure in scholarship there were valuable elements to savor; in this case the questions asked. For members of my own community, who perhaps are just awakening to the implications of the way the neo-colonial process of Canadian management of Indian Affairs has shaped their own social sensibilities, cultural understanding, political consciousness, power, economic status, sense of identity and spiritual awakening, this analysis helpful is simply stating the predicament of Six Nations people. More importantly it is a way to understand the problems of the past and move for forward.

The scholarship of the Comaroffs relates to their field work in South Africa and of course, I am not suggesting that the experiences of colonized peoples around the world are analogous, merely that there are lessons to be learned as Native peoples come to terms with the surrogates of colonialism. The degree of harshness with which indigenous peoples were regarded and treated under colonial systems varied and shifted determined through a wide range of political contexts and the relative racism that accompanied the exercise of power. Canadian officials at Indian Affairs were perhaps reluctant and removed arbitrators in matters of race relations, for the policy they implemented had been

[491] John L. and Jean Comaroff, Of Revelation and Revolution: The Dialiectics of Modernity on a South African Frontier, Vol. Two, (Chicago: University of Chicago Press, 1997), p. 27.

forged at the highest political level without meaningful consultation with local officials. Forged under the auspices of the Indian Act which was regarded as progressive policy Canadian officials were charged with implementing a policy triad of education, Christianity and democratic liberalism that they had no role in shaping until the latter part of the twentieth-century. Local superintendents of Indian Affairs had a mandate with little flexibility, but some stressed the measures of control of Native peoples more than others, simply because they were empowered to rule – very much like Colonel Cecil Morgan, fresh from his experiences in South Africa.

One of the more salient points in the analysis made by the Comaroffs, however, was that there is no simple story of domination and resistance at either the local level of interaction of the colonized, nor in terms of the colonizers in the colonial center or in the metropole. As clearly evident from the evidence there were individuals at Six Nations who supported the efforts of the Canadian government to institute "progressive" reforms and who sought to create a syncretic identity as both a Canadian and Six Nations Indian. Natives such as Oronhytekha created such a modern identity in the Victorian era, but he was insulted as a Mohawk leader that Native men were not given the franchise and the respect to control their own affairs. Hilton Hill and A. G. E. Smith, for example, were equally at ease with this shift in identity and clearly saw benefits for themselves in adapting to Canadian society, while retaining their live-ways at Six Nations. Many Six Nations Natives moved fluidly along a social and cultural continuum within the colonial system in their ongoing efforts to refashion a syncretic identity, consciousness and cultural ethos, reflecting a space in Euro-Canadian and Native cultures.[492] So, did many of the colonial agents, even Duncan Scott. Scott dabbled in Native cultural awareness while writing his mundane Confederation poetry and he briefly experienced the wilderness on a trip to the Western provinces, before he fled back to Ottawa. Yet, he fancied himself as an administrator with an understanding of both the Native consciousness and the necessity for his role as an agent of their assimilation for forging the links that would lead the Six Nations to a place in Canadian society would ultimately

[492] John L. and Jean Comaroff, Of Revelation and Revolution: The Dialiectics of Modernity on a South African Frontier, Vol. Two, (Chicago: University of Chicago Press, 1997), p. 28.

be for their own good. Nothing takes away from the fact that Scott was such a long-serving and effective public servant at Indian Affairs because he believed he was doing exactly the right thing. He sought to bring Natives into the Canadian society through "…education, Christian evangelization and intermarriage with what Scott called 'the superior race'…," as noted by Brian Titley, Scott's biographer.[493] The colonial experience of Africa did not entertain this sort of trajectory for Native inhabitants. Scott's measures were brutal in their own way, however. It was instructive to reflect upon the myriad ways the colonial process was adapted and imposed upon indigenous populations as colonial fervor, hopes, desires and dreams were poured and decanted into an array of contexts taking the unique shape of cultural, social and political conditions on the ground and flowing through each unique environment and cultural ethos.

Rather than studying the politics of international colonialism, however, Six Nations leaders of Deskaheh's generation were concerned with emergent class antagonisms within the reserve, where Indians themselves discouraged others from advancing, pulling one another backward.[494] Six Nations Natives were often not trained in professions, nor were they educated beyond the most rudimentary industrial school education, such as offered at the Mohawk Institute, pejoratively known "down the bush" as the "Mush Hole."[495] The economic myth that Indians were unable to compete in the

[493] Titley, E. Brian, "Duncan Campbell Scott and the Six Nations Status Case," Paper presented at the Canadian Historical Association, University of Guelph, Ontario, June 11-13, 1984, p. 1.

[494] For a clear and lucid discussion of this concept, see Trevor Purcell's text, Banana Fallout: Class, Color and Culture Among West Indians in Costa Rica, (Los Angeles: University of California, 1993).This behavior is conceptualized in anthropology as "crab antics," where individuals seek to stay at the same level, rather than trying to help one another move forward. Staying "down the bush" is often looked on as remaining close to Native culture and values, rather than moving away from family and pursuing education, material wealth or other goals in white society. See the secondary literature for Six Nations commentary running the gamut in regard to these boundaries, with Alma Greene expressing a clear sense of nativism in Forbidden Voice: Reflections of a Mohawk Indian (Toronto: Green Dragon Press, 1997, Reissued), to Chief Jacob Thomas' reflections, Teachings from the Longhouse, (Toronto: Stoddart Publishing, 1994) a much more inclusive definition of belonging based on consciousness, rather than location, and the experiences of Brian Maracle as a newly returned Six Nations member, in his contemporary text, Back on the Rez: Finding the Way Home, (Toronto: Penguin Books, 1997).

[495] The Mohawk Institute has now been turned into the Woodland Cultural Center, but when it was run by the missionary societies to "civilize" the Indians, it was the source of great friction with the Six Nations' community. Throughout Canada, many children perished in these institutions – many from disease, subjected to neglect and isolation. My own grandmother was put there by her father, Samuel Hill, whose

larger society was perpetuated because of these schools. Natives in the early twentieth-century often believed in an ideology of racial uplift stressing the need for individual moral improvement and placing the onus solely on each person to succeed or fail, without factoring in institutional racism embedded in society.

General and the Confederacy Chiefs also complained that the children of enfranchised Indians often became impoverished and came back to the Reserve for help. There was of course, some schadenfreude involved in this situation for they were coming back to the reserve as symbols of failure and served as political examples of the failure of government policies. The Council then had to assume the costs for their education without any support from their parents, for they were no longer Band members and had legally enfranchised their own minor children.[496] One of the most significant points about this lengthy interview done on the reserve was that Levi General spoke eloquently and passionately for himself, on a wide array of issues. The Indian Department often implied that he was the mere puppet of the lawyers, particularly George Decker. Contrary to this negative representation, the Chief appears decisive, self-possessed, articulate and charismatic in his fight for the Six Nations status. The Secretary of the Confederacy Council at the time, David Hill, was also a first-rate writer and political ally for Deskaheh.

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half-brother was A. G. Smith, one of the so-called progressive Chiefs, in an effort to educate her for a role in the wider society. This institution was dreaded on the reserve for its harsh discipline, lack of food and miserable conditions, as well as abuse, both physical and sexual. Recently an independent Canadian film by a former minister, Kevin Annett, entitled "Unrepentant," has been screened on the reserve, charging that Native children throughout Canada died as a result from the deliberate criminal actions of staff and directors at these institutions. See Jim Windle's article, "Murder at Residential Schools," in *Tekawennake*, May 30. 2007. Also, refer to the secondary literature, The Mush Hole: Life at Two Indian Residential Schools, compiled by Elizabeth Graham. I gave this text to Lenora Jamieson, a source for my work, just before she died in 2004. Without opening the book, Lenora reeled off names, dates and narrative that replicated the material in this source, sixty years later from memory. She even found her own picture. She told me that she and her siblings were placed in the school to work and live until they were of age to work. She was placed (at age eighteen) in a local physician's home to work as a maid. The Indian Department officials decided simply that, "her mother had too many children to care for properly" and took these children away from their parents to live in the school until adulthood.

[496] Public Archives of Canada, RG 10, Volume 2285, File 57, 169-1B, Pt. 3. "Protest Against Tragedy of National Extinction," *Toronto Star*," May 1923.

After Charles Stewart stationed ten mounted police on the reserve after the "invasion," Chief Deskaheh admonished the Canadian government in the London press and seized the opportunity to declaim against Canada's use of force: Might is right, in the opinion of the Indian Department. They are sending this force here to crush the poor Indian. They want to destroy us. If we cannot obtain British justice, I, for one, will go to the United States, and thousands of Indians will do the same."[497] However, pricking the conscience of the British at the expense of the Canadians was a delicate exercise. Chief Deskaheh certainly obtained the attention of Sir Auckland Geddes who was immediately informed when Deskaheh initially contacted the Dutch in Washington, opting for the Queen's intercession to prevent "bloodshed and violence" at Grand River. Geddes was none too pleased that the Dutch willingly intervened, drawing attention to an issue he deemed was strictly a Dominion matter, but who could resist such a romantic national appeal?[498] Decker and Deskaheh were becoming masters at playing on the sympathy and perhaps, guilt of the colonizers. Duncan Scott had to personally reassure Joseph Pope, the Under-Secretary of State for External Affairs that the Dominion was going to use "constitutional and legal means" to settle differences with the Six Nations. Scott strove to reassure Pope that "intervention does not seem to be either necessary or desirable."[499]

Prime Minister Mackenzie King also sought some frank answers from the Indian Department. Charles Stuart advised King in February 1923, that the door was still open to establish a Royal Commission – the Six Nations just needed to pick a representative to move the process forward. Of course, that was not the impression the Chiefs received. Confederacy Chiefs still did not want to allow a Canadian justice to rule on their claim. Canadian officials offered the option of a Royal Commission as a way out of the stalemate. Duncan Scott advised Stewart that a good choice for the Canadians justice

[497] "The Six Nations Excited: Mounted Police on Reserve," *The Times*. London. January 18, 1923, p. 9.

[498] Public Archives of Canada, Telegram, marked "Secret," to the Superintendent General of Indian Affairs, from Ambassador Geddes, the Foreign Office, Washington, DC, December 15, 1922.

[499] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3. Letter to Sir Joseph Pope, Undersecretary of State for External Affairs, Ottawa from Duncan Scott, Deputy Superintendent of Indian Affairs, Ottawa, December 21, 1922.

would be C. A. Masten, an Ontario Supreme Court justice, but the judge declined because of his heavy caseload.[500] By February 1923, Duncan Scott still argued that even if the Six Nations accepted the Royal Commission and the panel issued a report the Council would continue to seek the judgment of the League of Nations.[501]

The London press did not take Deskaheh's threat to leave Canada seriously for the news editors were very receptive to contrary reports funneled from Canadian officials. Duncan Scott undermined Deskaheh's efforts at every opportunity through letters, reports and personal contacts. Deskaheh seemed to have greatly underestimated the power of entrenched interests to withstand a public relations campaign at the League of Nations, even if it was waged on the moral bankruptcy of the Dominion's Native policy. He slowly grew to realize, in part due to Decker's tutelage, that the Canadian methods were directly linked to British imperialism, whose agents "have long practiced it on weaker peoples in carrying out their policy of subjugating the world."[502] As Ranger and Hobsbawm emphasized in their persuasive work on the inculcation of national tradition, one must clearly observe and study the way bureaucrats, justices, educators and religious officials advance the imperial project, either knowingly or unwittingly.[503] This was exactly what the chiefs feared would occur if they accepted the offer of an "impartial" Canadian judge to arbitrate their dispute with Canada.

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[500] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3. Memorandum to Charles Stewart, Superintendent General of Indian Affairs, from Ottawa from Duncan Scott, Deputy Superintendent of Indian Affairs, Ottawa, December 21, December 29, 1922.

[501] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571, Memorandum to Charles Stewart, Superintendent General, from Duncan Scott, Deputy Superintendent General, February 27, 1923.

[502] "The Last Speech of Deskaheh," Akwesasne Notes. Summer 1995, Volume 1: Number 2, p. 59.

[503] Hobsbawm, Eric and Ranger, Terence, eds., The Invention of Tradition, (Cambridge: Cambridge University Press, 1983), p. 162. Geertz was correct in his Interpretation of Cultures: "…if, indeed, cultural forms are to be treated as texts, as imagiNative works built out of social materials, then it is to an investigation of those social materials and of the people who – consciously or unawares – do the building, that our attention needs to be directed, rather than to an intricate and decontexualized analysis of the texts themselves."

Six Nations leaders themselves seemed reluctant to believe the worst regarding the political machinations involved in the establishment and continuation of the British Empire. The homage paid by the Six Nations community to their historic relationship with the British monarchy stated more about Six Nations desire for reciprocity than it did in terms of British support for Six Nations. The monarchy and the Dominion continued to reify the subordination of Six Nations Natives to the empire symbolically, if not politically. Although the Confederacy rejected this hierarchy in legal, social and political terms, the chiefs paradoxically stressed a linkage to the British within the ancient diplomacy of the Covenant Chain. Thus, part of the battle over sovereignty or home rule in the 1920s reflects the ambivalence of identity – for, how does one reject something integral to one's colonial identity?[504] While content to memorialize the visit of the Mohawk Chiefs to Europe in Queen Anne's court, Six Nations leaders no longer wished to be subordinate. Yet, colonial hierarchy left no political space in which to grow as an independent people.

At this juncture Deskaheh finally agreed with Decker's prior suggestion to place the Six Nations' status before the League of Nations as a formal case. Negotiations with Canadian officials regarding arbitration of the Six Nations' right to "home-rule" by a Royal Commission had completely broken down. Deskaheh told Decker that the threat to Six Nations' sovereignty presented by the Canadian Mounted Police stationed on the Reserve "would mean they would make a scrap of paper our treaty."[505] Deskaheh, accompanied by Decker, traveled to London and Geneva, seeking help from other governments in bringing the question of Six Nations' status before the League. He went first to the London office of the League, to claim Six Nations independence and to

[504] This problem is a world-wide issue for colonized people, for an academically challenging example of the literature written to deal with this question, see V. W. Mudimbe's text, The Invention of Africa: Gnosis, Philosophy, and the Order of Knowledge, (Bloomington: Indiana University Press, 1988).

[505] Letter from Chief Deskaheh to George Decker, December 8, 1923, in the George Decker Collection, St. John Fisher College, Rochester, New York.

complain that they could obtain no satisfaction from the Indian Office "which he says calls itself the department of the 'Savages,'" in Canada.[506]

In an effort to construct its own representation of the state of Native government and culture, as well as to counter negative publicity from Deskaheh's European campaign, the Canadian government appointed a Commissioner under the Inquiries Act in 1923 to investigate the affairs and conditions of the Six Nations.[507] The individual chosen to lead the inquiry was a local veteran and lawyer from Haldimand County, Lt. Colonel Andrew Thompson. Thompson's father and grandfather had both fought with Six Nations Indians and Colonel Thompson, himself, had led the 114th Battalion of Haldimand in the Great War, noted for its strong contingent of Indian troops. Yet, all was not quiet on the Grand River for the Chiefs announced that Thompson would hold his "inquisition," behind the closed doors of the Episcopal Parish Hall on the reserve. [508] The Indian Department opened its archives for Thompson and files were turned over to him to examine the contents of a Pandora's Box of infractions: alleged acts of immorality, petty theft, consumption of alcohol, misuse of land and problems with regard to education and health.[509] Advised by Decker not to resist the investigation and wait until the government inquiry ended in June 1923, the Chiefs relied on Deskaheh's European appeal to forestall further extension of Dominion rule to the reserve, under the dubious guise of "Indian advancement."

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[506] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, file 57, 169-1B, Pt. 3. Newspaper cuttings, Daily Chronicle, London, England, September 8, 1923.

[507] Public Archives of Canada, Indian Afffairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3. Letter from Duncan Scott, Deputy Superintendent of Indian Affairs to P. C. Larkin, Canadian High Commissioner, London, England, July 10, 1923. See also, Extract from the Minutes of the Meeting of the Treasury Board, March 17, 1923, Volume 3231, File 582,103, forwarded to the Superintendent General of Indian Affairs, signed by the Clerk of the Privy Council.

[508] Letter from George Decker to Chief Deskaheh, October 6, 1923, in the George Decker Collection, St. John Fisher College, Rochester, New York.

[509] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, file 582,103, Memorandum from G. M. Matheson, Records, March 29, 1923.

The Six Nations' status case formally came before the League of Nations with the introduction of their petition on April 26, 1923.[510] Article 11 of the Covenant described grounds for the League's basis for intercession: for it was the "…friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends."[511] Deskaheh learned the master's tongue and used the ideology of self-determination to fashion a compelling appeal. He appealed to the Netherlands once again for their "good offices" in presenting the petition to the League. He stipulated that since Six Nations had moved to Grand River: "We have since enjoyed home rule in these lands as a separate people." In his letter to the queen, he echoed the political vernacular of the age, but went well beyond the conventional diplomatic parlance in targeting the Dominion the enemy of Six Nations. He flatly accused the Canadian government of "planning our extinction as a separate people." Decades later, Canada would be rebuked by the United Nations for exactly this policy in terms of discrimination against Native women. Deskaheh and Decker were prescient in couching the Six Nations petition in these tough terms, presaging the movement for cultural rights of indigenous peoples. Boldly stepping into new diplomatic territory, Deskaheh sought membership in the League of Nations: "The Six Nations are ready to accept for the purposes of this dispute, if invited, the obligation of membership in the League of Nations upon such just conditions as the Council may prescribe having due regard to our slender resources." There it was a Confederacy of Native nations seeking recognition in a Western international league of peace. How fitting it would have been if the custodians of the Great Law would have been acclaimed for a North American covenant dedicated to peaceful coexistance before colonization, instead of being condemned. It would have enhanced the integrity of the institution if the members had the courage of their

[510] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Petition to the League of Nations by the Six Nations Indians transmitted to the Governor General of Canada from the British Ambassador at Washington, April 7, 1923. Also see, Richard Veatch's text, Canada and the League of Nations, (Toronto: University of Toronto, 1975), p. 93.

[511] Veatch, Richard, Canada and the League of Nations, (Toronto: University of Toronto Press, 1975) p. 92.

convictions and the vision and honor to support such a gallant bid for legitimacy.[512] With Sir Eric Drummond gone at the moment and Canadian officials unequivocally opposed to Six Nations' independence, the British suggested that the interference of the Netherlands on behalf of Six Nations was tantamount to betrayal of the world order. The order of the Acting Secretary-General Joseph Avenol concerned: "how to expeditiously bury or erer" the matter.[513]

Secretary General of the League, Eric Drummond, scurrying for diplomatic cover, stressed to Canadian officials that he was obligated to circulate the Six Nations Appeal to the members of the Council, after the referral from the Netherlands.[514] Arguing that: "…it will be my duty, in accordance with the established precedent, to circulate these documents in due course to the Members of the Council." Yet, he asked the Canadian government to inform him of their "observations," so that they could simultaneously address the issues. The Netherlands Minister, according to the British Ambassador, "called recently at the Foreign Office to ask for advice…" regarding the Six Nations appeal."[515] The British Minister at The Hague was asked to convey to the Netherlands' representative, how distressed he was at the unwarranted Dutch intervention.[516] In addition, Joseph Pope drafted a reply to the Secretary-General of the League of Nations pointing out the "considerable surprise" of the Canadian government that Six Nations affairs were even an issue. Pope sought to convey to the Secretary-General the

[512] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Letter to the Queen of the Netherlands from Chief Deskaheh, Speaker, Six Nations Council, December 7, 1922. Obviously, this letter had been drafted and approved by the Council at Grand River before being delivered in Europe.

[513] Veatch, Richard, Canada and the League of Nations, (Toronto: University of Toronto, 1975), p. 94.

[514] Public Archives of Canada, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, Letter from Eric Drummond, Secretary General, League of Nations, Geneva, to the Minister of External Affairs, Ottawa, Canada, May 3, 1923. See also, translation of the initial letter from Minister Van Panhuys, Netherlands, to Eric Drummond, Secretary General of the League of Nations, April 26, 1923.

[515] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Letter to the Governor General of Canada, Lord Byng, from the British Ambassador, Devonshire, April 4, 1923.

[516] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, Copy of coded telegram from Devonshire, the Secretary of State for the Colonies to the Governor General, August 30, 1923.

displeasure of the Canadian government over an incident designed to embarrass his government in the international forum. "I am to express its confident hope that the council will decide that the matter thus brought to its notice is one with which the League of Nations is not concerned. It finds it extremely difficult to understand how the Netherlands' Government, without knowledge, as it confesses, of the accuracy of the statements made in the Petition and without enquiry so far as appears to ascertain the position of the Indians …considers itself warranted intervening in a matter which it cannot too strongly be insisted is solely [not legible – not in] that jurisdiction."[517] Canada's sharp response through diplomatic channels resulted in a diplomatic flurry, causing the Dutch representatives to back-pedal. Jonkheer van Karnebeeck, the Minister of Foreign Affairs for the Netherlands and former President of the League Assembly, stated that his government refrained from judgment, as to the accuracy of the charges in the Six Nations petition. [518] Pope vigorously protested that the issue was not within the purview of the League to review, for its authority over internal domestic matters was not authorized by the Covenant. Yet, in a private memorandum to Prime Minister Mackenzie King, accompanying his draft response to the Secretary-General, Pope had cited a clause in Article XXIII of the League Covenant referring to securing "just treatment of the Native inhabitants of territories under their control." Pope interpreted the clause as a reference to the German colonies and parts of Turkey under the mandate of the League.[519] The Six Nations appeal would not be placed on the agenda unless there was a request from one member.[520]

[517] Public Archives of Canada, RG 25, Volume 1330, File 3162, Pt. 1, Assertion of Sovereignty: Six Nations, Letter from Joseph Pope, Under-Secretary of State for External Affairs, to Secretary General Eric Drummond, League of Nations, May 25, 1923.

[518] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3. Memorandum for the Prime Minister, from Joseph Pope, Under Secretary for External Affairs, Canada, May 25, 1923..

[519] Public Archives of Canada, RG 25, Volume 1330, File 3162, Pt. 1, Assertion of Sovereignty: Six Nations, Memorandum from Joseph Pope, Under-Secretary of State for External Affairs, to the Prime Minister, May 25, 1923.

[520] Veatch, Richard, Canada and the League of Nations, (Toronto: University of Toronto 1975), p. 94.

The Canadian government claimed sole jurisdiction over the Six Nations, pointedly referring to Deskaheh as a "certain Canadian Indian subject of His Majesty."[521] Duncan Scott became involved in the response to the Secretary-General and used his input to discredit Deskaheh, portraying him as a fanatic who was leading a "few reactionaries," who had little support among his own people. Scott wrote directly to Pope and dismissed the Six Nations appeal as absurd. Scott noted the incident referred to by Six Nations as a state of "hostility" or "war" was exaggerated and merely referred to the stationing of the R.C.M.P. on the Reserve. From the local perspective, Scott assured Pope, the origin of the conflict was due to "violation of the Excise laws," under-cutting the dramatic language of invasion, usurpation and conquest used by Deskaheh in his appeal for help. Scott also mentioned that an inquiry would be made to "investigate conditions on the reserve."[522] Joseph Pope then echoed Scott's words, condemning the action of the Netherlands as irresponsible and unwarranted. Pope accused the Netherlands' diplomats of action "calculated to embarrass this Government in the due administration of its domestic laws." He characterized the charges brought up in the petition as "absurd." Pope stated that the only pretext for League intervention would be the threat of war and he dismissed the antagonism between the Dominion and the Six Nations as a simple police action.[523]

Shortly thereafter, British and Canadian pressure bore fruit, for the Acting Secretary-General of the League, Joseph Avenol indicated to the Canadian government that three documents would be circulated within the League of Nations in regard to this incident. The Netherlands' original communication bringing the Six Nations petition to the attention of the League of Nations, the Six Nations' petition and the response of the

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[521] Copy of Canadian response to the submission of the Six Nations' petition by the Netherlands legation, May 25, 1923, in the George Decker Collection, St. John Fisher College, Rochester, New York.

[522] Public Archives of Canada, RG 25, Volume 1330, File 3162, Pt. 1, Assertion of Sovereignty: Six Nations, Memorandum from Duncan Scott, Deputy Superintendent General, Indian Affairs, to Joseph Pope, Under-Secretary of State for External Affairs, May 28, 1923.

[523] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, Letter to Eric Drummond, Secretary General, League of Nations, Geneva, Switzerland from Joseph Pope, Under-Secretary of State for External Affairs, May 25, 1923.

Canadian government would all be given to Members of the Council "for information."[524]

Sir Herbert Ames, a Canadian, weighed in from his post at the League as financial director, writing a confidential message to Prime Minister Mackenzie King, reassured him that if documents were circulated for information purposes "…does not in any way imply that the question with which it deals should be placed on the agenda of any Council meeting." Rather than circulating the documents for "action" then, "…they do not get any wider publicity than communication to the ten members of the Council unless one of those members of Council sees fit to place the matter formally on the agenda of the Council." As a classic example of the way in which back-channels worked in favor of the powerful members, rather than smaller nations within the League, Ames concluded: "The Secretary-General is away, and has asked me to explain this informally to you. He was not quite sure that you were entirely cognizant with the procedure in such cases."[525]

Yet, Joseph Pope's communications to the League were not well received by the delegates at the Assembly. Instead of moderating tension, Pope's words revealed the contempt the Canadian government displayed toward Six Nations Indians, as well as other members of the Assembly, lending credibility to the Natives' charges. The imperious and officious tone was familiar to many delegates, for it was typical, Euro-centric, colonial cant with which they too, were well acquainted. George P. Graham, the Canadian Minister of National Defense, one of two Cabinet officers to represent Canada at the League of Nations, informed Superintendent General Stewart that he physically attempted to suppress Pope's letter during the gathering of the Assembly, when Deskaheh and "his Yankee Solicitor" were circulating their charges against Canada on the floor. Graham indicated that the delegates in the Assembly were very sympathetic to Deskaheh

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[524] Public Archives of Canada, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, Letter from J. Avenol, Acting Secretary General, League of Nations, Geneva, to the Secretary of State for External Affairs, Ottawa, Canada, August 4, 1923.

[525] Public Archives of Canada, RG 25, Volume 1330, File 3162, Pt. 1, Assertion of Sovereignty: Six Nations, Letter to the Prime Minister of Canada, W. L. Mackenzie-King, from Sir Herbert Ames, League of Nations, August 4, 1923.

and noted: "…at one time it looked as though it would really be brought up before the Assembly of the League of Nations." Graham mentioned that while he did not doubt the veracity of Pope's statements, he felt his comments were extremely ill advised. He quoted Scripture to make his point: "All things are not expedient." George Graham suggested to Stewart that he prepare a formal response to the complaint and forward it directly to the Secretariat at Geneva. Graham even volunteered to review it, personally, before it was given to the Assembly delegates. Graham stressed to Stewart the weakness of the Canadian position at the League and that Deskaheh had made progress at the Assembly: "…the Indian Chief seems to have made an impression among several of the Delegates and another year he might be more successful than this."[526] Stewart, however, turned to Duncan Scott to draft the Canadian response. Scott wielded a remarkable level of influence from his civil service position in Indian Affairs. Whether this was due to his long tenure or an inherent lack of interest in Native communities, Scott seems to have been the major architect of Indian policy, much to the chagrin of many of the Indian Bands he encountered.

Decker and Deskaheh set their sights for their next campaign on the Fourth Assembly of the League of Nations, beginning in Geneva in September of 1923. By August 1923, when both Decker and Deskaheh were in Europe, the Six Nations' grievances against Canada were succinctly formulated in a twenty-point program entitled, "The Redman's Appeal for Justice," which Deskaheh presented to the President of the Assembly of the League of Nations.[527] Printed in pamphlet form, it was widely circulated in England and garnered a great deal of support for Deskaheh and the Six Nations' cause for the London press featured highlights of this pamphlet under headlines proclaiming "Red Indian Wrongs."[528] This publicity was certainly embarrassing to the

[526] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, Letter marked "Personal" from George Graham, Minister of National Defense, London, to Charles Stewart, Superintendent General, Indian Affairs, Ottawa, October 6, 1923.

[527] Malcolm Montgomery, "The Legal Status of the Six Nations Indians in Canada," *Ontario History*, 55 (1963) p. 99.

[528] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, Press Clippings, "Red Indian Wrongs: A Hunted Chief Talks to *The Star*," *The Star*, August 11, 1923, "Red

Crown and to Canada, for Deskaheh complained that Britain had not fulfilled its obligations under the terms of the Covenant Chain. Deskaheh singled out Winston Churchill for repudiating the reciprocity integral to the diplomatic accord memorialized as the Covenant Chain. By repudiating the principle Six Nations held most dear – the spirit of reciprocity – Churchill signaled the Canadian government that it might do as it wished with the Indians without British opposition. Indeed, the political discourse emergent in European diplomatic circles was that the British government "was disagreeably surprised" by the "uncalled for interference in internal affairs of Canada."[529] Thus, the wagons were circled on the European "frontier" against Six Nations' "attacks."

Local reaction in the nearby town of Brantford revealed a great deal of misunderstanding regarding the workings of the Confederacy as opposed to Western societal norms. Despite living in close proximity to the Reserve for over a century, townspeople still accused the Confederacy government of only representing "the women-folk." Articles in the local press maintained: "…the "Chiefs on an Indian reservation are elected by vote of the women-folk…not until the men have votes in the elections of chiefs on the Six Nations' Reserve will the real feeling of the reserve be discovered."[530] Patriarchy was enshrined as the norm despite Native gender conventions. Six Nations was regarded as "backward" for giving women power and the right to advocate in the political process, rather than subscribing to an ideology of subordination.

Yet, in his European quest, it must be remembered that Deskaheh was surrounded by lawyers, not clan mothers, and as he pressed his case for Six Nations home-rule, the lawyers and advisors he trusted were conducting back-channel negotiations and were betraying him. Chisholm, a former Six Nations lawyer and Stoker, a European

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Indians in Canada: An Appeal to the League," *Morning Post*, August 13, 1923, "Red Indians Lot," *Westminster Gazette*, August 14, 1923, "The Six Nations: Canadian Investigator Appointed," Morning *Post*, August 14, 1923, and "Canada's Reply to the 'Six Nations,'" *Daily Chronicle*," August 14, 1923, London, England.

[529] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3. Copy of Telegram, marked "Code" for the Governor General of Canada, from the Secretary of State for the Colonies, Secretary Devonshire, August 30, 1923.

[530] Public Archives of Canada, Indian Affairs, RG10, Volume 3232, File 582,103, Clipping from the *Brantford Expositor*, August 1923.

representative of Anti-Slavery and Aboriginal Protection group, both proved to be especially self-interested at Six Nations' expense. For example, Chisholm was quick to ingratiate himself with Duncan Scott, the Loyalist Association and even the local constabulary, once Duncan Scott had paid for his services out of Six Nations' funds. Yet, Chisholm offered himself as an "honest broker" between the Six Nations and the Dominion in the period leading up to the Commission. Chisholm was asked to act as an intermediary for the Indians with the Dominion, as late as September, 1923; first for the Confederacy, then for the Loyalists.[531]

These efforts were stymied, however, due to Colonel Thompson, who cabled Duncan Scott that he was "decidedly opposed to counsel appearing for an interest whatever."[532] Chisholm offered to appear in a special hearing under the auspices of the Commission to prove that the earnest and "constructive" work of the Department had been stymied by "ill-advised malcontents on [sic] reserve."[533] Chisholm warned prophetically that settlement of Six Nations' grievances would never be achieved by a "commission of inquiry," if it was appointed by the Canadian government. He maintained that the majority of Six Nations' people supported the objectives of the Canadian government, but had no voice because of the hereditary system.[534]

Of course Duncan Scott and Charles Stewart argued that the Thompson Commission would allow all Indians of the Six Nations to have a voice in their affairs.

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[531] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571, Letter to A. G. Chisholm, London, Ontario, from Chief Deskaheh, Speaker of Six Nations Council, Rochester, April 6, 1923. See also, in Volume 3232, File 582,103, a letter requesting Chisholm's services from Asa Hill, followed by Chisholm's letter to Duncan Scott, seeking the Department's imprimatur, as well as a guarantee for his fee.

[532] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, Cable from Colonel Andrew Thompson, to Duncan Scott, Deputy Superintendent General of Indian Affairs, Ottawa, September 7, 1923.

[533] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, Cable from A. G. Chisholm to Duncan Scott, Deputy Superintendent General, Ottawa, September 14, 1923.

[534] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571, Letter to Duncan Scott, Deputy Superintendent General, Indian Affairs, from A. G. Chisholm, Barrister, London, Ontario, April 7, 1923.

How the Canadian government would respond to Native voices was unclear, though. In a telling exchange between former Prime Minister Mackenzie King and Arthur Meighen, Meighen argued that Native voices were distinctly different from citizens for Indians were wards of the government, rather than citizens. Mackenzie King argued, to his credit: "We are not objecting in the least to permitting Indians to be enfranchised, if they wish to be enfranchised…What we are objecting to is a policy of coercion …"[535] If Natives were equal to Canadian citizens, then Indian status would not be necessary. It would appear that degrees of freedom were embedded in Canadian society. It was not and did not aim to be, at least for the time being, an egalitarian society. Underscoring this inequality before the League of Nations was not appreciated by Canadian officials: "…His Majesty's government have been disagreeably surprised by actions of the Netherlands Government…[536]

Duncan Scott was even more disgusted when he received word that the General Assembly ordered an inquiry into Six Nations affairs on the last day of the League's session. He feared that an inquiry would derail the Thompson investigation. Scott proposed that a "most vigorous protest" be lodged with the League if the report proved to be accurate. The press report was submitted to a London, Ontario newspaper through a cable from George Decker, Six Nations lawyer, and proved to be inaccurate.[537] Pope, the Under Secretary of State for External Affairs, noted prudently that the article was dated some time earlier was probably based on rumor. Pope decided to wait for a formal statement from the League before mounting a campaign defending Canadian policy against Six Nations charges. Pope informed Duncan Scott that Prime Minister

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[535] Taylor, John Leonard, "Canadian Indian Policy During the Inter-War Years, 1918-1939," Department of Indian Affairs and Northern Development, 1984, p. 150.

[536] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, file 3162, Pt. 1, Copy of a Telegram from the Secretary of State for the Colonies, August 30, 1923

[537] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, file 3162, Pt. 1, Letter from Duncan Scott, Deputy Superintendent of Indian Affairs to Joseph Pope, Under-Secretary of State for External Affairs, October 8.1923. See also the text of the article, "Chief Deskaheh Cables Decision Made by League," in the *London Advertiser,* October 4, 1922.

Mackenzie-King was still receiving reassuring private communications from Sir Herbert Ames, as well as the Acting Secretary General of the League of Nations.[538]

Yet, all was not well in Geneva for the British and Canadian interests. Deskaheh's campaign had been surprisingly successful for in the waning days of the session four delegates from Ireland, Persia, Panama and Estonia had written to the President of the Assembly, Hjalmar Branting, asking for a full and complete hearing of the Six Nations appeal for the Assembly to consider.[539] The letter mentioned rather quaintly, "a la conservation de l'antique race des Indiens Peaux-Rouges…"[540] They also sought an advisory opinion from The Hague and wanted to know if the Assembly might consider the petition under Article 17 of the League Covenant governing disputes between a League member and a nation that is a non-member. The President of the Council, H. Branting stalled on technical grounds, responding that an Assembly resolution was necessary for him to make these requests. Branting, however, also circulated the telegram from the Persian Delegate regarding the Six Nations question to Members of the Council to comment upon. Since the session ended two days later, the discourse about the rights of the Six Nations ended at the close of business for the session.[541] Branting placed the telegram before the Council, but stated that it was "…not possible for the Council to consider the question during this session." Under Article Four, the Canadian government was to be invited to attend the session to discuss the issue. To the main point, Branting asked "…whether it is the desire of your government that the question be placed on the agenda of the session of the council to be held in March

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[538] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, file 3162, Pt. 1, Letter to Duncan Scott, Deputy Superintendent-General of Indian Affairs from Joseph Pope, Under-Secretary of State for External Affairs, October 19, 1923.

[539] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, file 3162, Pt. 1, The delegates who signed the request on September 27, 1923 to the President of the Council of the League of Nations were Eoin MacNeill, of Ireland, R. A. Amador, of Panama, Prince Arfa-ed-Dowleh of Persia and C. R. Pusta of Estonia.

[540] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, file 3162, Pt. 1, Letter signed by four delegates to the President of the Council of the League of Nations, September 27, 1923.

[541] Veatch, Richard, Canada and the League of Nations, (Toronto: University of Toronto Press, 1975), p. 95-96.

next."[542] Herbert Ames warned the Canadian Prime Minister, Mackenzie King, that "…if the Persian Government wished to have the question placed on the order of the day for the March Meeting of the Council, the matter would at that time be considered."[543] Ames put the matter squarely to King: "During the Assembly a picturesque delegation of Iroquois Indians, with their Chief, Deshahah, [sic] were here in Geneva addressing meetings and interviewing delegates." Ames reported that the Natives "…aroused a certain amount of sympathy…." In contrast, the Canadian government had not issued a substantive response and Deskaheh had been able to marshal support among the delegates. Ames offered to be the unofficial link between the League of Nations and the Canadian government. [544] League officials realized that it had been a remarkably close political call for Canadian and British interests on the floor of the Assembly, just as the Canadian Minister of Defense, George P. Graham, had reported. Canadian officials finally took notice and moved more aggressively to deny Deskaheh a platform in the Assembly in the spring of 1924; Six Nations, an ancient aboriginal league of peace was denied a right to speak at the League of Nations.

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[542] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, file 3162, Pt. 1, Letter forwarded to Joseph Pope, Under-Secretary of External Affairs, Canada, from the President of the Council to the First Persian Delegate, by Inazo Nilobe, Acting Secretary General, League of Nations January 5, 1924.

[543] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, file 3162, Pt. 1, Letter to Prime Minister Mackenzie King from Herbert Ames, December 26, 1923.

[544] Ibid.

Chapter Six

Twilight on the Grand River: Thompson's Commission Takes Aim at the Confederacy as Deskaheh Campaigns at the League of Nations

Official notices were posted on the reserve, stating Lieutenant Colonel Thompson's investigation of conditions at Grand River would begin the morning of September 18, 1923. All Indians were invited to appear before the Commissioner at Ohsweken and make their voices heard. The Commission was to take place under the auspices of the Department of Indian Affairs, with Charles Stuart's imprimatur as Superintendent-General. Areas open to inquiry included not only the election of chiefs and power of the Council, but the local administration of the Soldiers' Settlement legislation. Socio-economic issues of concern were health and education, but the vague category of "morality," left the door open to impose Canadian middle-class standards on Native cultural life. A convenient clause covered any remaining issues, namely "affecting the management, life and progress," which left the Six Nations community open to bourgeois neo-colonial scrutiny. [545]

The Confederacy chiefs chose to boycott the whole affair, so there was little defense of the hereditary system. Perhaps because the community did not anticipate that the Thompson Commission would be taken so seriously, the majority of the population did not participate in the process, so very few Six Nations people were heard. The Loyalists were strongly represented, however, both at home and abroad. Freeman J. Isaacs took the initiative to write to the Colonial Secretary in London to find out whether Deskaheh's two trips to Europe had resulted in any change. Isaacs was blunt in assessing the political prospects on the reserve, admitting Deskaheh had the majority among 84 chiefs, but as a Loyalist, Isaacs sought to lobby the British Secretary to clarify Six Nations status under the existing Canadian laws.[546] "Progressive" leaders such as Jacob

[545] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, Poster announcing the meeting for Tuesday, September 18, 1923.

[546] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Letter to the Colonial Secretary, September 29, 1923, from Freeman J. Isaacs, September 29, 1923.

Miller, Elliot Moses, Joseph Montour, as well as William and George Smith, sought to influence Thompson to apply the Indian Advancement Act to Six Nations. This would allow Indians to vote for councilors to represent local districts.

The public hearings, during which speakers were able to testify, lasted only twelve days, but would have enormous impact on Six Nations. Members of the prominent Johnson family – J. S. Johnson and Captain J. S. Johnson, came to speak from Chiefswood, home of Canadian poet laureate, Pauline Johnson. A school teacher, truant officer, as well as Rev. J. G. White, were among those who also testified. Yet, by the conclusion of the investigation, only twenty-seven witnesses appeared before the Commission to testify for a community of thousands.[547]

Colonel Thompson was paid $5,255. for his services by the Department of Indian Affairs.[548] For once, notably, Duncan Scott did not quibble about paying a salary for an official dealing with Six Nations' affairs. Thompson opened his official inquiry on September 18, 1923 with dire news for Confederacy supporters: the League of Nations would not act on Deskaheh's petition. The timing of Thompson's public statement was calculated to shock and disempower the Chiefs' supporters and embolden their opposition. Colonel Thompson stated he learned of the decision through a cable from George Graham, still working for the Canadian government in Geneva. This was a stunning blow to those who had placed all their hopes in Deskaheh's mission to Europe, but his followers immediately began to regroup, by first questioning the veracity of Thompson's statement.

The local hearings were held in the parish hall of St. Peter's Church for the Chiefs had locked the doors to the Council House, denying Thompson an important symbol of legitimacy and power. After spending the morning outlining the scope of the inquiry, his

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[547] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, List of Disbursements submitted to the Secretary of Indian Affairs, by Cecil Morgan, Indian Agent, Brantford, Ontario.

[548] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, Memorandum to Charles Stewart, Deputy Superintendent of Indian Affairs, from Duncan Scott, Deputy Superintendent General of Indian Affairs, January 2, 1924.

authority, and the procedures for the investigation, Thompson heard from several speakers, both women and men. Chief A. G. Smith, or Dekanenrahneh, Chief Joseph Montour, or Wiscalongue, and Chief J. S. Johnson, or Kanonkweniyah, as well as Mrs. Samuel Styres and Mrs. Emily Tobico were heard. All of these individuals, with the exception of Mrs. Samuel Styres, spoke in support of an elective system. Thompson warned that if the Confederacy Chiefs chose not to attend the hearings to present their side of the dispute, it would be their own misfortune.[549] He was a man of his word, for he gave very little credence to the historic claims of legitimacy for the Confederacy, rather he observed and listened to those Indians who were eager to embrace political and social change. These were familiar techniques used to disempower Native peoples: first, use the minority of the population in a Native community to legitimate government decrees, policy or land cessions and then, count the absence of voices raised in dissent as virtual support for neo-colonial policy.[550]

Chief A. G. Smith spoke after Thompson, focusing on the need for an equal education for Indian children and recommending that a high school be built on the reserve. Six Nations' students, including Smith's own grandchildren had to pay to board in Brantford in order to attend high school. Each child received one hundred dollars stipend, but expenses greatly exceeded that amount. Smith criticized the hereditary system as moribund, stressing that the Chiefs were unaccountable to the community, but he admitted that most people on the reserve were still in favor of the hereditary system. Smith complained about lawlessness and disorder that was only quelled by the local constables and the detachment of the R.C.M.P., now stationed on the reserve.

Mrs. Samuel Styres, a clan mother, spoke in defense of the hereditary system. She represented the complexity and fluidity of Six Nations' religious and political

[549] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, Letter to Colonel Thompson from the Acting Deputy Superintendent General, September 13, 1923.

[550] Roger Nichols, Indians in the United States and Canada: A Comparative History, (Lincoln: University of Nebraska Press, 1998, p. 180. The classic historical example is during Cherokee Removal when a minority of the Treaty Party signed the Treaty of New Echota, without the knowledge or assent of thousands of Cherokee who opposed the terms, petitioning the United States government and resisting Removal under the leadership of John Ross, the Principal Chief.

landscape, for although she was a Christian, she openly contested the notion that Deskaheh was a pagan, claiming that he had a clear right to his beliefs, just as she was able to choose and practice her religion.[551] Her willingness to challenge the predominant discourse was notable, for speaking at a public forum in a small community was difficult and risky, for it established boundaries and polarized dissent. Moreover, both the Indian Department and the Confederacy Council were paying close attention to these hearings.

Chief Joseph Montour was the most colorful speaker during the first session of the hearings. He was well known as a progressive and he, too, focused on Indian education. Montour recounted how he had been told as a young man not to attend white-run schools: "If you become learned you will be blinded by the white man's book." He ran away from the Mohawk Institute, so that he received little education; something that he would regret as an adult. His critique of the Confederacy Council was perfect for his Indian audience, employing a wry and homespun analogy to complain about the Chiefs' leadership: "It has been said that a slight hunger is an aid to clear thinking and I think many of the chiefs eat too much."[552]

Montour's remarks were followed by Mrs. Tobico, who spoke about her desire to have a vote in the affairs of Six Nations. She was originally from the reserve, but was no longer part of the Band, for she had married a "Chippewa" [sic], or Annishenabe. Her removal from the Band list was a direct result of Canadian interference with the ancient Iroquoian system, which was matrilineal rather than patrilineal. Under the old Confederacy system, Mrs. Tobico's husband and her children would have naturally become members of the Six Nations band. Due to the Indian Act, women lost their birthright by marrying out of their Band. Their children were also in limbo, neither Indian nor White, unless they would be accepted into their biological father's Band. The rules regarding race were politically, socially and economically contested and remain so, to the present, for blood quantum does not equal Indian status in Canada. Political and

[551] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, "Investigation in Full Swing Regarding Six Nations Indians," *Brantford Expositor*, September 19, 1923.

[552] Ibid.

socio-economic clout, timing and as well as luck, have as much to do with Indian status as the circumstances of one's birth.

Since the first portion of the investigation was initially open to the public, before interviews were conducted in camera, an Indian agent from another reserve, Major W. C. Van Loon, also attended the session and commented on the proceedings, revealing the patriarchal and discriminatory views of a representative of the Indian Department. Van Loon advised Indian Affairs to implement the plan for an elective system, as long as women did not get the vote. He argued, "agents have trouble enough now," and that women who sought the vote, such as Mrs. Tobico, who were no longer Six Nations members, legitimately lost their rights under the Department's system. He asserted that those virtuous and "industrious women" of Six Nations, who were Band members, did not seek to "meddle" in political matters, anyway. [553] Van Loon failed to mention that if a woman was unable to support herself or her family in a case like the witness, she had no recourse except private charity. If she had been enfranchised by her husband during marriage and was then abandoned or divorced, she would have no refuge on either her husband's reserve or her own. She would also lose her treaty rights to move back and forth across the border. This policy forced Six Nations' women out of their own homes, caused endless turmoil within families and defined these women and their children's identity as non-Native, affecting political and socio-economic status for generations, up to the present. This will be addressed in a later chapter.

Thompson raised some questions of his own during these hearings. He inquired into disbursements from Six Nations' funds in 1920-21. In particular he investigated the $150.00 bonuses that were to have been paid to each of the twelve teachers on the Reserve, payments to enfranchise Indians and lastly, inquired into the financial debacle associated with the Grand River Navigation Company, long a source of bitter strife between Six Nations and the Dominion. Financial malfeasance was alleged by Six Nations in relation to the disastrous canal scheme, yet Ottawa maintained there was no

[553] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, "Investigation in Full Swing Regarding Six Nations Indians," *Brantford Expositor*, September 19, 1923

whiff of illegality, just a lack of information and confusion about Ottawa's bureaucratic budgetary process. Similarly, a failure to disburse teachers' bonuses was blamed on the failure of Parliament to pass an appropriation.[554]

Duncan Scott offered additional, unsolicited information about the capital funds belonging to Six Nations, anticipating that an accounting would have to be made by Commissioner Thompson in his final report. The Department, ostensibly, had established a loan fund in 1896, designed to finance internal improvements and repairs of fences, barns, as well as other private buildings on the Reserve. The fund was initially ten thousand dollars, but was deemed so successful by the Department, that the funding was increased several fold, by successive orders-in-council, up to a level of fifty thousand dollars, after 1913. Approximately, $125,000.00 was loaned to Six Nations' members this way, with the amount guaranteed by a quit-claim deed on reserve property, held by the Council. Repayment of the loans had stopped, however, due to the current political crisis, with a deficit remaining of almost $50,000.00, including unpaid interest.[555]

Scott also obtained a report from an accountant from the Department of Indian Affairs, who determined that for the year 1920 through 1921, forty-five heads of household were enfranchised, for a total of one hundred individuals. The cost to the band was $15,800.00 for one-hundred people, so payments averaged about one-hundred, fifty dollars per person, a tidy sum that was attractive in a poor, agricultural community.[556] Men could enfranchise their entire family without their consent, including their wife and minor children in order to obtain this lump-sum payment. It was a source of contention on the Reserve. Enfranchisement frequently led to impoverishment for Indian families, for once the payment was issued, it was quickly spent. These payments came from shares

[554] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, Unsigned memorandum in file, with reply from Duncan Scott, Deputy Superintendent General, to Colonel Thompson, November 13, 1923.

[555] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, Letter to Lieutenant Colonel Andrew Thompson, Barrister, Ottawa, from Duncan Scott, Deputy Superintendent General of Indian Affairs, November 7, 1924.

[556] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, Memorandum to Duncan Scott, Undated.

in the Band funds, so the chiefs complained bitterly that they had no recourse, but to support the children of these families when they returned to the reserve although they lacked resources to care for them properly.

Colonel Thompson discussed key portions of the report in the press prior to releasing the full text. His comments, often direct quotes, cited in the final draft, created quite a furor at Six Nations and the surrounding community. The version submitted to the Superintendent General of Indian Affairs, November 22, 1923, was substantive and detailed. It revealed not only what questions Thompson asked in his investigation, but it gave insight into what he deliberately left out of the report, as well as how he arrived at his conclusions.[557] On balance, the report, commissioned for the bureaucrats in Indian Affairs, was a bit more empathetic toward the Six Nations people than the impression garnered from the selected passages that were leaked to the press – but, not much. Many of the quotes were eventually incorporated into the order-in-council ending the Confederacy Council's rule. Thompson's ambivalence about his recommendations and soul-searching regarding the health and welfare of the Six Nations people is much more evident, though, in the full text of his report.

In the cover letter, Thompson outlined the scope of his investigation. He addressed only the seven specific topics delineated in the Superintendent General's original instructions to him, rather than inquiring into "other matters," affecting "management, life and progress" of the Indians, mentioned vaguely in the original order.[558] Thompson claimed he was not instructed by the Superintendent General to examine the central issue roiling the reserve, namely, the status question. Therefore, the contention of the Confederacy Council regarding the independence and right to self-determination was, strictly speaking, not a subject under consideration by the Thompson

[557] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, Report of Andrew T. Thompson, re [sic] Six Nations Indians, Ottawa, for the Superintendent General of Indian Affairs, November 22, 1923.

[558] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, Colonel Andrew Thompson, appointed to conduct a Royal Commission, regarding Six Nations Indians, Privy Council, 44/505, March 20, 1923.

Commission. Clearly, though, Thompson rejected the central tenet of the Confederacy Council, that Six Nations was historically and legally accorded a unique status as an ally of the British, signified by the Haldimand and Simcoe "Deeds." Thompson took pains to discredit what he deemed, the "separatist movement," by giving no credence to the objective of "home rule." Instead, he confined his probe solely to the election of chiefs. Skillfully attacking the Confederacy Council's "usurpation of power," he characterized the hereditary system as archaic and the chiefs as corrupt and ignorant – these remarks received the most publicity. He further charged that the Chiefs-in-Council had betrayed the founding spirit of the League, violating the Confederacy covenant by arrogating too much power to themselves.[559] Perhaps, the most serious allegation Thompson reported was that the Chiefs used money collected from property, estates and rentals, properly belonging to the entire Band, as a way to fund the status case. Thompson argued that this was illegal, for it bypassed Cecil Morgan, the Indian agent, who was the Department's representative in recommending expenditures from Six Nations' funds.

Thompson traveled widely through the reserve and interviewed people of differing class and status, in various forums, but he did not make any concerted attempt to elicit the views of the "separatists;" arguing that the advocates of the Confederacy Council would bear the onus and responsibility for opting out of the process. Thompson alleged some individuals on the reserve, who disagreed with the chiefs, were reluctant to come forward, fearing serious consequences from their statements, given the intense political differences on the reserve. The Commissioner stated, that to remedy this problem, he decided early in the investigation to take testimony under oath, behind closed doors – effectively, functioning as both judge and grand jury for the Thompson Commission.

Specifically, Thompson explored the issue of social inequality, comparing Six Nations Reserve with the surrounding Canadian communities, in regard to education,

[559] One wonders what Joseph Brant might have replied to that charge, for no mention is made in any of the Canadian official correspondence regarding the role of the Pine Tree Chief, who is thrust, either by skilled leadership, or events, into the position of leader, without a hereditary position.

health, roads, homes and infrastructure. In regard to education, Thompson argued that although Six Nations people had made significant progress, Indian students did not have the same opportunities as Canadian students. Six Nations students not only had no High School, but were faced with inadequate health care, dirt roads, sub-standard housing and lack of potable running water, sewers and proper sanitation on the reserve. To his credit, he stated without equivocation that the Six Nations people were of "quick intelligence" and just as capable of "assimilating education" as "white fellow citizens." Thompson believed, however, that the eleven schools in existence should be placed under the direct authority of the Indian agent. Excessive truancy, Thompson opined, was due to "widespread disregard for authority," linked to the political "unrest" promulgated by the separatist movement. [560] Yet, Thompson's study did not compare students' academic performance before and after the protest on the reserve began, and as with most of his conclusions in the report, he judged the situation with little, or no, evidence.

Thompson advocated continuing education by increasing the supplementary funding for students to attend the Mohawk Institute, the boarding school for Six Nations students in Brantford run by the New England Company. This would outsource the laborers of Six Nations and ostensibly, provide the graduates with a trade. Thompson broached the construction of a school on the reserve, although he had great concern about the cost of this project. Thompson emphasized that the Six Nations parents he interviewed wanted their children to attend "white schools," so they could become "good Canadians." This was likely, for Thompson would have mainly interviewed Loyalists, whose families supported 'progressive' values and education. Closely linked to Thompson's concerns about education were his observations concerning health and sanitation. He was clearly shocked and alarmed about inadequate sanitary facilities, lack of clean water, medical care and general knowledge about disease prevention and public health. Thompson was appalled that all the children drank from a shared cup in schools, then, to his disbelief, he discovered that farmers watered their cattle in the school cisterns. He reported that there were no indoor bathrooms or facilities to wash; clearly, an obvious

[560] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, Report regarding Six Nations, written by Andrew Thompson, November 22, 1923.

pathway for infectious disease to spread. Diptheria, infectious skin diseases, and pneumonia were health problems among the children. Tuberculosis was still very prevalent among the Six Nations and Indians often went without diagnosis or treatment. By the time they sought treatment, it was often too late. The "great white plague," as it was deemed by Thompson, was the "great scourge of American aborigines," and often required a period of quarantine.[561] Small pox was still reported at infrequent intervals before the war, while typhoid fever and "whooping cough" were still far too prevalent on the reserve, as medical reports had attested long before Thompson's report. Schools and houses often had to be fumigated so the outbreak would not spread to neighboring towns. The Indian agents often blamed "pagans" for discouraging people on the reserve from going to the hospital, but there were inadequate facilities. Six Nations Indians with tuberculosis were placed outdoors in the cold, in tents. The agents and doctors argued that this was part of the treatment for the disease. Six Nations people resisted going for this "treatment," for obvious reasons, given the frigid winter in Ontario, and it was the subject of innumerable reports about their "ignorance."[562]

Two other overlapping categories covered in the Thompson report were religion and morality, particularly with respect to two most frequently voiced stereotypes of Indians as "pagans" and alcoholics. The refusal of Indians to observe the Christian Sabbath became a topic of great contention between the Mohawk Workers, a society

[561] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, Report in regard to Six Naitons Indians, Andrew T. Thompson, Ottawa, submitted to the Superintendent General of Indian Affairs. November 22, 1923. Tuberculosis was also not always recognized or diagnosed in Indians and quarantines were not observed. It was common for people to stay home; For example, my mother, Norma Ellen Martin, born in 1911, grew up on the reserve during this period and she, too, was diagnosed with "TB." She went to High School in Brantford and worked in a canning factory, as well as a migrant laborer, picking berries, for one or two cents a box, to help pay her board. She left school when she was infected with the disease and went home to the reserve, where she was given "Indian medicine," rather than go to Dr. Davis or to the hospital.

[562] Public Archives of Canada, Indian Affairs, RG 10, Volume 2746, File 146,900-19A, See reports of the Six Nations Board of Health, as well as reports of the Indian agents and medical officers. 1918, of course was the year of the flu pandemic and it was a year in which there was also a marked increase in deaths from tuberculosis, including infants and children, on the reserve. Many Indians did not go the hospital because they were often placed outside in tents, in the cold. They chose to stay at home until the last stages of the disease. In a letter from Dr. W. Davis to Gordon Smith, the Indian agent, on March 11, 1918, Davis remarked: "Strange to relate, when their former mode of life is considered, the Indians are very reluctant to live in tents."

formed in 1922 to support the status case, and the Indian Department. In order to support Deskaheh's efforts at the League of Nations, the adherents of the Longhouse religion, called "pagans" by the local press, sponsored Sunday lacrosse games to raise funds. Colonel Thompson estimated that there were approximately eight-hundred, non-Christian Six Nations Indians and he complained in his report that on Sundays, the grounds looked like a fair. He charged that liquor was smuggled into the Reserve, and sold, in direct violation of Canadian excise laws. This remained a continual flashpoint between Canadian law officers, Christians, the press, clergy and the Indians on the reserve , who sponsored this traditional sport. Local "whites," males who flocked to the reservation to watch the games, socialize and drink on Sunday, were condemned in the press and from the pulpit, as a "rough" element. Feared and resented as a danger to morality and temperance, these young men were singled out as a public nuisance by the Christians, along with the "pagans" who played and watched the games. Thompson argued that although morality was socially relative, the law applied to all members of Canadian society. Social control was a priority in his efforts to bring a contingent of the Royal Canadian Mounted Police to the reserve and station them at Six Nations.

Another problem mentioned in the report was the issue of morality, in terms of sexual relations and cohabitation, on the reserve. Alleged promiscuity, especially by Indians, was viewed as licentious by the Canadian government. Christian ministers complained that Indian men and women simply lived together and parted, without legal agreements regarding children, marriage ceremonies or divorce. Objections were recounted and recorded, concerning these violations of Christian morality, as well as illegitimate births. Thompson appeared to be rather detached and resigned to the inevitability of these problems. He pragmatically observed that this "loose living" did not lead to the crime of bigamy, for there was rarely an initial marriage at issue. Thompson interviewed several "witnesses" complaining about vice, and their views ran the gamut from condemnation to grudging acceptance. For example, one Indian gentleman pointed out that for Indians on the reserve, white, middle-class customs and

legal boundaries that passed as "morality" were simply beyond the financial means of many Indians, "so they drift into these unlawful connections."[563]

A more contentious topic was the Sunday lacrosse games and the liquor allegedly smuggled in to the reserve and sold, against Canadian law. These activities resulted in a "mini-riot" over the arrest of an Indian, coupled with the stationing of a small contingent of the Mounted Police at Six Nations, deepening the rift between the Indians and the surrounding communities. Reaction was mixed, though, as Thompson pointed out. Many Six Nations members, especially from the Longhouse, were firmly opposed to the sale of alcohol and wanted this kept off the reserve, but others deeply resented the Canadian police presence. Thompson failed to understand that consumption of alcohol was against the Longhouse religion, as revitalized by Handsome Lake, so ironically, the "pagans" opposed this, too. Yet, the Commissioner was well aware that these traditionalists were vehemently opposed to the stereotypical term and resentful that it was applied to their spiritual beliefs.

The Confederacy Chiefs were not consulted by Thompson during his investigation. Canadian authorities had been particularly concerned about George Decker's intervention in the proceedings. Department officials worried that if they allowed Chisholm to represent the Loyalist Association, the Confederacy Council would demand to have Decker present. The idea of American intervention in the relationship between Canadian officials and the Six Nations was repugnant to Ottawa, not only as an infringement in their domestic affairs, but also as a matter of national pride. These Indians after all were celebrated as the warriors who had cast their lot with the Loyalists of the Empire, forsaking their ancestral homeland and settling on lands by invitation rather than conquest. It would be highly embarrassing for Canada and the British if Six

[563] Public Archives of Canada, Indian Affairs, RG 10, "Six Nations Indians Report," submitted from Andrew Thompson, Commissioner, to the Superintendent General of Indian Affairs, Ottawa, November 22, 1923.

Nations people now publicized their choice as a Faustian bargain – due to the willingness of their American lawyer to use the international press as a weapon against Canada.[564]

Another attorney who attempted to intervene in the case, without the knowledge of Decker and Deskaheh, was W. H. Stoker, from the Anti-Slavery and Aborigines Protection Society. Stoker opened up discrete and separate negotiations with Canadian officials, although it was not clear if it was at the instigation of the Anti-Slavery and Aborigines Protection Society. Stoker wrote directly to Mackenzie King, mentioning that he was counsel for Six Nations, but explaining that he had advised against taking the status case to the League of Nations or any international body. President of the Society, Charles Roberts, also an Member of Parliament and the former Secretary of State for India, as well as Mr. Pacaud, an official from the High Commissioner's office, also were involved in the Canadian discussions concerning Six Nations. Roberts and Pacaud both concluded that Six Nations would be well advised to take the Dominion's offer of a Royal Commission in 1922. In Stoker's considerable correspondence, he explained that Six Nations refusal was simply a matter of unfortunate timing at the close of the negotiations. He reported that Deskaheh did not receive the cable from the Anti-Slavery Society urging Deskaheh to accept the offer until the Six Nations' negotiations with the Dominion had already closed.[565] Stoker proposed to the Prime Minister, Mackenzie King, that the Dominion re-open negotiations, to search for a way out of the impasse and offered to have his society impress upon Deskaheh the futility of further struggle. While acting as a facilitator and confidential agent to Deskaheh, Stoker broke faith and confidentiality to confide in the Canadian Prime Minister: "…Canada could not tolerate the existence of an entirely independent state within its domain, nor would it be in the best interests of the Six Nations…" Stoker sought a meeting with Mackenzie King and he offered to arrange a meeting between the Prime Minister and Deskaheh. King

[564] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571, Letter to A. G. Chisholm, Barrister, from Duncan Scott, Deputy Superintendent General of Indian Affairs, April 19, 1923.

[565] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, Letter to F. A. McGregor, the Private Secretary to the Prime Minister of Canada, W. Mackenzie King, from W. H. Stoker, October 26, 1923.

demurred, however, deciding to have his Private Secretary refer the matter to Charles Stewart.[566] Canadian officials were growing increasingly confident of their influence and power at the League to turn aside the Six Nations challenge on the international stage and suppress Six Nations dissent at home.

Although the Canadian government continued to denounce the Six Nations' claim before the League as "absurd," it offered no formal repudiation of the Appeal until 1924. Meanwhile, this gave Decker and Deskaheh more time to seek the help of League delegates, who might be sympathetic to the Indians abroad. They stopped in Paris, on their way to Geneva, seeking out in particular, representatives from Haiti and Japan. It would appear that they thought these delegates might be particularly sensitive to the problems racial groups suffered, as these nations were stigmatized and marginalized by both the Western powers and the League.[567] The Six Nations' campaign garnered the support of delegates from Ireland, Persia, Panama and Estonia. In a letter submitted to the President of the Assembly late in September 1923 these delegates sought consideration of the Six Nations' petition by the International Court of Justice "in view of the universal interest manifested in the preservation of the Indian red-skin."[568]

The language of colonial representation of indigenous people had changed very little from the point of contact to the early twentieth-century.[569] Indeed, the term "Red Indian," was commonly ascribed to Deskaheh throughout his European campaign for

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[566] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, Letter to W. Mackenzie King from W. H. Stoker, London, October 10, 1923.

[567] Letter from George Decker to Chief David S. Hioll, Secretary of the Six Nations Council, September 9, 1923, in the George Decker Collection, St. John Fisher College, Rochester, New York.

[568] Copy of the letter to the President of the Fourth Assembly of the Society of Nations from the Delegations of Ireland, Persia, Panama and Estonia, September 27, 1923, forwarded to Decker from Deskaheh from Geneva. Another translation of this letter appears in "Deskaheh: Iroquois Statesman and Patriot," in which the pertinent citation reads: "Being interested in the universal question that attaches to the preservation of the ancient race of North American Indian (Indian Peaux-Rouges)..." Akwesasne Notes. (Rooseveltown, New York), p. 2.

[569] See Michael Taussig's text, Mimesis and Alterity, in which he notes the Tierra del Fuegians were described by Darwin as having skin that was a "dirty copper color," see page 73.

recognition of Six Nations' sovereignty.[570] This term was also employed by Deskaheh as a self-referent. In the last speech he gave before his death, however, he contested this representation with a visceral image:

> My skin is not red but that is what my people are called by others. My skin is brown, light brown, but our cheeks have a little flush and that is why we are called red skins. We don't mind that. There is no difference between us, under the skins, that any expert with a carving knife has ever discovered.[571]

This statement resonates with his weary recognition and fundamental rejection of the consuming and oppressive nature of the colonial relationship. The colonial experience of being viewed from the perspective of difference, as a "real Indian," made Deskaheh an attraction in Europe, but it came at a high price for his dignity and his inner-most sensibilities as a human-being. To be continually held up as a symbol of Native racial difference was an assault on his humanity, but one he suffered in silence for a long time. He obviously internalized the negative subtext, namely, the lack of civilization attributed to Indian people and the "savagery" attributed to Native men. Yet, for Deskaheh to dispute these essentialized racial and cultural referents would entail the loss of his political advantage in drawing attention to the injustice imbedded in colonial relations.

The racial terminology of the late nineteenth-and early twentieth-century was laced with the terminology of animal husbandry: namely, full-blood, half-breed, mixed-blood, stock, breeding, etc. This frame of reference under which indigenous people labored and suffered was under-girded by the concept that Indians were not only different, due to race, but intrinsically inferior to Europeans. Deskaheh set out to

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[570] Homi K. Bhabha's discussion of the significance of skin as a colonial referent, "the key signifier of cultural and racial difference in the stereotype," as well as the use of color as the visible signifier of "inferiority or degeneracy," was a very useful source for understanding this aspect of colonial representation. Bhaba also explores the imPublic Archives of Canadat of these stereotypic references on the colonial subject, employing Fanon's analysis of the construction of a "racial epidermal schema." Fanon described a process in which the ego of the colonial subject is split by "incongruent knowledges of body, race, ancestors." See Bhabha's work, entitled The Location of Culture. (Routledge: London, 1994), p. 80.

[571] "The Last Speech of Deskaheh," Akwesasne Notes, (Rooseveltown, NY), Summer 1995: Volume 1, Number 2, p.58.

challenge this colonial framework for his people, becoming adept at manipulating the cultural symbols of difference to his advantage. Yet, his very identity was at stake in the exchange during this cultural and social transaction. As he was swept into the commodification of the cultural marketplace integral to the colonial equation, to some degree Deskaheh articulated his loss of his sense of Native solidarity and comfort of belonging, as an indigenous norm, but always took joy in his experience of modernity. In Europe, Deskaheh often articulated a sense of alienation and loss – perhaps a critical distance from his Six Nations identity. Ironically, through his necessary immersion in Euro-American culture, he sometimes embraced the colonizer's referents, as well. This tragic flaw in the fabric of colonial relations is still being replicated in the twenty-first century as developed nations still stare with fascination, yet with a measure of opprobrium and repugnance across the neo-colonial divide. This ambivalence is internalized by the colonized subject, as W. E. B. Du Bois noted long ago, as "double consciousness."[572] Characterized by a complex dynamic that intertwined both desire and repulsion within Western culture toward Native people as referents of difference, this relationship of Native chief to European audience was one that had to be continually confronted and negotiated by Deskaheh. The objectification and commodification were readily apparent to Deskaheh and the Indians of his generation, but they were willing to manipulate that desire for control of their own territory, identity, and limited sovereignty.

Left alone in Europe when Decker returned to the United States, it was Deskaheh's mission, whether dressed in his Native attire, or business suit, to lecture to audiences that ranged from the YMCA to the Esperanto Society, displaying and explaining the significance of wampum belts, the Peace Pipe and the Haldimand Treaty.[573] Deskaheh gave a lengthy interview to a Swiss reporter after one of his lectures in which the reporter described him as a "beautiful Cayuga chief in his picturesque national costume." Notably, this passage was remarkable for its very unusual usage of the German word "schöne," a term meaning beautiful, nominally used for feminine

[572] Du Bois, W. E. B., The Souls of Black Folk, (New York: W. W. Norton & Co. 1999), p. 11.

[573] Letters from Chief Deskaheh to Decker, dated September 24 and October 3, 1923, in the George Decker Collection, St. John Fisher College, Rochester, New York.

description, to portray the fifty-one year old male chief.[574] The European press appeared to mirror conflicting, gendered and stereotypic images of Deskaheh. In his role as a Cayuga chief, he was either represented in an effeminate context that accentuated his nobility of appearance and character, but stressed his quaintness, signaling an absence of power, or as a "primitive" male warrior without a functional niche in a "modern" political and social context, an equally disempowering representation. A strident Native stance that challenged these representations would be rebuffed as threatening. During the course of his interview, the Swiss reporter cautioned Deskaheh to refrain from unreasonable demands regarding the issue of formal national status before the League, warning him, lest the Chief lose the support he had struggled to gain in Europe.[575]

The Home Front

In order to finance Deskaheh's prolonged stay in Geneva the "Mohawk Workers," a coalition opposing Canadian encroachment at Six Nations, faithfully continued their fund-raising activities. The Six Nations Council, under the leadership of their treasurer, Chauncey Garlow, was backed into a corner. Garlow attempted to issue bonds on money held in trust for the Six Nations by the Dominion. The capital fund as of 1921 was $709,188.00, with interest of 65,666.00, which had not been distributed so an audit of this account was aggressively sought by the Confederacy Council. A bond issue was announced in February 1923 by Chiefs Garlow and General, with the goal of raising $10,000.00, to be redeemed at 6% interest in 1928. The Council blamed the "aggressive attitude of the Dominion of Canada in the extension of its laws and authority" over Six Nations for the failure of the negotiations over the Royal Commission.[576] Chauncey Garlow stated on the circular letter released during the Bond Issue: "Should the Six

[574] See copy of article in newspaper entitled, Der Freie Rätier, December 6, 1923 in Decker papers. This newspaper represented itself as an organ of a progressive group within one of the Swiss cantons, namely the Free-Thinking Graubûndens.

[575] Translation of the article was obtained through the courtesy of Paul Chase. Telephone conversation, December 9, 1996 at State University of New York at Stony Brook.

[576] Public Archives of Canada, Indian Affairs, RG 10, Volume 3229, File 571,571, "Six Nations Plan $10,000 Bond Issue," *The Globe*, Toronto, February 22, 1923.

Nations be unable to collect from the Canadian Government sufficient of the fund [sic] to retire this bond issue, we will be able to raise by taxation of ourselves the funds necessary to pay off these bonds. Our friends can help by subscribing."[577] The Council would eventually pass a per capita tax on the Reserve to retire this bond, for the Indian Department would not release Six Nations' Funds.

In January 1924, the Chiefs-in-Council levied a "head tax" of fifty cents per person to support their bid for independence, levied against 4,400 people living on the reserve.[578] Predictably, there was a great hue and cry from both independents and Loyalists. The local press and the government exploited this conflict, portraying the installment of a squad of Royal Canadian mounted police as a necessary step to protect the peace and separate disparate factions. The rumor that the "pagan' chiefs were determined to drive out the Christians was repeated in newspapers as far as Cleveland. The blame for the failure to reach a negotiated settlement with the Dominion was directed against George Decker, continually assailed by the nativist, Canadian press and officials at the Indian Department as the "German-American solicitor." Conflict, rumor and gossip swirled around the Reserve and the neighboring town of Brantford. The Great War had enhanced nativist sentiments, for the Chiefs-in-Council, referred to as the Deskaheh faction, were blamed for their separatist, independent stance, as well as for resisting conscription by Canada. It will be remembered that the Chiefs had insisted on maintaining their independent stance, resisting conscription. They cited their observance of treaty stipulations mandating a formal British request for assistance from the Six Nations before going to war. In contrast Six Nations men, who enlisted of their own volition in greater numbers than were proportionate to their population, were portrayed as Loyalist heroes in the Canadian press. The new Indian agent, Cecil Morgan, fresh from a colonial post in South Africa and complete with pith helmet and revolver, exacerbated

[577] "Six Nation Bond Issue," Explanation of the need for funds for League of Nations case, signed by Chauncey Garlow, Treasurer, Ohsweken, February 18, 1923, in the George Decker Collection, Rochester, New York.

[578] Public Archives of Canada, Indian Affairs, RG 10, "Indians are Anxious to Hear His Report: Delay of Royal Commissioner into Six Nations Affairs is Being Criticized," *Brantford Expositor*, January 7, 1924.

this divide. Morgan advised people on the reserve that they did not have to pay the "head" tax and declared that the "Mounties" were stationed on the reserve to protect them against threats or violence.[579] The official position of the Department of Indian Affairs was that the per capita tax was illegal under the Indian Act.

Duncan Scott had also discouraged fund-raising activities on the Reserve to support Deskaheh's activities, particularly the bond issue. When he first heard about the proposed bond, Scott notified authorities at the House of Commons to warn the public not to buy these bonds.[580] Under the terms of the Indian Act, Six Nations had no control over their own funds, or the timing of the per capita distribution of the annual interest money. All expenditures and disbursements needed the imprimatur of the Indian Department, a conflict of interest in what should have been a fiduciary role. Instead of the Council controlling its own funds, the bureaucrats in Ottawa had to approve every expenditure. For example, David Hill was never paid throughout this period for his work as Secretary of Six Nations Council. Instead, Asa Hill, the former secretary and Loyalist continued to receive his salary, rather than the new secretary.[581] The Department argued Hill was dismissed on arbitrary grounds. In this way the Indian office controlled cash, building and agricultural funds, as well as political patronage.

Media and Representation

The Six Nations community, particularly the politically astute Mohawk Workers, were well aware of the distribution of the largesse of the Department at Six Nations expense. The bond issue was devised by Deskaheh's supporters to circumvent the monetary control of the Indian Department. It was also a way to impact the colonial consciousness

[579] Public Archives of Canada, Indian Affairs, Volume 2285, File 57, 169-1B, Pt. 3, "Mounties on Guard at Reservation to Prevent Fighting," *Cleveland Sunday News Leader*, January 6, 1924.

[580] Public Archives of Canada, Indian Affairs, Volume 2285, File 57, 169-1B, Pt. 3. Letter from Duncan Scott, Deputy Superintendent General of Indian Affairs, to P. C. Mears, Press Gallery, House of Commons, Ottawa, March 8, 1923.

[581] Public Archives of Canada, Indian Affairs, Volume 2285, File 57,169.-1B, Pt. 3. Letter to W. G. Raymond, M. P., House of Commons, Ottawa, from Charles Stewart, Superintendent General, Indian Affairs, Ottawa, April 4, 1923. This issue was slated to be investigated by Colonel Thompson.

regarding the unjust treatment accorded "Red Indians." The photo on the cover of the bond depicted Deskaheh, in profile, adorned in a Plains headdress. It is important to stress that Indians from Grand River certainly understood that this attire was not "traditional." Deskaheh certainly realized what chiefs wore, since he was raised in the Longhouse. Six Nations Chiefs wore the *gastoweh* as the appropriate signifier of power, not a Western headdress. Each nation has a slightly different version of the headdress within Six Nations, yet to satisfy European concepts and expectations of Indian garments, Six Nations leaders adopted Plains attire and wore this attire until the late twentieth-century. The Chiefs were familiar with Euro-Americans' preconceptions of what an Indian should look like and dressed the part.

This "mark of tradition" was not statically deployed, but was a strategic choice. For example, Deskaheh used both Euro-American and Native dress, creating the media image to raise his profile and achieve his goals. While his image on the bonds played up his Native persona, he also posed for a full-length photograph of himself with George Decker in which they were both conservatively attired in business suits. In the photograph, Decker appears formal and professionally formidable, due to his posture and dress. His natty three-piece suit and rather grim expression, with his hands behind his back, present a subtle social contrast to Deskaheh, attired in a plain suit, rather ill-fitting and casually unbuttoned. Deskaheh appears confident and more at ease than Decker, with his hands casually placed at his sides, although he is equally resolute in his expression.[582]

Deskaheh seemed unaware of the marketability of his image, however, expressing his amazement when he was able to raise funds simply through the sale of his portrait.[583]

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[582] Both photographs are reproduced side-by-side, visibly depicting the movement from mimesis through alterity in Iroquois Studies: A Guide to Documentary and Ethnographic Resources from Western New York and the Genesee Valley, edited by Russell A. Judkins. (Geneseo, New York: State University of New York, College at Geneseo, 1987).

[583] This attempt to raise funds through bonds was blocked by the Deputy-Superintendent of Indian Affairs of Canada, Duncan Scott, who issued a curt warning to British investors that the Six Nations were prohibited by Canadian law from raising money in this manner, commenting that anyone "foolish enough to advance money to the Indians" would not receive any recompense from the Dominion. "Red Indian

It was Decker who suggested to Deskaheh that whatever the outcome in Geneva, there was an opportunity for profit from a "movie or platform demonstration" of his lectures to European audiences. Decker advised Deskaheh to take photographs and arrange for his lecture to be filmed, but the cost and technical difficulties precluded such a project. Only his last speech was recorded on radio, for media opportunities were not so easy to obtain for indigenous people in neocolonial societies. If indeed, as Michael Taussig argued in his text, "everything hinges on appearance" with respect to identity as a "relationship woven from mimesis and alterity," (replication and difference) then Taussig fails to explore issues of economic and social inequality that are integral to cultural representation. Inequality is inextricably linked to differential access to the techniques and tools of mimetic reproduction within the colonial relationship and throughout civil society.[584]

Deskaheh's pamphlet explaining his "revolt" against the British government understood the importance of media and message. His pamphlet was entitled, "Chief Deskaheh Tells Why He is Over Here Again;" for even his protests made use of specific gendered tropes and metaphors signifying the hierarchy of power between the core and the periphery. Conversational in tone, Deskaheh's treatise played upon the genre of European travel narratives, for he was the "savage" in the metropole, upbraiding, "civilization." He complained bitterly: "The officials wished to treat us as children and use the rod," describing the ideology of subordination inherent in the Puritan "errand into the wilderness," as Native cultures and leaders continued to be disempowered, marginalized and infantilized according to Eurocentric perspectives.[585]

Deskaheh conceived of a pictorial documentary on the Six Nations which would have employed "lantern slides" to accompany his lecture, which he wrote about in his

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Loan: Warning to Investors," *The Times*. London. March 13, 1923. See also, "Deskaheh: Iroquois Statesman and Patriot," (Rooseveltown, NY: Akwesasne Notes) for citation regarding the raffle.

[584] Taussig, Michael, Mimesis and Alterity: A Particular History of the Senses, (New York: Routledge, 1993), p. 133.

[585] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169, 1B., Pt. 3, Pamphlet: Chief Deskaheh Tells Why He is Over here Again, August, 1923.

correspondence with George Decker. Decker discouraged Deskaheh from going ahead with this project, deriding it as "impracticable" and expensive, but also because Decker disapproved of the advisor who had worked with Deskaheh on the plan. The proposal demonstrates Deskaheh's readiness to embrace new technology and methods of communication and adapt it to further his own objectives, apart from Decker. In this respect, he was more innovative than his legal advisor for he realized the slides "would make very good propaganda before the public." It also sheds light on how Deskaheh would have represented the Six Nations in terms of national symbols. Deskaheh envisioned slides showing the capital of Six Nations at Ohsweken, with the brick Council Building as the seat of Six Nations' government. He also planned to show a Council session in progress, underscoring the rituals with which the sessions opened, the speeches, prayers and recitations in our Native languages, as well as the wampum belts made in the early seventeenth-century, which recorded the articles of the Great Law, as well as the ceremonial mace signifying the power of the League.[586] Most interesting was his desire to depict Six Nations society not as a fixed and unchanging "culture garden" studied by ethnologists, but as a dynamic and syncretic blend of Native traditions and modern life.[587] Deskaheh wanted to present slides highlighting "progress," in education, literature, art, history and the agricultural society, as well as organization of Native cultural groups such as the Indian Brass Band and Native games such as lacrosse and snow-snake.[588]

During the European phase of Deskaheh's representation of the Six Nations' claim, his letterhead designated him as, "Speaker of the Ho-De-No-Sau-Nees Confederation of the Grand River." He also adapted the League of Nations' institutional

[586] These artifacts disappeared during the 1924 raid on the Reserve by police and are described in numerous accounts in the local press, for example, see articles such as "Wampum Belts Believed Taken Out of Canada, February 8, 1972 and "Missing Mace, Wampum Still Haven't Been Found," February 9, 1972 both in the *Brantford Expositor*.

[587] Fabian, Johannes, Time and the Other: How Anthropology Makes its Object, (New York: Columbia University Press, 1983), p. 47.

[588] Letter and attached memorandum from Chief Deskaheh to George Decker, undated, but received by Decker on December 24, 1923. Response from George Decker to Chief Deskaheh, December 24, 1923 and letter from Decker to Deskaheh, February 18, 1924.

phraseology to the Confederacy by referring to the "United Nations of the Mohawks, Cayugas, Onondagas, Oneidas, Senecas and Tuscaroras" and to himself as their "delegate and representative," or his election in 1921 as "President and Speaker."[589] These designations also point to one of the significant silences in the historical record surrounding the claim of Six Nations' sovereignty pursued by Deskaheh before the League. There was little discussion of the relationship between the "Iroquois" of New York State, constituting a mirror-image of their own Confederacy, distinct, but only loosely linked to the Council on the Grand River territory. It was expedient for Deskaheh and the Council at Grand River to assert their primacy in representing all the Iroquois nations in Europe. Oddly, this was not contested at home or abroad. The Loyalists and "Friends of the Indian," also viewed the Six Nations of the Grand River population as the critical link to the past, privileging the British connection to the Natives, rather than the American. Sir William Johnson's descendant, for instance, Mrs. Milne-Howe, viewed this saga as a seamless narrative and was repulsed by Canada's "shabby" treatment of their former allies. Writing directly to Prime Minister McKenzie King, she warned him to "listen to the chiefs and not solely to the Indian Department officials."[590]

The Six Nations' claim to sovereignty in Geneva shifted in concert with the repeated appeals to the League of Nations, from "home-rule" to an indeterminate version of indigenous self-determination. The local dispute with the Canadian government remained conceptually rooted in the desire for "home-rule," ostensibly guaranteed by their treaty rights. Even though Decker had encouraged presentation of the status case in an international forum, he initially viewed this simply as political leverage to pressure the Dominion government to reach a settlement through impartial arbitration. The Acting Secretary General, Inazo Nitobe, reported that Six Nations had even applied for membership, although this request was not acted upon.[591] Nitobe indicated to Joseph

[589] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Petition to King George V from Chief Deskaheh, Speaker of the Hodenosaunees Confederation of the Grand River, October 22, 1924.

[590] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B. Pt. 3, Letter to the Prime Minister of Canada, Mackenzie King, from Ms. Milne Holme, Edinburgh, Scotland, October 1, 1923.

Pope that the President of the Assembly "did not consider it possible to take any action in the matter."[592] Decker warned Deskaheh not to apply for regular membership, for he believed that the application would be rejected "on the ground that you were not a full, self-governing nation within the contemplation of the covenant."[593]

George Decker argued otherwise, though, when he wrote an article for the magazine, "Current History" to explicate his legal defense of the Six Nations community. He compared the policies of both Canada and the United States toward the Iroquois, in regard to citizenship, treaties, legal status and criminal law enforcement. The main point of the article was to discuss the issue of international justice, for Decker argued tribal status had never been adjudicated before a "disinterested" and impartial tribunal. He discussed this new sphere of jurisprudence, complicated by international boundaries, treaty obligations – both stated and implied – along with competing claims of authority, sovereignty and jurisdiction. Having represented the Iroquois in New York for decades, Decker was conversant in the American approach to these issues, at both the national and state levels.[594]

Decker cited an instance in which the Federal government sided with the Oneida tribe against New York State, supporting their claim to their old territory and reinstating them, overruling the State courts. Yet, Decker lamented the decline of federal protection for Indian rights and treaties, as well. He underscored the need for protection of indigenous people against the governments' paternalistic policies and self-aggrandizing, aggressive officials, in both Canada and the United States. Decker marked the

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[591] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B. Pt. 3, Letter to Joseph Pope, Under Secretary of State for External Affairs, from Inazo Nitobe, Acting Secretary General, League of Nations, November 6, 1923.

[592] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B. Pt. 3, Memorandum to George P. Graham, Minister of National Defense from Duncan Scott, Deputy Superintendent General of Indian Affairs, December 5, 1923.

[593] Letter from George Decker to Chief Deskaheh, February 12, 1924, in the George Decker Collection, St. John Fisher College, Rochester, New York.

[594] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, "War on the Peaceful Iroquois," by George Decker, in *Current History,* September, 1923.

"vindictive" Canadian raid on the Grand River Reserve by the Mounties, as the turning point in the Six Nations struggle. He noted that Six Nations, while independent, self-governing and self-sufficient, had no military capability against such armed aggression – all they had left was their appeal to international law. The irony was that the ostensibly "backward," Iroquois Confederacy which had forged its own "Great Law," in 1400, now had no other recourse in the twentieth-century, but to appeal to the ineffective and beleaguered, League of Nations, for justice. Envisioned through the progressive ideology of Woodrow Wilson, the League would fail to protect one of the oldest indigenous institutions of government in North America and ultimately refuse to extend any support to the ancient League of Peace. Rejecting Six Nations' legal arguments and disavowing Decker's simple belief that: "The right of the red folk to survive as such rests on the same foundation as rests the right of any other people," ultimately, the League of Nations could not even ensure its own survival.[595]

Although Deskaheh was cognizant of the complex distinctions involved in an application for protection, under the League covenant, he was also increasingly aware of League's structural limitations. He resolved to challenge obstacles that limited consideration of the Six Nations' status. He worked on his own version of "proof" of the Six Nations' independent status, a "Memorandum of Facts," which Decker dryly noted was "very good, but needs a great deal of correction in grammar."[596] Learning to compose legal narratives and speeches in English to deliver before an international diplomatic audience at the League, posed an immeasurable challenge to the Native, Cayuga speaker. Deskaheh embodies a challenge to conventional theory, for if Deskaheh represents a "subaltern," he not only learns the master's language, he uses it to deconstruct the colonial context for aboriginal relations. Deskaheh displaces and resists colonial oppression not with essentialism, but rather by contesting the binary divisions that separate indigenous people from Western societies. Deskaheh continually and seamlessly created new Native perspectives, forms and norms that encompassed, yet

[595] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, pt. 3., "War on the Peaceful Iroquois," by George Decker, in *Current History*, September, 1923.

[596] Letter from Decker to Chief Deskaheh, February 7, 1924.

eclipsed "tradition."[597] The marked evolution in his prose, both in style and content, as well as his understanding of ideology, international law and legal argument is remarkable when he is abroad.

Under increasing pressure, Deskaheh resolved to stay the course, even when Decker became discouraged with the apparent lack of progress in Europe and advised him to come home: "...in my own opinion, I would prefer to stay in Europe until we would be able to find out if there is any justice in the League of Nations."[598] In September 1923, Eric Drummond, the Secretary General, informed Deskaheh that no action would be taken on the Six Nations matter, but still, Deskaheh persisted in his daily efforts.[599] He traveled to Paris in December to lobby the Council delegates discussing the League's agenda, pressing them to view Six Nations as a sovereign entity and seeking the creation of a commission under the League's auspices to clarify Six Nations's status.[600] After Decker had differed with advice tendered to Deskaheh by a European advisor, displeased with the Chief, one gains a rare glimpse of the personal toll exacted from Deskaheh, the individual. One also senses Deskaheh's implacable resolve to bring the case to a satisfactory conclusion:

> I do hope you will understand what I have said to you, and this is my own statement, I am all alone out here so therefore I must to [sic] my own writing, I may say to you, by this time you have got

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[597] See discussion of Gayatri Spivak's article, "Can the Subaltern Speak?: Speculations on Widow Sacrifice," as a failure in that postmodern projects to recover this voice merely reflect an underlying essentialism and that an individual subject from a 'subaltern' cannot 'know and speak itself,' in The Post-Colonial Studies Reader, edited by Bill Ashcroft, et al., (New York: Routledge, 1995), p. 8-9.

[598] Letter from Chief Deskaheh to Decker, February 15, 1924.

[599] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, Letter to "Mr. Deskaheh," Speaker, Six Nations Council, from Eric Drummond, Secretary General of the League of Nations, Geneva, Switzerland, September 7, 1923.

[600] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, Press clipping, "Indian Chief From Canada Appears Before Meeting League of Nations, Paris, December 10, 1923. This article mentions a lawyer from Seattle, H. T. Scott Huntington, who was advising Chief Deskaheh at the Paris session of the League. See also, clipping from the *Brantford Expositor*, entitled, "Deskaheh in appeal to the World League."

> my letters the last one I wrote the other day and it is more encouraging to remain in Europe.
>
> I am just getting used to this part of the world and now you want me to come back...

In the homespun, unadorned language that characterized his missives to Decker, he added in a postscript, "I think I will be able to drive the nail home."[601] Back on the reserve, however, even among Deskaheh's supporters there was some doubt about what was being accomplished at the League of Nations. Deskaheh had been in Europe for many months and his leadership and perspicacity were greatly missed. Several Six Nations people even sent their own inquiries to the Colonial Secretary in London, posing searching questions about identity, status and the possible political ramifications of the case at the international level.[602]

Deskaheh continued to lobby the international delegates in his lonely quest for recognition of the principle of retained sovereignty for his people and to protest against Canada's policy of internal colonialism, long before these legal and political concepts were fashionable in international diplomatic discourse. As an international legal framework was developed to include and elucidate the relations of indigenous peoples to modern nation states, there was a greater recognition of the inherent right of the soil of Native groups and a recognition of differing levels of sovereignty within existing nations to accommodate the "nations within."[603] Deskaheh refashioned himself as a professional, diplomatic emissary, eschewing his Native attire when petitioning the delegates, but wearing buckskin and feathers, when he sought heightened visibility for his cause. The

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[601] Letter from Chief Deskaheh to Decker, January 28, 1924.

[602] Public Archives of Canada, Indian Affairs, Volume 2285, File 57, 169-1B, Pt. 3. Letter from Freeman Isaacs, Six Nations Reserve, Brantford, Ontario to the Colonial Secretary, Deveonshire, London, September 29, 1923.

[603] The phrase "nations within" was made popular in Indian country by Vine Deloria, the Native lawyer who published many works critical of the relations of the United States with First Nations. He published a text, with Clifford Lytle, entitled The Nations Within: The Past and Future of American Indian Sovereignty, (Austin: University of Texas Press, 1984).

publicity accorded to Indians traveling abroad was well documented, for the colonial fetish with "traditional," attire worn by authentic representatives of "primitive" cultures was waxing, rather than waning in the early twentieth-century. For example, when a delegation of Arapaho Indians from Wyoming arrived in Paris in December 1923, to protest their lack of privileges in the United States, rail traffic halted because their presence provoked such curiosity.[604] In contrast, when Deskaheh stood at the entry to the Paris City Hall a week later, "indefatigably button-holing the delegates" as they entered a meeting of the League Council, his understated style provoked commentary:

> Unadorned with feathers, beads or moccasins, and wearing a sack suit and slouch hat, the big chief, although without tomahawk or war paint, is just as earnestly on the war path as his ancestors who fought the British red coats and French regulars in the American forests.[605]

There was no escape from the ethnographic present for Deskaheh, but he astutely used it to his advantage.[606] He was represented as a figure of alterity, even when his activities and manner resembled that of a diplomat armed with a business card, rather than the chief on the "war-path."

A direct and simple style distinguished Deskaheh's interpretation of Six Nations' appeal from the European lawyers who were engaged by the beneficent societies to craft the Six Nations brief to the League. Deskaheh and the Confederacy Council remained fixed upon the straightforward violation of rights of the Six Nations' people by the Dominion, in clear and concrete terms. The Council strenuously objected to the

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[604] "Indians Startle Paris," *New York Times*. December 14, 1923. p.22.

[605] "Iroquois Chief Asks League Recognition: Deskaheh of Ontario Says King George III Treated with Six Nations as Independent," *New York Times*. December 23, 1923. Section II: p. 3.

[606] For an insightful discussion of the "politics of time" in cultural anthropology, see Johannes Fabian's text, Time and the Other: How Anthropology Makes its Object, (New York: Columbia University Press, 1983), p. 31 and p. 86. Fabian points to the "…persistent and systematic tendency to place the referent of anthropology in a Time other than the present…" This language clearly emerges throughout the press coverage of Deskaheh in Europe and is part of his consciousness as he is observed and negotiates his role as the "Other."

stationing of detachments of the Royal Mounted Police on the reserve and deplored their abusive manner toward Indian people. The chiefs conceived of Six Nations' sovereignty as retention of local control over day-to-day decisions, their internal affairs, budget and diplomacy, without oversight from the Indian Office. Straightforward affairs that concerned the chiefs, in this period, were the appointment of a doctor to serve the community and regulation of cutting wood on the reserve for fuel, agriculture, reinvigoration of Six Nations' culture and relations with local, provincial and Dominion government. They objected to Canadian authorities' encroachment over civil and criminal affairs; specifically, the establishment of courts on the reserve to try Indian cases, such as land disputes which had always been handled by the Confederacy Council.[607] Chief David Hill warned: "The [Indian] Department intends to ignore the Council altogether and the Mounties to interfere with the functioning of the S. N. [Six Nations] Council is one reason that they are planting right at the door [of] our Council in our National buildings erected for a special purpose."[608]

By March 1924, the Canadian government finally transmitted a point-by-point refutation of Deskaheh's "Redman's Appeal to Justice," for circulation among the delegates to the League of Nations. In a report drafted by Duncan Scott, the Canadian government denied the possibility of even quasi-independent status for the Six Nations, insisting upon Canada's right to administer Native affairs and stipulating that members of the Six Nations were subjects of the British crown residing in the Dominion. Flatly denying any attempt to force a change in "tribal" government, Scott's report presaged the rationale for the imposition of an elected system on the reserve:

> ...the Council represented by Mr. Levi General is selected by a hereditary system. The method adopted for the selection of Chiefs is a survival of a primitive matriarchal form of Government whereby the voting power rests solely with the oldest women of the clans of which the Six Nations are composed. It is not

[607] Public Archives of Canada, RG 25, Volume 1330, File 3162, Pt. 1, Assertion of Sovereignty of the Six Nations, Petition to King George V, from Chief Deskaheh, Speaker of the Hodenosaunees Confederation of the Grand River, October 22, 1924.

[608] Letter from David Hill to Decker, November 26, 1923.

> necessary that the Indian should continue this antiquated form of Government as the Indian Act...provides machinery for a simple elective system...the Indians are given a certain measure of local autonomy. At the meeting of the Council which are usually held once a month the Indian Agent occupied the chair and business is conducted in a regular manner...[609]

The regulation of Native affairs Scott envisioned, of course, did not involve any role for women. As part of an over-arching policy of Indian "advancement," the intent of the Indian Act was quite gender specific, for it attempted to end the matriarchal forms and norms around which Native societies developed and coalesced. The denigration and diminution of the existing Confederacy Council and of its designated representative, pointedly referred to as, "Mr. Levi General," was understated in comparison to the attack within the Dominion where it was much more derogatory.

Duncan Scott's belief in the righteousness of his Indian policy amounting to acculturation and termination was cloaked beneath the veil of progressive assimilation. This view was reinforced in January 1923 by a report issued by the Board of Indian Commissioners written by Commissioner Samuel Elliot on the state of the Iroquois' reservations in New York State. Dr. Elliot attended a meeting of the Indian Welfare Association during November 1922. This conference included many "friends of the Indian" notably, philanthropic groups active in "saving" Indians from degradation and extinction. State officials from a range of health and human services agencies including several Indian leaders and representatives from a special state commission met to discuss a report ordered by the New York State legislature in 1919 surveying conditions for Iroquois Indians in the state. [610] At the Federal level the Board of Indian Commissioners

[609] Copy of the "Statement Respecting the Six Nations Appeal to the League of Nations," December 27, 1923 in the George Decker Collection, St. John Fisher College, Rochester, New York. This appears to be a somewhat abridged version of the actual document, forwarded by Chief Deskaheh to Decker so that Decker might formulate a rebuttal. Deskaheh mentioned to Decker that he had a very difficult time obtaining the document in Geneva, for it was circulated among delegates of the League.

[610] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, "Extract from Fifty-Fifth Report of Board of Indian Commissioners United States of America 1923, New York Indians," stamped January 14, 1924.

operated under the authority of the Department of Interior and was responsible for producing an annual report on the state of Indians within the United States.

Dr. Elliot revealed there had been considerable disagreement on the state commission leading to a rift between the chairman of the commission, Commissioner Everett, and the other members. They had refused to sign the report Everett submitted on the grounds that they were not consulted about the contents. Commissioner Elliot labeled Everett's report, as well as the State Commission a total failure. Elliot clearly saw Everett as an obstacle, for encouraging Indians' hopes for the settlement of their land claims in Western New York, with a concomitant cash settlement.

Dr. Samuel Elliot claimed that the consensus of those at the state conference was that conditions were rapidly worsening on the New York reservations, citing rampant "idleness and lawlessness." Elliot was clearly frustrated at Indians' lack of progress and raged at the State government's impotence: "It is intolerable that microscopic nations, not accountable to the State or Federal authorities should be permitted or encouraged to persist in the midst of an American civilization." Elliot simply viewed the reservations as nothing but "sources of physical and moral contamination," which he depicted as slums in the wilderness.[611] State representatives wanted Congress to transfer all authority for the Six Nations' Indians in New York from the Federal to the State government, for enforcement of law and order. Seeking a sweeping mandate for New York, the commission sought power to act in any other matters "not expressly forbidden by the Constitution of the United States or by treaty."[612] Of course, the removal and restriction of Native peoples to reservations had deep and lasting effects, isolating Natives from mainstream society. It also served to create "ethonographic gardens" often reinforcing

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[611] I owe this description to Anthony F. C. Wallace, who used it as a chapter title in his text, The Death and Rebirth of the Seneca, (NewYork: Vintage Books, 1972) p. 184, a somewhat dated, but still instructive text on the sweeping changes that befell the Seneca nation after the Revolutionary War. His book is notable for the psycho-social interpretation he rendered depicting social breakdown of Native cultures following the American Revolution and seizure of Native land through the process of internal colonialism.

[612] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, "Extract from Fifty-Fifth Report of Board of Indian Commissioners United States of America 1923, New York Indians," stamped January 14, 1924.

negative characterizations of Native enclaves as poor and barren areas, to public officials and agencies charged with oversight of the reservations, as well as anthropologists.[613]

Scott found a kindred spirit in Dr. Elliot, with whom he corresponded. Elliot, like Scott, had ready solutions as the bureaucratic "expert," for the problems of Iroquoian societies. Elliot argued: "The way out of our difficulty in regard to these people is perfectly plain…" Of course, Elliot blamed the Indians: "…who do not wish to take upon themselves the responsibilities of citizenship and they have always been able to block the legislation which is intended to secure their welfare and their legal and property rights."[614] Canadian policy toward Native cultures moved more slowly and deliberately perhaps, but was just as ethnocentric as the ideology of acculturation and policy of detribalization permeating the councils of the "friends of the Indians" in the United States.

Yet, Duncan Scott thought so highly of Elliot's very negative report that he recommended it to the supercilious Superintendent at Six Nations, Indian Agent C. E. Morgan, remarking, "…the statements contained in the report have a very pertinent bearing upon the present situation at Ohsweken. Those who have the interests of these American Iroquois at heart desire to secure for them a status similar to that enjoyed by the Six Nations in this country."[615] The nexus between Morgan and Scott was an unfortunate pairing, for Scott needed a tempering influence, rather than the harsh perspective of a factotum of the Boer War. Morgan was a bureaucratic mercenary,

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[613] See Fabian, Johannes, Time and the Other: How Anthropology Makes its Object, (New York: Columbia University Press, 1983), p. 52. Fabian argues that by eliminating historical time, or by making it relative, an ethnographer creates a particular critical distance, allowing the creation of categories in opposition – eliminating the sense of "shared time" which would place peoples on a more equivalent footing. This distance then allows the ethnographer to make sweeping generalizations about the particular culture being described by the ostensibly objective, authoritative observed. It would appear that the groups known as friends of the Indians operated in much the same way.

[614] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, Letter from Samuel A. Elliot, Board of Indian Commissioners, Washington, DC to Duncan Scott, Deputy Superintendent General of Indian Affairs, Ottawa, January 17, 1924.

[615] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 169-1B, Pt. 3, Letter to Colonel Morgan, Indian Agent, Brantford, Ontario, from Duncan Scott, Deputy Superintendent General, Ottawa, January 11, 1924.

oppressive, arrogant and officious. For all of his annoying proclamations, Scott was a Canadian "progressive" and viewed Indian policy as vested in perpetuating an agenda of Christian morality, "civilization," education, law and order that would sweep away all vestiges of a "primitive" culture and allow Native people to be included in the Canadian nation. This view was markedly different from the colonial policies Morgan had been familiar with in South Africa, where Natives were viewed with racism of a different order and where there was no vision for inclusion and education of indigenous groups.

These distinctions were much in evidence in the performance of Colonel Cecil Morgan during the waning days of Confederacy rule at Six Nations.[616] Morgan was never loathe to cast aspersions upon any member of the Six Nations community, but especially reserved his ire for the followers of Deskaheh, the Mohawk Workers, singling out the Deputy Speaker of the Council, Chauncey Garlow and the Secretary, David Hill. In Morgan's letters to Scott it was quite evident that he had a contentious, imperious attitude that exacerbated his relationships with many of the Indians under his administrative charge. In fact, one of the letters written to Deskaheh from "D.R.G.," probably a close relative from the "Grand River Lands" assailed the local Superintendent "as the worst man in God's creation." The correspondent stated bitterly: "He is trying to force the Canadian Indian Act to the full extent of its power, [sic]very mean and cruel." Searching for an analogous situation to describe the circumstances that would befall Six Nations under Morgan's watch, the writer argued: "It will be more drastic than the Negro slaves in the Southern States some years ago." For example, wood-cutting for fuel and heat continued to be a sore point on the reserve, with the authorities backing the Mounted Police and imprisoning those Indians who simply sought to keep their families warm.[617]

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[616] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, Letter from Cecil Morgan, Indian Agent, Brantford, to Duncan Scott, Deputy Superintendent General, Ottawa, March 10, 1924. See also, the concepts of "soft" and "hard" racism developed by Alexander Saxton in his analysis of Jacksonian America, entitled, The Rise and Fall of the White Republic: Class Politics and Mass Culture in Nineteenth-Century America, published in London, by Verso, 1990.

[617] Public Archives of Canada, Indian Affairs, RG 25, Volume1330, File 3162, Pt. 1, This letter to Chief Deskaheh was a copy in the government files, dated March 22, 1924, forwarded by Ms. Rica Flemyng Gyll to British authorities in an effort to convince them to put pressure on Canadian officials to protect the Six Nations. See her letter, July 26, 1924 to the Secretary of State for the Colonies, in the same file. Flemyng

In the long-running disputes concerning payment of the "interest money" due to Band members and confirmation of the Chiefs' choice of the Secretary of the Council, Morgan took the unusual step of threatening the Chiefs in Council with an investigation to establish "individual and collective responsibility" for instances of rather minor financial mismanagement and carelessness. One of the Indians who initially heard the charge shouted that Morgan's accusations were simply a diversion to draw attention away from the theft of Six Nations funds by Duncan Scott. In a moment laden with irony for the Indians and probably a great deal of sly good humor, Dave Hill abruptly turned the tables on Colonel Morgan. Hill simply began to speak in Cayuga, completely marginalizing him, seizing control of the meeting.[618] Morgan, of course, continued to bluster, demanding that Hill translate the speech, but to no avail.[619] Even though he would probably hear about it later, Morgan was effectively humiliated before the Council. This happened quite frequently, for Morgan complained to Scott that the official translator for the Department, Hilton Hill, "is not the slightest use on these occasions" and even when pressed, delivered a "very superficial version." Morgan reported that the followers of Deskaheh used every opportunity to channel miscellaneous funds under their control for the support of their appeal to the League.

European Campaign

Meanwhile, Deskaheh was continuing to lobby the representatives of the nations he had contacted in the previous year, Persia, Estonia, Ireland and Panama to support the Six Nations request for the League to arbitrate their dispute with Canada.[620] He would be blocked at every turn, however, by the hand of James Ramsay MacDonald, the Labour

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Gyll kept up a steady stream of correspondence, letters and appeals which were referred from the British Colonial Office to the Governor-General of Canada throughout Deskaheh's time in Europe.

[618] I used 'Indian,' rather than the specific language because that is how Dave Hill's generation distinguished speaking in Native languages, versus English. 'Indian' was the descriptive noun used most often during for this period, not Native or Native American.

[619] Public Archives of Canada, Indian Affairs, RG 10, Volume 3231, File 582,103, Letter from Cecil Morgan, Indian Agent, to Duncan Scott, Deputy Superintendent General, Ottawa, March 10, 1924.

[620] Veatch, Richard, Canada and the League of Nations, (Toronto: University of Toronto Press, 1975).

Party leader who would form the first Labour government in 1924. As a scholar of Canada's relations within the League of Nations noted: "The total absence of any Canadian overseas offices in 1923-4, except in London and Paris, meant that Canada could present its point of view in foreign capitals only through British spokesmen…"[621] Canadian policy reflected consistent opposition to any political structure setting forth rigid obligations to mutual defense. Relations were soured within the League of Nations by Canada's insistence on revisions to Article X of the League Covenant pledging members to mutual defense which left Canadian diplomats on the defensive.[622] This meant Canada was in a potentially embarrassing position in the Assembly without allies to stave off the Six Nations challenge to its authority over its indigenous inhabitants.

The machinations had continued between sessions with the Persian delegate, Prince Arfa-ad-Dowleh, unwilling to let the Six Nations issue die at the close of the 1923 session, pressing his request for a hearing before the Assembly with the Swedish President of the Council, Hjalmar Branting. Arfa-ad-Dowleh stated that he and the other three delegates sought only, "…to give a small nation a chance of at least being heard, since it has appealed in all good faith to the League of Nations as the highest authority on international justice."[623] The Secretary-General, Eric Drummond, trying not to offend the British, challenged the position of the First Delegate from Persia. In a highly unusual move, he pressured the Persian Prince to declare whether he indeed spoke for his national government: Was Persia insistent about putting the Six Nations question on the agenda "at the request of the Persian Government?"[624] Since Branting was the key to moving the matter forward in the League he was sought out by both Drummond and Deskaheh for consultations.

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[621] Ibid., p. 100.

[622] Ibid., p. 90.

[623] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, file 3162, Pt. 1, Letter from the Persian Delegate to the Acting President of the Council of the League of Nations, January 8, 1924.

[624] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, file 3162, Pt. 1, Letter from H. Branting, President of the Council of the League of Nations to the Persian Delegate, Prince Arfa-ad-Dowleh, January 24, 1924.

The intervention of the Persian delegate began to founder almost at once, because the Secretariat argued the matter on strict and narrow procedural grounds: "In regard to the Council's considering this question at its next session, your Highness is aware that the President can only place a question of this kind on the Council agenda on the formal request of a State Member of the League."[625] As F. P. Walters, the Assistant to the Secretary-General stated, there must be more than "…a wish on the part of a delegate who is not clearly and definitely acting for his Government."[626] Walters, the assistant to the Secretary-General, managed to sound a note of sympathy for Deskaheh, stating that the Chief had not had the opportunity to be heard. Yet, Walters worked fervently behind the scenes to reassure the Canadian government of the League officials' control of the situation in Canada's favor.

The potential to address the delegates was the focus of Deskaheh's European campaign – he sought a single forum in which to address the Assembly, collectively – this was the consistent theme of his correspondence with George Decker. Iroquois oratory was a matter of cultural pride and a signifier of power and leadership, so Deskaheh was purposeful in seeking to address a session of the Assembly. Secretary-General Eric Drummond and his Assistant were nervous enough about the Chief's ability to sway the delegates to ask Sir Henry Ames, the Financial Officer of the League, to intercede with Mackenzie King, the Canadian Prime Minister to prod Canadian officials to intervene before it was too late. Ames urged Canadian officials to file a strong protest with the League of Nations, since it was thought possible in the Spring of 1924 that Six Nations would indeed get a hearing at the next session.[627] The Under-Secretary of State, Sir Joseph Pope, sent an urgent telegram to the Governor-General of Canada seeking

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[625] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, file 3162, Pt. 1, Letter from H. Branting, President of the Council of the League of Nations to the Persian Delegate, Prince Arfa-ad-Dowleh, January 24, 1924.

[626] Veatch, Richard, Canada and the League of Nations, (Toronto: University of Toronto Pres, 1975), p. 97.

[627] Ibid., p. 96-97. It is both sad and gratifying to read the competing and compelling narratives of the diplomats, the officials in Canada, the British power-brokers and Deskaheh, for there is rarely such a naked depiction of the use of power to crush a humble indigenous movement that had risen from the grass-roots to challenge the international power brokers and almost win.

policy guidance for the handling of the Six Nations question in the League, in the event of a "worst-case scenario" at the opening session on March 10, 1924. Two possible courses of action were set forth in a letter to the Governor-General – namely, to have the British representatives argue that the question not be considered at all by the Council, or to propose an adjournment until a Canadian representative might attend the session and respond.[628] The Governor-General chose the first course of action, but if that was not possible, then he instructed that the British delegates should seek an adjournment.[629]

Under the guise of formal and guarded diplomatic parlance, one senses a great deal of impatience with Canadian officials even among Canadian colleagues in the diplomatic corps, who were charged with repudiating the Six Nations case at the League of Nations. Joseph Pope, the Under-Secretary of State for External Affairs, Canada, wrote to the Prime Minister, Mackenzie King, warning that "…there has been no serious presentation of Canada's reply to the complaint of the Six Nations Indians as presented to the League of Nations,…[630] Sir Herbert Ames offered to be the unofficial conduit between the Canadian government and League officials.[631] Pope composed a revealing Memorandum to the File that explains his trepidation and marginalization. Pope stated that even after he approached Graham, the Cabinet Officer at the Assembly who had initially appeared to understand the gravity of the situation and the danger in not countering Six Nations claims, and later, Charles Stuart, the Superintendent of Indian Affairs, both "…had nothing to add to the Report of the Deputy Superintendent General of Indian Affairs." Pope sent Scott's report to the League on February 15, 1924. Pope – evidently concerned about the backlash of Scott's failing policy – stipulated in his memo

[628] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Assertion of Sovereignty of Six Nations, Coded Telegram to the Governor-General of Canada from the Secretary of State for the Colonies, March 5, 1924.

[629] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Assertion of Sovereignty of Six Nations, Coded Telegram to the Secretary of State for the Colonies from the Governor-General of Canada, March 8, 1924.

[630] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Assertion of Sovereignty of Six Nations. Memorandum to the Prime Minister from the Under-Secretary of State for External Affairs, Canada, Undated.

[631] Ibid.

of February 23, 1924, the chain of concurrences backing Scott's decision, from the Department of Justice to the Prime Minister, with Graham and Stewart backing Scott's report.[632] Bureaucrats only compose these letters to the file for one reason; to justify their own course of action and distance themselves from failed policy. It was unfortunate Duncan Scott had such a long tenure in the Department of Indian Affairs, both for the Canadian government and for Six Nations, for his authority was unquestioned for far too long, leading to rigidity and a slow response to changing circumstances.

Drummond succeeded in prodding Branting to interrogate the authority of the Persian delegate, Prince Arfa, to speak for his government, but this incident makes abundantly clear the problems of overlapping loyalties at the League of Nations. League officials maintained ties to their own national base and placed personal political interests above their commitment to international diplomacy and problem-solving, in direct contrast to the presumption of loyalty to the international body they represented. Thus, the political deck was stacked against any small nation confronting an entrenched Western power that controlled the institution, for the officials in the League were much more focused on their own future political prospects than an ideology of self-determination for oppressed peoples.

It was clearly the British Prime Minister Ramsay MacDonald who had the most power over the agenda at the League of Nations. He issued a cable to British envoys to close the door to any inquiry regarding the Six Nations dispute with Canada. MacDonald stressed that the inquiry had been already blocked by the Agenda Committee of the League and more importantly, it would be regarded as "interference in the affairs of the British Empire." He directed the British Panamanian envoy, for example: "You should make this quite plain."[633] Ramsay MacDonald apparently argued that the British Empire

[632] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Assertion of Sovereignty of Six Nations, Memorandum from Sir Joseph Pope, Under-Secretary of State for External Affairs, Canada, February 23, 1924.

[633] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Assertion of Sovereignty of Six Nations, Coded Telegram to Wallis, marked "No Distribution," No. 3, from the Foreign Office, March 4, 1924. See the reply of Braithwaite Wallis to Ramsay MacDonald, March 7, 1924, in which he states: "I have the honour to acknowledge the receipt of your cablegram No. 3 of March 4th on the

regarded the interference of the four smaller nations challenging the hegemony of Britain to suppress the Six Nations question in the Assembly, as "impertinent." Even one of the British diplomat's stationed in Panama, Major Braithwaite Wallis, rebelled at this naked use of imperial power, arguing that: "Although I made the sense of your telegram quite clear, I considered it neither advisable, nor politic, to introduce the word "impertinent," as expressed in your message. Such a word would, I feel sure, have been regarded as offensive by the Foreign Secretary."[634]

Persia was treated similarly by the British Legation, since Tehran was coldly informed that if it was to pursue its advocacy for Six Nations, its activity would simply be regarded as an "impertinent interference."[635] Parallel steps were taken in Tallinn to make sure the government understood the significance of its advocacy for Six Nations and the consequences that would follow such an initiative.[636] The British government sought to make sure that no further interference would be forthcoming with regard to the Six Nations challenge to Canada. The Irish delegate was probably dealt with in similar terms, but in a face-to-face meeting or through diplomatic channels of the Commonwealth, since there is no correspondence in the Canadian record regarding specific diplomatic instructions regarding the Irish delegate.

The British Charge d'Affaires at Tehran, Esmond Ovey, managed to acquire a memorandum written by the Persian Foreign Office when he attended a reception at the Afghan Legation. Ovey promptly forwarded the document to J. Ramsay Mac Donald, M. P, on May 10, 1924. It contained instructions from Tehran for its representatives at the League to follow the British lead on the Six Nations petition: "The [British] Foreign Office had already received information about the case and is telling its representative in

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subject of the application of the Panamanian, Irish, Estonian and Persian delegates to the Fourth Assembly."

[634] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Letter to James Ramsey MacDonald, M. P. from Braithwaite Wallis, Panama, British Legation, March 7, 1924.

[635] Veatch, Richard, Canada and the League of Nations, (Toronto: University of Toronto Press, 1975), p. 97.

[636] Ibid., p. 98.

the League that the government does not wish to interfere in the matter and that no further negotiations are to be made on the subject."[637] This document bears witness to the way the British diplomatic corps helped to thwart the valiant efforts of Deskaheh and his associates to press for a hearing at the League of Nations in 1923 and 1924.

Estonia had been approached by Deskaheh to obtain help from the League of Nations. According to a member of the British Consulate, H. Montgomery Grove, a representative of Estonia to the League, M. Pusta, was induced by a fellow member, M. Meierovics, to proffer his signature on a proposal to "take up the case of the "Six Nations," as a personal favor.[638] According to Grove, the Estonian representative "acted in this matter on his personal initiative," but was later instructed by his government not to take any further action for Six Nations, for as soon as it became clear the matter involved the British Empire the matter "was simply filed away."[639] Sadly, Deskaheh had no recourse with respect to these back-channels of power, but it remains remarkable that he came so close to getting a hearing at the League of Nations, despite the powerful forces arrayed against him. According to "private information" obtained by Grove from General Laidoner, who attended the particular "session of the League of Nations in question" at which the Estonian representative was approached by Meierovics, it was Meierovics who "was especially interested" in the case as "one that ought to be taken up." Yet, much to the Estonian's surprise Meierovics was unwilling to sign the request for the League to hear the Six Nations petition. [640] This was unfortunate, for reportedly, Deskaheh had planned to carry on his campaign at the British Empire Exhibition, where

[637] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Assertion of Sovereignty of Six Nations, Copy of Unnumbered Memorandum from the Persian Foreign Office, May 7, 1924.

[638] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Letter to J. C. T. Vaughan, Minister of the British Legation, Riga, from H. Montgomery Grove, British Consulate, April 10, 1924.

[639] Ibid.

[640] Ibid.

he might have garnered a considerable array of publicity.[641] Officials documented their worry about the sympathy the chief might garner and it would appear that Canadian diplomats were afraid that Deskaheh, would attract a considerable following at the next session.

Panama, too, fell in line with Canada and Britain as Major Braithwaite Wallis reported to Ramsay MacDonald. Wallis discussed the Six Nations case with the Foreign Secretary of Panama in which he was assured that the Foreign Secretary, after speaking to the Panamanian President, "fully realized that the question was purely a domestic one." This was all accomplished quickly and seamlessly by the British Legation, for the Governor General of Canada only received a copy of this Tehran dispatch on July 14, 1924, after the critical interventions had been accomplished. It reveals the way in which the Six Nations campaign for an international hearing was affected by the collusion of British and Canadian authorities, as well as their quiet intimidation of smaller nations that were initially receptive to the Native cause.[642]

By September 1924 Deskaheh reported in a letter to the King that he received a telegram from the Six Nations Council detailing the construction of a barracks on their lands at Grand River. He emphasized that Canadian officials "…seem determined to, [sic] to eliminate the Six Nations Indians Government, and a new Council, to be chosen by the Indian Office and sustained by force is about to be instituted, and imposed on my people." [643] By the time Deskaheh wrote this letter, the Six Nations Council was deposed and the hereditary system of government for the Six Nations was declared non-existent. Cecil Morgan declared by the third meeting of the elected council that the new council had disavowed the rights of George Decker to represent their interests.[644] Ironically,

[641] Public Archives of Canada, Indian Affairs, RG 10, volume 2286, File 57-169 – 1 C, Pt. 4, Letter from Duncan Scott to P. C. Larkin, Canadian High Commissioner, London, April 11, 1924.

[642] Public Archives of Canada, Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Letter from Esmond Ovey, British Legation, Tehran, to J. Ramsay MacDonald, May 10, 1924.

[643] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Letter to His Majesty, George V, from Chief Deskaheh, Speaker of the Hodenosaunees Confederation, October 22, 1924.

force had indeed been used to extinguish the flame of the first aboriginal League founded to promote peace among warring nations – the League of Nations had failed to protect the most vulnerable peoples in their midst, a *modus operandi* that would lead to its own institutional demise when it failed to act against oppressive powers between the World Wars. The Hague had also refused to hear the Six Nations claim before its Court of Arbitration, citing the jurisdiction of the Canadian or United States over the Six Nations.[645] The last minute maneuvering by the Six Nations attorneys, private advocates and Deskaheh had failed to persuade the diplomats that indigenous people had any rights that white nations in the West had to respect, in the infamous rhetoric of Dred Scott. A proclamation of the Canadian government simply dissolved the Council of Chiefs, but officials would learn that this too, would fail to destroy the community's loyalty to a form of government that they were proud to call a unique contribution to international forms of indigenous self-government and norms of political discourse.[646]

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[644] Public Archives of Canada, Indian Affairs, RG 10, Volume 2286, File 57, 169-1 Pt. 5), Minutes of the Elected Council, December 9, 1924.

[645] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Letter to Ramsay MacDonald, M. P. from Charles Marling, the British Legation, The Hague, October 3, 1924.

[646] "The Passing of an Hereditary Government," *The Globe*, Toronto, October 8, 1924.

Chapter Seven

Covering the Council File: Removal of the Confederacy Chiefs

The coup d'etat ending the Canadian recognition of the rule of the Six Nations Confederacy Council came not in the midst of a violent skirmish, nor as a result of a ruling in the League of Nations, but as often in modern society, in the quiet shuffling of paper – a flurry of bureaucratic reports, orders and notices. The final report issued by Lt. Col. Andrew T. Thompson after his investigation on the reserve argued that "a comparatively small number of old women have the selection of those who are entrusted with the transaction of business of the Six Nations Indian," and he charged that "men are sometimes sent to the Council who are grossly ignorant, and more than one witness alleged that even those mentally unsound had been sent there." Particularly notable was his implicit criticism of the Confederacy system as an effeminate society, unfit to govern itself. Observing that the selection of chiefs in the hereditary system was done by clan mothers, Thompson noted derisively that "…the oldest woman of the family has the say…" This ostensibly "primitive" mode of government was to be rectified by an "elective system" under the paternalistic supervision of the Indian Agent, appointed by the Indian Office. Commissioner Thompson stated that "…those advocating a change in the system of government have fully established their contention, and that an elective system should be inaugurated at the earliest possible date." Dismissive of the Confederacy's centuries of self-government under the auspices of the Great Law, Thompson declared that the Six Nations had "…no written constitution." Although he admitted the procedures of the Council of chiefs rested on "…long established custom," nevertheless since knowledge was "…transmitted by word of mouth only from generation to generation, it is impossible to ascertain the facts with exactness."[647]

[647] DIAND, Main Library, Ottawa, "Certified Copy of a Minute of a Meeting of the Committee of the Privy Council," P.C. 1629, September 17, 1924.

The Canadian government inaugurated the elective system on the reserve on October 7, 1924 when the historic Council of Chiefs was dissolved by proclamation.[648] The Indian Agent newly installed at Six Nations, the Boer War veteran Col. C. E. Morgan, mentioned previously, would be in charge during the transition to an elective system. The Proclamation was posted prominently on the doors of the 1863 Council House where the chiefs had always deliberated as a symbol of the change in authority. Along with Proclamation was a map showing the new electoral districts in which the reserve was divided. Following the submission of this report, the Six Nations were "…considered "fit" to have Part II of the Indian Act, entitled "Indian Advancement" applied to it…" – meaning that in the future, Six Nations would have an elected "Band Council," ironically, imposed to facilitate democracy, but imposed by fiat. By the Privy Council Order, the election was to be held on October 21, 1924 in Ohsweken, the site envisioned by Deskaheh as the capital of an independent Six Nations government.[649] Grand River was to be divided into six electoral districts, with two councilors to be chosen from each district. The Order in Council was passed on September 17, 1924

Morgan was the agent of enforcement at Six Nations and he more closely fit the role of colonial master, rather than the "Great White Father." He was apparently quite fond of the military appurtenances of his former command, carrying a pistol and parading arrogantly about the reserve.[650] Parodied as the archetypal colonial administrator, the Indians had quickly assigned him the sobriquet, "the Baron Munchausen of the Indian Office."[651] In turn, Morgan complained to the Indian Office that "sales and collections," were ongoing at the Reserve to fund Deskaheh's efforts to influence the League.[652]

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[648] Public Archives of Canada, RG 25, Volume 1330, File 3162, Pt. 1, Assertion of Sovereignty of the Six Nations, "The Passing of an Hereditary Government," *The Globe*, Toronto, October 8, 1924.

[649] DIAND, Main Library, Ottawa, "Certified Copy of a Minute of a Meeting of the Committee of the Privy Council," P.C. 1629, September 17, 1924.

[650] E. Brian Titley, A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada. (Vancouver: University of Columbia Press, 1986) p.125.

[651] Letter from David Hill to George Decker, November 14, 1924, in the George Decker Collection, St. John Fisher College, Rochester, New York.

Deskaheh was still earnestly at work in Geneva lining up support for the Six Nations appeal, vowing to work for years if he could advance the cause, as he told George Decker in their frequent correspondence. He put great store in the popularity of his lectures in Italy and Switzerland to attract supporters to the Six Nations case. He noted that after the lectures people passed resolutions seeking support of their governments for Six Nations. "I beg to enclose you translation of Resolutions voted by the General Council of the League for the Defense of the Aborigenes on Sept. 6th, and by Public Meetings in Geneva on Sept. 28th and 29th, 1923…"[653] Decker gently warned Deskaheh not to put too much stock in such public displays: "I trust that you will appreciate that public meetings made up of curious people who may listen to your story with interest and look at your costume with delight, have but a limited usefulness for you."[654] Decker also admonished Deskaheh not to sell the rights to his lectures, valuable photographs or any film rights, until he was able to get sound objective advice and restrict their use.[655] Deskaheh was seriously considering making a film to raise money for the Six Nations legal effort: "…I believe even now if I had only a little movie for myself and some pictures which we suggested some time ago I could coin all kinds of money in Europe especially, but however we will see what we can do latter [sic] on."[656]

George Decker sent Deskaheh a book about Gandhi, which Deskaheh read eagerly, remarking to the attorney that the "…mounties are going to put me in a jail so it looks to me I will be treated just like Gandhi.." Deskaheh had received a letter from his

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[652] Public Archives of Canada, Indian Affairs, RG 10, Volume 2285, File 57, 1691B, Pt. 3, Handwritten note from Cecil Morgan, Superintendent, accompanying clipping from the *Brantford Expositor*, entitled, "Chief Deskaheh in Appeal to the World League, in December 10, 1923.

[653] Letter from Chief Deskaheh to George Decker, October 4, 1923, in the George Decker Collection, St. John Fisher College, Rochester, New York

[654] Letter from George Decker to Chief Deskaheh, Undated, but referencing an article dated December 22, 1923 and in chronological order of correspondence, in the George Decker Collection, St. John Fisher College, Rochester, New York

[655] Letter from George Decker to Chief Deskaheh, February 18, 1924, in the George Decker Collection, St. John Fisher College, Rochester, New York

[656] Letter from Chief Deskaheh to George Decker, March 6, 1924, in the George Decker Collection, St. John Fisher College, Rochester, New York

daughter, Rachel, that the Canadian government seemed afraid of him and was eager to imprison him upon his return to Canada.[657] The Chief drew strength from Gandhi's triumph over the British and the power the Indian people showed in the face of imperial oppression. Decker put forth suggestion that if the attempt to persuade the League of Nations failed in Geneva, then the Six Nations people might "pursue the Ghandi [sic] policy of passive noncorroboration [sic]."[658] This indeed would prove to be a good cultural fit with Six Nations people, throughout the twentieth-century, as they continued to refuse to participate in the democratic system imposed upon them.

Decker and the European friends of the Chief seemed concerned about Deskaheh's health, for in June, 1924 the Chief was suddenly taken ill and was sent to recuperate at a hotel near Geneva, telling Decker: "…I was not able to read those letters because I was very sick, and I had to have a doctor and Nurse at once to save my live, [sic] and now I am out here at this Hotel trying to improved [sic] my health to change the air, the Doctor told me to do so."[659] It seems probable that Deskaheh had a case of severe bronchitis. As the Chief noted in his correspondence to his friend, he was all alone in Geneva – the toll of fund-raising, lecturing and lobbying for the Six Nations was considerable, yet he never complained. I do not think that anyone, even George Decker, truly understood the strain Deskaheh was under until this entire venture collapsed, for the chief was fervently trying to protect his people without reckoning on the personal cost to himself. The failure to secure any hearing in the League of Nations was certainly discouraging and had to be a source of consternation for the Chief. Encouraging Deskaheh, a London advisor, W. H. Stoker reassured him: "You have done your very best and no one can reproach you for having left a stone unturned."[660] Deskaheh was still

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[657] Letter from Chief Deskaheh to George Decker, August 1, 1924, in the George Decker Collection, St. John Fisher College, Rochester, New York

[658] Letter from George Decker to Chief Deskaheh, July 7, 1924, in the George Decker Collection, St. John Fisher College, Rochester, New York.

[659] Letter from Chief Deskaheh, Levi General, from the Grand Hotel Bellevue, to George Decker, June 6, 1924, in the George Decker Collection, St. John Fisher College, Rochester, New York

encouraged by the attendance at his lectures for he often remarked that his lectures were filled to overflowing. It would seem that the advocates for independence were caught unaware by the Canadian authorities, despite the blustering about warfare on the reserve, for in this letter George Decker stated: "A letter from Chauncey [Garlow] received two days ago said that everything was quiet at Grand River, so I think that there is nothing of importance liable to occur there."[661] Of course, this was a fatal miscalculation.

No one was giving up in Geneva though. Decker was already planning the next assault at the Hague's International Court of Justice. Ockleshaw-Johnson, was dispatched to write to the International Court as the next venue to try the Six Nations case. Deskaheh was planning to devote the rest of his life to pursuing justice for Six Nations. Numerous European supporters were committed to aiding Six Nations – from the international groups Deskaheh addressed to the members of the elite, whom he deliberately cultivated for their political access and financial support. Deskaheh developed a growing class and race consciousness during his years in Europe and slowly came to the realization that the Six Nations cause was about human rights, not just indigenous rights. His activities presaged an international movement in which Iroquoian leaders would be fully vested as representatives of indigenous people at international organizations. Deskaheh was resolved to go on fighting for Six Nations: "…if I do lecture more it would help [a] great deal as my contention is to fight to the end if it takes 10 years [I] will stay with them."[662] Decker advised Deskaheh to advocate the case through the International Court, with a Dutch lawyer with impeccable connections to the

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[660] Letter from W. H. Stoker to Chief Deskaheh, September 24, 1924, in the George Decker Collection, St. John Fisher College, Rochester, New York.

[661] Letter from George Decker to Chief Deskaheh, Undated, but referencing an article dated December 22, 1923 and in chronological order of correspondence, in the George Decker Collection, St. John Fisher College, Rochester, New York.

[662] Letter from Chief Deskaheh, with date 12-24-23, handwritten across the heading, from the Ho-De-No-Sau-Nees Confederation of the Grand River, to George Decker, in the George Decker Collection, St. John Fisher College, Rochester, New York.

court. Deskaheh had grown more confident in establishing vital political connections for he had learned the art of networking and was about to capitalize on his contacts.[663]

In the fall of 1924, blocked by the opposition of the Dominion and the British within the League of Nations, Deskaheh finally voiced his frustration to George Decker and admitted: "We are not able to advance any. We are not able to find any member, brave enough to bring our matter up before the Assembly."[664] Unable to obtain a hearing for the Six Nations at the League, despite their commitment and extensive preparation, the Swiss lawyers working with Deskaheh under the auspices of the International Office for the Protection of Native Races, proposed that negotiations be reopened with Canadian delegates regarding a Commission of Arbitration. This gambit simply led to a reiteration of the terms which had previously been rejected by the Six Nations' Council pursuant to Decker's advice, namely that the selection of arbitrators be confined to Canadian judges. Deskaheh displayed his continued faith in Decker, seeking his opinion as the decisive factor, along with the Council's re-confirmation of their prior decision to reject the offer. Deskaheh offered his own succinct perspective on the lawyers' proposal:

> ...they say they [sic] are nearly two hundred judges in Canada and surely out of that number, the Six Nations Council could find one or two judges [who] will be very sympathetic in their favor. My opinion of their suggestion and their idea, it would be more safer and quicker to find a needle in the strawstack, then to find a judge in Canada, to favour the Six Nation Indians, especially Indians it would be very difficulty [sic] to find even one.[665]

Deskaheh had a very dim view of the "justice" system of the Dominion, given the court's hostility to Six Nations people he had observed. He had little faith in the Dominion's

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[663] Letter from George Decker to Chief Deskaheh, December 27, 1923, in the George Decker Collection, St. John Fisher College, Rochester, New York.

[664] Letter from Chief Deskaheh to Decker, September 22, 1924.

[665] Letter from Chief Deskaheh to George Decker, October 4, 1924, [emphasis added], in the George Decker Collection, St. John Fisher College, Rochester, New York.

legal representatives to render an equitable decision when Indians were involved; racism was the impediment to any negotiated settlement based on a Canadian arbitration process.

Deskaheh was a gifted orator in his own culture, reportedly able to speak all Six languages of the Ongwehònwe.[666] Yet in the passage just quoted one can readily see the great difficulty he had in writing English. Still, Deskaheh had persevered in a milieu in which class, education, breeding and connections created formidable social boundaries to outsiders. He learned to use and manipulate the European colonial desire for difference, winning over many to his cause. As he struggled to move forward in an unfamiliar political and social environment to obtain a hearing for Six Nations he was largely silent about his own frustrations, illness and loneliness in a foreign land filled with strangers, who saw him as emblematic of Red Indians. Deskaheh would prove to be an iconic figure to his own people for he embodied the principles of the Great Law, taking on the problems of his people and leading from the perspective of a "good mind," without benefit to himself; thinking of the future of First Nations for generations in the future.[667]

Hoping to influence the Six Nations to accept Canadian arbitration, the Secretary of the Bureau International Office Pour La Defense Des Indigenes (BIDI) in Geneva, Mr. Junod, wrote directly to George Decker. Junod had arranged for a Swiss lawyer, Droin, to create a brief stating the particulars of the Six Nations case that several international experts upon review, found to be compelling, as well as George Decker. Droin had also managed to get in touch with the Canadian delegation in Geneva to open up the possibility of arbitration once again to settle the Six Nations case, which was considered a major diplomatic coup. According to the preliminary discussions, which did not included

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[666] George, Doug, (Kanentiio), "Deskaheh: An Iroquois Hero," News From Indian Country, Late April 1998, p. 9B.

[667] For an explication of the concept of the "good mind" in the Longhouse see the late Chief Jacob Thomas' book, Teachings From the Longhouse, (Toronto: Stoddart Publishing Co., 1994) p. 145. "In our teaching the Creator gave us three things. He gave us peace, power, and righteousness. He also gave us appreciation, love, respect, and generosity. This is what you carry in your mind. When you have this type of mind, you will be a good human bring and behave according to the Creator's law…You will carry peace in your mind, and no matter who you meet or where you go, you will always have this in your mind. There is no fear with a good mind."

Deskaheh, the judges would all be selected from Canada, but with Six Nations and Canada each choosing their own arbitrators on a commission, as well as umpires. Addressing Decker "as a lawyer of great experience," Junod set forth the factors impeding the appeal to the League, namely, the influence of the British and the problem that the Six Nations did not fit within the provisions of the Covenant concerning a nation or state. Crafting his argument to appeal to Decker's commitment to the rational legal discourse and sense of "real politik," Junod was most persuasive: "...there is no other recognised [sic] authority to pronounce that they are a Nation or State within the provisions. This places them outside the circle of those for whom the provisions of the Covenant of the League were intended. As a Lawyer you will readily appreciate this argument. They may not be right; but there is no authority to which the Six Nations can appeal to right what may be a legal injustice."[668] Junod also emphasized, along with British Advisor, W. H. Stoker, that this might be the last chance the Six Nations would find to settle the dispute with Canada.

Deskaheh was wary. The Six Nations people were viewed as "outside the circle" of the modern European nation states. As neo-colonial "subjects," Six Nations people were prevented *a priori*, from gaining a formal hearing. Placed at a legal and political disadvantage as an indigenous and ostensibly primitive people, kept outside of the discourse of international relations, Six Nations people learned with bitter irony that race still was granted its measure in the Wilsonian era of self-determination.[669] Replacement of one's government by a Western power such as Canada, even though the Six Nations Confederacy had existed since pre-colonial times, did not matter for it was viewed as progress rather than a call to action. Still, Junod made a telling point that a symbolic victory might well result from compelling the Dominion to accede to the decision of a

[668] Letter from Edward Junod, Secretary of the International Office for Protection of Native Races, Geneva, to George Decker, Attorney for Six Nations Confederacy Council, October 6, 1924, in the George Decker Collection, St. John Fisher College, Rochester, New York.

[669] It is instructive that the present Prime Minister of Canada, Stephen Harper refuses to sign the United Nations document for Human Rights for Native Peoples in 2007. "Of the 47 member nations of the United Nations Human Rights Council, Canada and Russia are the only countries to oppose the declaration." See article in the *Tekawennake*, "Dion Urges Harper to Sign UN Human Rights Document for Native Peoples," July 11, 2007.

panel outside conventional channels. The extra-legal tribunal would signal a special status of the Six Nations by its very existence, Junod insisted. "A State does not go to arbitration with its subjects to determine their political status within the State." This would signal a different relationship under international law, Junod insisted. Further, any public support the Six Nations had garnered would be dispelled if the Chiefs refused to participate in the settlement process offered by the Dominion.[670]

Yet, one wonders, as did Deskahah, if advisors such as W. H . Stoker might have had advance notice of the Dominion's plans to replace the Confederacy government in the next few weeks.[671] When one reads the letters to Deskaheh from Stoker insisting that the Commission would be on the "best terms that can be got," it seems as if a warning was clearly implicit in the Canadian offer: "If this opportunity is not accepted we are not likely to be offered another.." Stoker tried to explain to Deskaheh that the Chiefs needed to protect the "…status quo of the Six Nations…" while negotiations with Canada were taking place, to avoid "…disastrous results." Deskaheh knew he was facing a stark choice and he turned once again to Decker to aid him in making his decision, cabling him from Geneva: "Would appointment of arthitrator [sic] or Commissioner restricted to any Canadian be acceptable Urgent Reply."[672] Of course, Decker sought unrestricted arbitrators and an impartial umpire, while Junod and Stoker both advised him to take the deal. J. R. Ockleshaw-Johnson and Decker viewed the Canadian offer as political suicide for Six Nations – a trap to abolish the Six Nations. Deskaheh agonized over the difference his actions would make and with regard to the difference between Stoker and Ockleshaw-Johnson he remarked: "Between the two lawyers [there is] as much difference between [the] very darkest night and the very clearest day."[673] Deskaheh

[670] Letter from Edward Junod, General Secretary of the International Office for the Protection of Native Races, to George Decker, October 6, 1924, Decker Archive.

[671] Letter from Chief Deskaheh to George Decker, September 24, 1924, George Decker Collection, St. John Fisher College, Rochester, New York.

[672] Cablegram to George P. Decker from Chief Deskaheh, September 23, 1924. George Decker Collection, St. John Fisher College, Rochester, New York.

distrusted Stoker and believed in Ockleshaw-Johnson, even appointing him his European representative to continue the Six Nations fight at the Hague, but in this case he was absolutely misguided. Ockleshaw-Johnson was a confidence-man and according to Scotland Yard, he made his living "bilking" people out of their money, representing them on "bogus" claims. By 1928, he was disbarred and thus could not legally represent anyone. [674] Unfortunately, the chief did not suspect him, for initially Ockleshaw-Johnson worked earnestly for the Six Nations, writing reports and letters to further their cause. In any case Deskaheh would have been unable to pay him, so if he was intent on "bilking" Six Nations he was a very poor judge of potential targets. No harm was done to the Six Nations cause by this rather shady figure, except perhaps by association, long after this critical period.[675] George Decker and Deskaheh happened to agree with J. R. Ockleshaw-Johnson, and along with the Chiefs-in-Council, viewed this Canadian Commission as a death knell for Six Nations. The moment at which Decker would decide to embrace institutional rationality or commit to a sense of solidarity with Six Nations' continued resistance, was further complicated by dramatic developments on the reserve, of which Deskaheh and his legal advisors were unaware.

On October 11, 1924, Deskaheh wrote to Decker from his hotel in Geneva conveying his shock at the impending imposition of an elected government at Grand River: "Just a few lines to let you know I am still alive at present." The Chief certainly hoped the news report stating, "Chiefs Made by a Vote," in the London Daily Express, "is not true."[676] Decker soon informed Deskaheh that the Canadian government had issued an Order-in-Council, approved on September 17, 1924, following the

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[673] Letter to George Decker in Rochester, New York from Chief Deskaheh, Levi General, in Geneva, on September 29, 1924, George Decker Collection, St. John Fisher College, Rochester, New York.

[674] Public Archives of Canada, Pt. 2, This investigation was pursued by Duncan Scott and reported to the Under-Secretary of State for External Affairs, Dr. O. D. Skelton, in a letter dated May 18, 1929.
[675] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 1362, Assertion of Sovereignty, Pt. 2, Report from Thomas Ames, Inspector, London Police to the Royal Canadian Mounted Police, October 5, 1928.

[676] Clipping and Letter, "Chiefs Made by a Vote: Modern Methods for Red Indians, *Daily Express*, London, England, October 8, 1924, George Decker Collection, St. John Fisher College, Rochester, New York.

recommendation of the Thompson Commission to abolish the Confederacy Council in favor of an elective system as prescribed by the section of the Indian Act entitled "Indian Advancement." Decker enclosed a clipping from the *Brantford Expositor* and explained the situation at Grand River to his friend and ally:

> On Oct. 7th while the old Council was in session, Morgan appeared and gave notice of the above action, accompanied by a troop of armed Red Coats and he has posted proclamations of the foregoing all over the reservation.
>
> I cannot believe that the Canadian Government will recede now in any way from that position or continue any negotiation or authorize their representatives at Geneva to continue any negotiation with you or indeed to allow you to accept the terms offered you at Geneva.
>
> Between you and me, I very much fear that there may be an outbreak on the 21st., when the election is to take place, if it does not happen sooner.
>
> I have advised your people to stay away from the election and have nothing to do with it.[677]

Decker especially sought to reassure Deskaheh that they had both done all they could to preserve the Confederacy government. Concerned about the possibility of violence, Decker had counseled the Chiefs' supporters not to participate in the forthcoming election and this advice was taken to heart, not only in the first election, but every single one following until the present day. Significantly, in one of the only instances of Native imagery in his personal correspondence with Deskaheh, Decker wrote that neither one of them had any cause for apology "when we come to face the Great Spirit." Decker had traveled an immense epistemological and cultural distance from his initial position as a mere legal advisor, saddled with an unprofitable and troublesome dispute, to an advocate who embraced and espoused continued Six Nations' resistance. In that spirit, Decker

[677] Letter from Decker to Chief Deskaheh, October 16, 1924, George Decker Collection, St. John Fisher College, Rochester, New York.

informed Edward Junod that he could not advise the Six Nations' Council to be bound by the decision of a Canadian tribunal for not only would the result be "legally conclusive but would dispel much of the moral support now enjoyed by the Six Nations."[678]

Gradually details emerged about the manner in which the take-over of the Confederacy Council was orchestrated by Agent Morgan. Morgan, accompanied by an officer of the RCMP, Inspector Frere, read the Order-in Council to the chiefs assembled in the Agricultural Building (The Council House was under repair). The chiefs received the news in "dead silence" and Morgan affixed the proclamation to the door and left.[679] Next, the cultural symbols of the chiefs' authority were appropriated by the "squad of red coated police" under Morgan's command. Not only was the Council house itself occupied, the safe was rifled and the written records removed as well as the wampum belt used to open the Council meeting. Other wampum belts were taken from the custody of the Fire Keeper, Chief David Sky who protested, but to no avail for he was told the seizure was done under Ottawa's authority.[680] Confederacy Chief Arthur Anderson maintained throughout his life that three days after the government seized power, on October 10, 1924, Morgan and Hilton Hill, his confidential secretary, went to Sky's home with five constables and took all the wampum. Morgan stated: "On October 8, the old Council being non-existent and the wampum belts being the property of the Band, I issued search warrants to Sergeant Bridger, who obtained them from David Sky and the Council House cupboard. These, which are only minor belts or strings, are in the strong room in this office."[681] The seizure of the wampum was denied by the Canadian government but is a point of contention with the Confederacy to the present day.[682]

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[678] Letter to Edward Junod from George Decker, October 16, 1924.

[679] Public Archives of Canada, RG 10, Indian Affairs, Volume 7931, File 32-32, Pt. 3, Letter from Cecil Morgan to Duncan Scott, October 23, 1924.

[680] Decker Archive, Letter to Ed. Junod from George Decker, October 23, 1924.

[681] Public Archives of Canada,RG 10, Indian Affairs, Volume 7931, File 32-32, Pt. 3 , Letter from Cecil Morgan to Duncan Scott, October 23, 1924.

It is clear from Morgan's own letter of October 10, 1924 to Acting Deputy Superintendent General McLean that he seized the wampum from David Sky. Accompanied by Hilton Hill, his right-hand man on the reserve, and Sergeant Bridger of the RCMP, Morgan stated that he and the officer: "…to-day [sic] demanded the Six Nations wampum from its custodian, under the old Council, David Sky. [sic] David Sky says that all the best pieces are with Levi General in Europe and so only two strings were recovered from him."[683]

This was ironic for if the ancient Confederacy was being replaced for its "pagan" beliefs and primitive characteristics, why would Canadian officials care so much about its "pagan" symbols of authority and power? Wampum can be fashioned in strings or belts in rows of purple or white beads. The belts are valuable as historical artifacts to museums, but Indian Affairs officials would have no use for them.[684] This incident appears to be a signal example of a neo-colonial fascination with the artifact of a "pagan" culture; Stephen Greenblatt referred to analogous instances in his text, Marvelous Possessions. As the first European colonizers obtained wondrous objects from a non-Western culture, they used them in order to legitimate themselves in the eyes of their superiors, particularly when Christians seized "pagan" symbols.[685] Col. Morgan eloquently defended the replacement of paganism by Christianity in his letters to Scott. Morgan made a point of inviting the Christian ministers to the first meeting of the newly

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[682] Barnett, Jim, "Wampum Belts Believed Taken out of Canada," Brantford Expositor, February 8, 1972. Hill became one of the councilors of the first elected band council and later, became a Chief Clerk in the Department of Indian Affairs.

[683] Public Archives of Canada, RG 10, Volume 7931, File 32-32, Pt. 3, Letter to Duncan Scott, Deputy Superintendent General, from Cecil Morgan, October 17, 1924, There was no doubt about what role Morgan and Hilton Hill played in this episode, for Morgan went so far as to ask Duncan Scott for three framed and signed proclamations of the Proclamations of the new regime at Grand River, one for the office, one for himself and one for Hilton Hill, "whose assistance and activities deserve it…" Scott readily assented.

[684] Public Archives of Canada, RG 10, Indian Affairs, Volume 7931, File 32-32, Pt. 3, Letter from Cecil Morgan to the Acting Deputy Superintendent General of Indian Affairs, McLean, October 10, 1924.

[685] Stephen Greenblatt, Marvelous Possessions: The Wonder of the New World, (Chicago: University of Chicago Press, 1991), p. 83. Near the conclusion of this particular chapter in this illuminating work, Greenblatt states: "The founding action of Christian imperialism is a christening. Such a christening entails the cancellation of the Native name – the erasure of the alien, perhaps demonic identity – and hence a kind of making new; it is at once an exorcism, an appropriation, and a gift…the movement from ignorance to knowledge, the taking of possession, the conferral of identity…"

acclaimed council, for five out of six districts 'elected' their representative by acclamation, for lack of candidates. Morgan sought to mark this historic moment of the council's "…emergence into light from paganism – the turning of its footsteps to the road of Christian enlightenment, prosperity and sane government." He sought an interdenominational gathering to "…appeal to the Almighty to help and guide the steps of the New Council in the right way."

Ironically, none of the individuals who seized this wampum could understand or "read it" – neither the RCMP, nor Superintendent Morgan. They certainly were not interested in using it during their religious service to inaugurate the elected council. The officials who took the wampum did not know really understand what they had obtained – the significance of the color of the beads, why it was assembled in strings or belts or the meaning of the patterns on a particular belt – they appeared to seize it as looters seize anything at hand. Lastly, they could not interpret the figures and symbols of the belts in an historical context. It would take decades for the anthropological experts to understand that Natives of the Six Nations Reserve, such as Chief Jake Thomas, were still able to interpret this information up to the late-twentieth century.[686]

Nevertheless, even Cecil Morgan, the over-bearing Indian Superintendent, saw that these objects had some value. He understood that to possess these objects was to gain a powerful symbol of a culture different from his own – a culture he consistently denounced as pagan. Morgan certainly sought to impress Scott, by seizing these symbols. He was enacting "the ritual of possession" of the colonizer.[687] Morgan was certainly given leeway to handle the operation himself and thanked Scott for leaving it so "freely in my hands." As far as the use of a rather substantial force of the RCMP of

[686] See Annemarie Shimony Anrod, Conservatism Among the Iroquois at the Six Nations Reserve, (Syracuse: Syracuse University Press, 1994) for an explanation of the rituals and practices of the Longhouse and other spiritual knowledge. Pamphlets reprinted on the Six Nations Reserve go into great detail about the significance of many of these belts and strings and there are several articles regarding Cayuga Chief, Jake Thomas, who was able to "read" the wampum belts returned to Six Nations from the Museum of the American Indian, Heye Foundation, New York in 1991and the Canadian Museum of Civilization, Ottawa in 1988, long after many academic authorities thought this knowledge was lost.

[687] Stephen Greenblatt, Marvelous Possessions: The Wonder of the New World, Chicago: University of Chicago Press, 1991), p. 57.

sixteen men on the small territory, Morgan assured Scott that it had discouraged any resistance and that the "end justified the means."[688] Morgan maintained: "I would point out that it is impossible to obtain satisfactory results on an occasion of this kind unless the Department feels that it has sufficient confidence in its representatives to give him some latitude and rely upon his good sense and discretion."[689] Yet, Duncan Scott would make a practice of over-ruling Morgan's more outrageous ideas and practices – for even Scott was not willing to go as far as Morgan in suppressing Six Nations challenges to Canadian authority. Morgan had even wanted Duncan Scott to warn the Confederacy supporters that: "If you continue to give trouble, to oppose the Council elected by your own ballot, and to disseminated treason amongst other Indians the Government will accede to your request to separate yourselves from the loyal section of your Band a Reserve will be allotted to you in the extreme Northern Ontario where you will be out of mischief." This "bluff," fortunately, was ignored by Scott, along with many of Morgan's outrageous ideas.[690]

Wampum belts were not an openly traded commodity; they were generally hidden and protected by most people within Native cultures, but certainly some were sold to collectors. Veneration for wampum, as well as ceremonial objects such as false faces, was indicative of a cultural boundary between people from Six Nations and Euro-American cultures. If you were a speculator in tribal culture – art, texts, objects, recordings, photographs – in relation to the market-place, Native artifacts would only increase in value as more and more Native cultures were obliterated. In other words, the value of these items would rise in proportion to their inaccessibility and historical value. Surprisingly, the strings of wampum that were used at the beginning of the Confederacy

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[688] Public Archives of Canada, RG 10, Indian Affairs, Volume 7931, File 32-32, Pt. 3, Letter to Duncan Scott, Deputy Superintendent General of Indian Affairs from Col. Cecil Morgan, Superintendent of Six Nations, Octboer 23, 1924.

[689] Public Archives of Canada, RG 10, Indian Affairs, Volume 7931, File 32-32, Pt. 3, Letter to J. McLean, Acting Deputy Superintendent General of Indian Affairs from Col. Cecil Morgan, Superintendent of Six Nations, October 10, 1924.

[690] Public Archives of Canada, RG 10, Indian Affairs, Volume 7931, File 32-32, Pt. 3, Letter to Duncan Scott, Deputy Superintendent General of Indian Affairs from Col. Cecil Morgan, Superintendent of Six Nations, January 11, 1926.

Council meetings, known as the "mace" were reportedly returned by Chief Councillor Montour in 1988 after being located in the vault of the Elected Council.[691]

This overthrow of the order of things at first appeared to stun the Six Nations community. Alex General, Deskaheh's brother, informed Decker that at first, "People was so struck they stayed back all but a few and gave him [Morgan] a bill of protest."[692] As shock gave way to resistance, however, 800 adults on the reserve signed a resolution opposing the action of the Dominion. As George Decker reported to Ed. Junod of the International Bureau for Defense of Indigenes People, although the election called for the choice of twelve councilors, "it turned out that twelve Six Nations men willing to serve could not be found to place in nomination without including several Six Nation in the employ of the Canadian Government…" As a result some councilors were placed on the ballot by acclamation. Decker also alleged that the Canadian officials broke open the safe in the Council House and stole the records of the Confederacy and the sacred seventeenth-century wampum belts placed there for safekeeping.[693] During the election of the "Mounties Council" Chief David Hill, Sr. reported that only 26 people voted in the first "democratic" election (Hill argued that each person who voted, voted twice).[694]

The twelve councilors included William Smith, Joseph Hill, William Jamieson, Welby Davis, John Lickers, David General, Fred Johnson, Hilton Hill, Frank Monture, Archibald Russell, Archie Lickers, and Frank Miller.[695] David General was the brother of Deskaheh underscoring how complicated the relations are within Six Nations families and councils. Six Nations members often had close ties familial ties and relationships to

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[691] Appendix H, "Minute Book of the Six Nations Hereditary Council of Chiefs," in The Constitution of the Five Nations, edited by Wm. Guy Spittal, (Ohsweken, Ontario: Iroqrafts), p. 230.

[692] Letter from Alex General to Decker, October 22, 1924, George Decker Collection, St. John Fisher College, Rochester, New York.

[693] Letter to Ed. Junod, International Bureau, from George P. Decker, October 23, 1924, George Decker Collection, St. John Fisher College, Rochester, New York.

[694] Letter to Decker from David Hill, November 14, 1924. The Chief alleged that although the press reported that 52 votes were cast, 26 voters had cast two votes each.

[695] "Six Nations Council Holds First Meeting," *Toronto Star*, October 22, 1924.

other groups – clans, nations or ideologies.[696] For example, Archibald Russell and Fred Johnson were later condemned by Col. Morgan as a Confederacy agitators, along with Sam Lickers who took a seat on the 1926 elected council.[697]

In 1924 Hilton Hill was chosen as the first chief councilor. All of the men were sworn into office in both English and Mohawk languages. The actual declarations were based on forms apparently used with other Indian agencies. There were special sections on the forms designated by Morgan to assure that the agents explained responsibilities and duties so that each concillor could understand in their own language. The language was paternalistic, characterized by the spirit of racial uplift, and directed the men to report any wrong-doing in their own community to Cecil Morgan, the official conducting the ceremony: "…I will report all infractions of the laws and regulations at the earliest opportunity to the Indian Agent over me; and that I will strive to advance the interests of all the Indians of my band morally and financially…"[698] The occupations of the new councilors were varied, including farmers, store owners and the post master. Notably this transition meant that English was used for the first time as the official language of the council meeting, before this only Native languages were used. The Department of Indian Affairs had relied on an interpreter to understand the business transacted at the Six Nations Council House when it ruled by the hereditary chiefs. After the election, news reports stated that the "legendary wampum" would continue to be honored and used at

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[696] Public Archives of Canada, Indian Affairs, RG 10, Volume 7931, File 32-32, Pt. 3, Letter to Duncan Scott, Deputy Superintendent General of Indian Affairs, from Col. Cecil Morgan, Supt. of Six Nations, March 30, 1926.

[697] Public Archives of Canada, Indian Affairs, RG 10, Volume 7931, File 32-32, Pt. 3, Letter to Duncan Scott, Deputy Superintendent General of Indian Affairs, from Col. Cecil Morgan, Supt. of Six Nations, May 4, 1926. Russell and Johnson complained bitterly about the lack of control the Elected Council had over Six Nations funds and condemned the oversight of the Department of Indian Affairs, bringing the "jargon of the old Mohawk Working faction" into the new Council, according to Morgan. Johnson's father, Chief J. S. Johnson, was bitterly opposed to the new regime.

[698] Public Archives of Canada, Indian Affairs, RG 10, Volume 7931, File 32-32, Pt. 3, Declaration of Chief or Councillor for Hilton Hill, signed by Colonel Morgan and Hilton Hill, undated.

council meetings as a symbol of authority.[699] The hereditary chiefs begged to differ and the wampum taken from David Sky was never returned.

One of the first acts of the elected council was to pledge loyalty to the King; Morgan had wanted each council to swear an "oath of allegiance, but Duncan Scott vetoed the idea.[700] As difficult, controlling and patronizing as Duncan Scott was in his handling of Six Nations affairs, it might have been far worse for the Six Nations community if Colonel Morgan had free reign. Ironically, it was the RCMP that stopped both of these men from using the law to target Six Nations people and their advocates, for in the 30's both Scott and Morgan sought to have advocates for the Six Nations deported, or denied entry trying to cross the international border.[701] The elected council also ruled that any money collected on the reserve to pursue the League of Nations claim would be considered as illegally obtained. Press reports lauded the expeditious handling of business by the elected council, remarking that there was no more "tedious discussion," since the council used committees to expedite business matters.[702]

The supporters of Deskaheh remained resolute in their support for him as their designated leader and speaker, waiting for his return from Geneva to continue their struggle. As David Hill reported to George Decker hundreds of Confederacy supporters met at the Onondaga Long House and the Council "unanimously decided to renew the Speaker Levi General's credential and authority to represent the large majority of the S.

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[699] "English Language is Used in Six Nations Council," *Brantford Expositor*, October 23, 1924.

[700] Public Archives of Canada, Indian Affairs, RG 10, Volume 7931, File 32-32, Pt. 3, Letter to Colonel Morgan, Indian Superintendent, from Duncan Scott, Deputy Superintendent General, October 7, 1924.

[701] Public Archives of Canada, Indian Affairs, RG 10, Volume 2286, File 57, 169-1, Pt. 5, See the select correspondence following the imposition of the elected council in which the RCMP resists the attempt Colonel Morgan to harass Natives and their advocates using the mounted police and immigration agents on both sides of the border. The RCMP explained that they cannot prevent the passage of Six Nations people or their lawyers or interfere with their ability to cross the border without evidence. "…nothing has yet occurred to justify attempt to prevent entry of Indians to United States," Telegram to Col. Morgan from A. S. Williams, Ottawa, July 14, 1928.

[702] Public Archives of Canada, Indian Affairs, RG 10, Volume 7931, File 32-32, part 3. "Six Nations Council Getting into Stride," *Brantford Expositor*, November 7, 1924.

N. [Six Nations] who are still in earnest to carry on the fight for right and justice."[703] Their steadfast support must have been much-appreciated for in November 1924 the Canadian officials took revenge against Deskaheh and advertise a sale of his "goods and chattels," as well as two tracts of land, approximately 46.5 acres of land to be sold at auction by the Brant County sheriff on December 6, 1924.[704] The Confederacy Chiefs protested this sale of Mrs. May General's property on the grounds of her inheritance of the land from her mother, Mrs. Dan Bergin.[705] It is telling that the Confederacy angle was to attempt to protect Levi General's property using the principles of matrilineal inheritance, which was not accepted by Canadian courts. This sale of his property must have been a telling blow, indeed, for Deskaheh and his family who had supported his activities and tried to be self-sufficient while he was in Europe. Soon after in January Deskaheh decided to make his way back from the Continent – already in failing health and under the threat of arrest by the Canadian government.

Deskaheh vainly appealed once more to the King of Great Britain, George V, to intercede on behalf of the Six Nations' people under the terms of the Haldimand Treaty. At the same time Duncan Scott notified the British officials that the Confederacy Council had been dissolved, so that Deskaheh had no legal standing to represent Six Nations any longer.[706] Throughout his stay in Europe, he brandished the original copy of the document, with which he been entrusted by the Council to remind the Crown of the spirit of the agreement into which they had entered with Six Nations. Now he was about to

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[703] Letter from David S. Hill to George P. Decker, November 14, 1924, George Decker Collection, St. John Fisher College, Rochester, New York.

[704] Clipping, Sheriff's Sale, dated November 5, 1924, George Decker Collection, St. John Fisher College, Rochester, New York. Also see, "Six Nations Council Getting into Stride," *Brantford Expositor*, November 7, 1924, for the plaintiff's name, Samuel Edward Garlow.

[705] Minutes for November 18, 1924, Confederacy Council, Reprinted in The Constitution of the Five Nations or The Iroquois Book of the Great Law, by A. C. Parker, (Ohsweken, Ontario: Iroqrafts, 1991), p. 203.

[706] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Letter to W. H. Walker, Acting Under-Secretary of State for External Affairs, Ottawa, from Duncan Scott, Deputy Superintendent General, Department of Indian Affairs, December 29, 1924.

bring the Haldimand Treaty home. He had been rebuffed but never silenced by officials who disregarded the claims of indigenous people for recognition of Native sovereignty. Unfortunately, an opportunity to address indigenous concerns in an international context was lost through a restrictive and limited vision of the nation-state employed by the League of Nations. The League was in no position to expand the definition of a nation state to incorporate indigenous groups while fighting to establish its own survival. Yet it was only natural that many advocates came forward trying to gain legitimacy for their own national aspirations – Six Nations was no different in seeking this pathway to international recognition. The League was still in its embryonic stages as an institution however, riven with internecine disputes and hampered by its lack of authority and enforcement powers.

Deskaheh continued to speak on behalf of the Six Nations' community when he returned to the United States, but his health continued to deteriorate. Reluctant to go back to Grand River, due to the threats against him rendering him an exile from his own country, Deskaheh initially took refuge with George Decker in Rochester upon his return on January 18, 1925.[707]. The "Mounties Council" had passed a resolution condemning him and accusing him of obtaining Six Nations money under false pretences, according to the Secretary of the Confederacy Council, Chief Dave Hill.[708] In March, Decker realized Deskaheh was gravely ill with a severe cold, congestion and fever and placed him in the Homeopathic Hospital in Rochester, New York. This former lumber-jack, turned diplomat, was forced to retire from the political stage by his health.[709]

[707] Public Archives of Canada, Indian Affairs, RG 10, Volume 2286, File 57, 169-1, Pt. 5, Preface to copy of booklet, "The New Story of the Iroquois," Chief Deskaheh's last speech in Rochester, New York, published in Brantford, Ontario, 1925.

[708] Letter from David Hill to George Decker, November 14, 1924, George Decker Collection, St. John Fisher College, Rochester, New York.

[709] In April Decker wrote to Chief Deskaheh's daughter Rachel, one of his nine children, informing her that the doctors in Rochester expected the Chief to recover, but only after a long period of rest and recuperation for an attack of pleurisy and pneumonia, see letters from Decker to Clinton Rickard, May 6, 8, 1925, George Decker Collection, St. John Fisher College, Rochester, New York.

Following his stay in the hospital Deskaheh determined to stay in the home of Chief Clinton Rickard, a Tuscarora Chief and Native activist. A plain-spoken farmer, Rickard had continually inquired about Deskaheh's health and sought to help him fight the Canadian government.[710] An upcoming hearing was pending on the Cayuga land claim and Deskaheh was unable to attend, at first due to his activities in Europe and then, due to illness. Deskaheh's brother, Alex, was selected by the Chiefs to go in his stead. Anger had only increased according to Dave Hill regarding the "so-called Council of the Six Nations as forced upon us at the point of a gun." [711] Punishment of the Six Nations community even extended to the children for numerous youngsters were "picked up off the road" without informing their parents and sent to residential schools in this tense time following the installation of the elected council.[712]

Deskaheh journeyed next to Chief Clinton Rickard's home on the Tuscarora Reservation in Western New York. Decker wrote to Chief Rickard to arrange the matter, as well as to secure a place for Deskaheh's daughter, who planned to nurse her father back to health. Deskaheh had told his wife that he wanted to go home to Grand River, but he only made it as far as the Tuscarora reservation.[713] Decker was unsure of sending

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[710] Clinton Rickard, Dave Hill and Sophie Martin took up Chief Deskaheh's cause for their life's work and it these individuals who first acquainted me with the injustice meted out to Six Nations during this era. When I was a little girl, my whole family worked for the organization they established – the Indian Defense League of America – to make sure that what happened to Deskaheh, never happened to another one of us and that we were free to cross the international border to go home.

[711] The Cayuga nation was the only one of the Six Nations with none of their homeland remaining in the United States after the Revolutionary War and there was a legal action to address their claim on their ancestral land before a Board of Arbitration in Washington. See Decker Archive, Letter to George Decker from Chief David Hill, January 7, 1925.

[712] Public Archives of Canada, Indian Affairs, RG 25, Volume 1330, File 3162, Pt. 1, Letter from Rica Flemyng-Gyll to the Governor General of Canada, April 27, 1925. The truant officer under Colonel C. E. Morgan was given authority to remove children who the authorities argued were without adequate supervision or truant, even though sometimes children were "hired out" to do agricultural work to support their families and were not in school because of poverty. These children were relocated far to the north of Six Nations with no recourse for their parents to bring them home. In an interview with Lynette Justiana, she attested to this practice, citing children of a well-known Six Nations family removed to Muncie who were taken at "Barney's corners," near our family's old homestead. Barney's was a local store and gathering place on the reserve. Interview with Lynette Justiana at her home, September 28, 2002.

[713] Letter to George Decker from Mrs. Levi General, July 9, 1925, George Decker Collection, St. John Fisher College, Rochester, New York.

Deskaheh all the way to Ohsweken in an ambulance, but arranged for him to travel as far as Sanborn, directly on the border with Canada.[714] The chief's wife, brother and several of his nine children attempted to cross the international border at Niagara Falls, but were turned away.[715] George Decker clearly knew that Deskaheh might not recover for he immediately wrote to Chief David Hill at Grand River to acquaint him with the seriousness of Deskaheh's condition. Decker believed that Deskaheh's illness had begun in Geneva the prior summer and that he never fully regained his strength following this attack. Nevertheless, the Chief had carried on with his work in Geneva to the detriment of his own health. Finally, in a tribute to his friend, Decker wanted Chief Hill to make sure that the community at Six Nations knew of Deskaheh's single-minded purpose in defending their interests before the League of Nations. "If he does not recover, I think you should let your people know that Deskaheh gave all that he had to give, his own life, in their cause."[716] Deskaheh died at the home of Chief Rickard on June 27, 1925 at the age of 53.[717]

In an obituary in the *Toronto Globe and Mail* one can discern the misrepresentations that were used to depict this gentleman-farmer during his lifetime. The Chief was lauded as being "…true to the faith of his forefathers, in whose steps he would literally have had his people tread, shunning the white man and cutting off white man's accomplishments, such as education…." It is rather disheartening that this incredibly bright and talented man, from a poor family with no access to education, was

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[714] Letter to Chief David Hill from George Decker, May 8, 1924, also see payment for Decker's services from Chauncey Garlow for handling the dispute over "…immigration or boundary line trouble," September 3, 1925, George Decker Collection, St. John Fisher College, Rochester, New York.

[715] "Deskaheh: Iroquois Statesman and Patriot," pamphlet was part of the Six Nations Indian Museum Series, originally published by the Akwesasne Mohawk Counselor Organization founded by Ray Fadden, undated.

[716] Letter to Chief David Hill from George Decker, May 11, 1925, George Decker Collection, St. John Fisher College, Rochester, New York.

[717] Draft for the obituary for Levi General, Undated. Decker lived until 1936 and continued to act as a consultant for Six Nations Confederacy Chierfs in regard to the Cayuga claim, George Decker Collection, St. John Fisher College, Rochester, New York.

depicted as rejecting education. Deskaheh painstakingly taught himself to be proficient in the English language, with the express purpose of pursuing a carefully crafted diplomatic strategy at the League of Nations, utilizing public relations and the media to further the cause of Six Nations – still, he was cast as an ignorant pagan. Reportedly, his body was carried to a "pagan longhouse" where, adding insult to injury, his soul was "entrusted to the Great White Spirit." The Union Jack was flown at half-staff at the old Council House, not the flag of the Six Nations as he had wanted.[718]

Colonel Cecil Morgan had the audacity to attend the funeral, for as usual he was dutifully spying on those who attended, so he might report any crumb of information to Duncan Scott. All of the law enforcement officers, for the RCMP also attended the funeral, along with two local constables, had to rely on make-shift translations, for the speeches in the Longhouse were all in the "Indian language." The character assassination against the leaders who would carry on Deskaheh's work, George Nash and Deskaheh's brothers, already began in this confidential report to Duncan Scott. The officers predicted that unless a dynamic new leader was found to lead the "Mohawk Worker Faction" the movement would die.[719]

Indeed, the situation seemed dire. The night before he fell ill in Rochester on March 10, 1925, Deskaheh delivered a particularly heart-wrenching, despairing and poignant speech. Unlike his prior lectures, his last address was recorded and broadcast over the radio, WHAM, in Rochester, confirming once again his desire to take advantage of modern technology to publicize the resistance of the Six Nations. By doing so he

[718] Public Archives of Canada, Indian Affairs, RG 10, Vol. 2286, File 57, 169-1, Pt. 5, "Chief Levi General is Laid to Last Rest: Soul of Indian Leader Entrusted to 'Great White Spirit,' *Toronto Globe and Mail*, June 30, 1925.

[719] Public Archives of Canada, Indian Affairs, RG 10, Vol. 2286, File 57, 169-1, Pt. 5, Report Re: Mohawk Workers – Six Nations Indian Reserve, to the Commissioner of the RCMP, Ottawa, from H. M. Newson, Commander Western Ontario District, July 7, 1923.

sought to ensure that the representation of Native identity was transmitted in the public sphere and not viewed solely through the lens of Euro-American culture.[720]

Deskaheh spoke without artifice, but with the grace for which he was noted in the Cayuga longhouse, he reflected upon what he had learned through his campaign at the League of Nations. His speech was anchored by the principles inculcated through the teachings of the Longhouse – the nature of peace, power and righteousness. Deskaheh was eager to reach the children, perhaps despairing that the adults were unable to hear his message. He decried the "fine words" of "pale-faced people," who neglected to keep their promises. Decrying the policies of both the United States and Canada, he condemned the false and destructive policies of each government under the guise of assimilation or Indian advancement. Relating the circumstances surrounding the Canadian coup d'etat at Grand River, he proclaimed sardonically: "If this must go on to the bitter end, we would rather that you come with your guns and poison gases and get rid of us that way. Do it openly and above board. Do away with the pretense that you have the right to subjugate us to your will." Never had the kind and unfailingly courteous chief spoken in such a way.

Deskaheh warned his American audience against their government's growing desire for power on the international stage: "Your government of today learned that method from the British. The British have long practiced it on weaker peoples in carrying out their policy of subjugating the world, if they can, to British Imperialism." The Chief was provocative, asking tough questions of his American audience, by stressing the Wilsonian principle of self-determination and demanding those listening to his words to think for themselves: "Do it before your minds lose the power to grasp the idea that there are other peoples in this world beside your own and with an equal right to be here." Remarking on the "great danger" America posed to the world, Deskaheh's words were quite discerning regarding the foreign policy choices and decisions of future leaders. Again, singling out the young members of the audience, he admonished them:

[720] Public Archives of Canada, Indian Affairs, RG 10, Volume 2286, File 57, 169-1, Pt. 5, Copy of transcript of Speech, in pamphlet: "The New Story of The Iroquois," by Chief Deskaheh, March 10, 1925, published in Brantford, Ontario, 1925.

"Think then what it will mean if you grow up with a will to be unjust to other peoples, to believe that whatever your government does to other peoples is no crime, however wicked."[721] Deskaheh had schooled himself well while in Geneva, for he had clearly absorbed the lessons of power politics and the shift of power from Britain to the United States. Deskaheh was no longer simply a colorful, parochial leader from a rural Indian reserve, but an internationally-known Native statesman.

By assuming the mantle and responsibility of leadership, Deskaheh contested the social, economic and political subordination of his people by voicing Six Nations protest against injustice to the highest sphere of international power and diplomacy in the world. He carried himself unconsciously with the manliness and pride of an Ongwehònweh, but never losing his humility and earnest belief in the power of righteousness and solidarity in the face of oppression. By forging an identity for himself and for his community that was steeped in cultural continuity of Six Nations while still creatively adapting and deploying new strategies and modes of expression and communication, he was able to turn the stereotype of "savage" on its head. Deskaheh played a significant role in creating a space for Native voices in the discourse and conceptualization of theories concerning race and nation in Euro-American society. He was able to engage others in his international campaign for justice and have them understand his cause as one that affected all people's human rights, not just indigenous people.

[721] Chief Deskaheh's last speech was reprinted in a publication of the Mohawk Nation, *Akwesasne Notes*, in Rooseveltown, New York, 1978.

Part Two

Chapter Eight

Long Night in the Wilderness

After Deskaheh died on June 27, 1925, the Six Nations Council named three chiefs to carry on his work: his brother, Alexander General, Chauncey Garlow and Clinton Rickard, the Tuscarora who befriended Deskaheh in his waning days.[722] Chief Chauncey Garlow immediately began to take over the role of pressuring Ottawa and campaigning abroad. During the summer of 1926, Garlow traveled to Ottawa with Mark Martin and engaged an attorney to present the Six Nations' case against Canada. Garlow would continue his efforts into the 1930's traveling to England to address the House of Commons on behalf of Six Nations and to Geneva to lobby the League delegates. He produced the historic pipe of peace as well as a long list of grievances with Canada.[723] When it was reported that a socialist Member of Parliament entertained the Six Nations delegates on the terrace of the House of Commons and smoked the pipe Colonel Morgan speculated that "Moscow money" paid for the trip.[724]

A new group of advocates for restoration of the Confederacy Council also aided Chief Garlow, namely: Joseph Logan, David Thomas, Sandy General, Sylvanus General,

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[722] "Levi General Passes Suddenly Away After Stricken on Train," Brantford Expositor, June 29, 1925 and "Deskaheh: An Iroquois Patriot's Fight for International Recognition," excerpt from "Basic Call to Consciousness," Akwesasne Notes, Summer 1995, p. 55-61.

[723] Public Archives of Canada, Indian Affairs, RG 10, Volume 2287, File 57,169-1, Pt. 6, "Canadian Indians in Costume Appear in British Commons," *The Citizen*, Ottawa, June 24, 1930. After this trip Colonel Morgan became convinced that the Chiefs had hidden the wampum, peace pipe and the original Haldimand Treaty in Europe and sought to get Scotland Yard to recover the objects and return them to Canada. See also Cecil Morgan's letter to A. F. MacKenzie, Acting Assistant Deputy and Secretary, Indian Affairs, May 30, 1930.

[724] Public Archives of Canada, Indian Affairs, RG 10, Volume 2287, File 57, 169-1, Pt. 6, "Red Indians at House, *The Daily Mirror*, London, June 24, 1930 and Letter to the Secretary of Indian Affairs, from Col. Cecil Morgan, July 12, 1930.

Arthur Anderson and Jake Lewis. These men and several women would be cited as agitators by Cecil Morgan and he had authorities investigate and harass these individuals – Morgan even lobbied Duncan Scott to begin deportation proceedings against these Natives. Preparing "dossiers" based on questionable personal information about individuals who opposed the elected council was Morgan's specialty. He even proposed to Scott that the elderly chief, J. S. Johnson, and Chauncey Garlow be arrested for illegally soliciting funds.[725] Morgan's over-zealous pursuit of Six Nations people was even too much for his Duncan Scott to countenance.[726]

Scott also continued to disparage the efforts of Six Nations' people to reestablish the Confederacy, however, reserving particular disdain for women. On hearing reports that two Six Nations' women would travel to Geneva to speak to League delegates, Scott revealed his chauvinism: "I understand that the "Mohawk Workers" are sending another deputation to Europe, probably to their destination, Geneva. This time they are taking two women with them. I do not know whether these are attractive specimens of the race, but probably they will engage the attention of the Bureau."[727] Denoting Native women as "specimens" was not exactly a progressive notion.

The Confederacy Council continued to function as a shadow government, but there remains only a fragmentary record of its meetings kept by David S. Hill and then his successor Arthur Anderson in this period.[728] Remarkably, the Chiefs had even carried

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[725] Public Archives of Canada, Indian Affairs, RG 10, Volume 2287, File 57,169-1, Pt. 5, Letter to Duncan Scott from Col. Morgan, June 30, 1928.

[726] Public Archives of Canada, Indian Affairs, RG 10, Volume 2287, File 57,169-1, Pt. 6, Cecil Morgan's letter to A. F. MacKenzie, Acting Assistant Deputy and Secretary, Indian Affairs, May 30, 1930.

[727] Public Archives of Canada, Indian Affairs, RG 10, Volume 2287, File 57,169-1, Pt. 6, Letter to Senator Raoul Dandurand, Bureau du Gerant General, from Duncan Scott, Deputy Superintendent General, June 24, 1930.

[728] This brief fragmentary record was published on the reserve by a friend of Arthur Anderson, Wm. Guy Spittal. Published as "Appendix H, Minute Book of the Six Nations Hereditary Council of Chiefs," the record is a series of cryptic and abbreviated notes about the council's proceedings, rather than the clear summaries of meetings and proceedings once submitted to the Department of Indian Affairs. The time period covered in this publication dates from the day after the announcement of the dissolution of the Confederacy Council and their ejection from the Council House on October 7, 1924. It continues until

on with business as usual even meeting on the day after Colonel Morgan and the Royal Canadian Mounted Police declared the hereditary council dissolved. Perhaps they still hoped that the principle of Native self-government would be upheld in Geneva and the League would accord them a respect that Canada denied. Following David Hill, the Secretary of the Council of Hereditary Chiefs, Arthur Anderson, continued to keep records of meetings for at least thirty years following the Council's dissolution.

Several notable Six Nations representatives such as Chief J. S. Johnson sought an interview with Prime Minister MacKenzie King.[729][661] Johnson switched his allegiance from support of an elective system over the expulsion of the chiefs. Chief Johnson had been a well-known supporter of the Canadian government, meeting dignitaries from abroad and dining with Canadian ministers, but he was outraged that the old Council had been abolished. He spoke out in favor of the Confederacy and the Mohawk Workers. This caused a great deal of consternation among the officials at Indian Affairs because the elderly and honorable Chief Johnson garnered a great deal of media attention for his stand. Chief Johnson declared: "75%" of the community was not in favor of the elected council.[730] His own son, Fred L. Johnson, was one of the members of the newly elected council, so this was a deeply felt issue. Superintendent Morgan was so angry with the elderly Chief Johnson's opposition that he sought to have him fired from his position as Postmaster, but was overruled by his superiors.[731]

February 4, 1941. The text was published as an addendum to a reprint of the Great Law. Arthur Anderson feared that the record would be lost and lent the record to Spittal so it could be preserved and published. According to Spittal, the Confederacy Secretary understood how valuable the record of the Chiefs' meetings was to the Six Nations community: "He had spent time in archives on behalf of the Chiefs and knew the importance of such documents." Reprinted in The Constitution of the Five Nations or The Iroquois Book of the Great Law, by A. C. Parker, (Ohsweken, Ontario: Iroqrafts, 1991), p. 199.

[661] Public Archives of Canada, Indian Affairs, RG 10, Volume 2286, File 57,169-1, Pt. 5, Extract of a Letter to Mackenzie King, Prime Minister of Canada, from the law firm of Heyd, Heyd, Shorey and Newman, June 22, 1926.

[662] Public Archives of Canada, Indian Affairs, RG 10, Volume 7921, File 32-32, Pt. 3, "Chief Johnson Protests Against Elective System," *Mail and Empire,* December 6, 1924. Johnson had personally met many of the dignitaries of Britain as well as the Governor-General of Canada and used his letters to personally protest the change of Six Nations government.

The record of the Confederacy Council in the inter-war years was rather surprising for it attests to the Chiefs unwavering faith in their cause in Europe, despite long odds. The chiefs even supported a tax on reserve land to pay for their efforts and considered awarding a portion of any settlement on a contingency basis to their lawyer, J. O. Johnson. The Confederacy was particularly vulnerable to unscrupulous lawyers for they could not hire representatives to defend themselves against the Canadian government with their own funds. Chauncey Garlow would lead a delegation to Europe, but would eventually break with the unscrupulous and avaricious Johnson. Fortunately, the chiefs never succumbed to his demands.

Bill Smith, Arthur Anderson and Emily General would rise as the next advocates for the Confederacy.[732] Their attention turned to the international border for the very summer Deskaheh died it became a flash point of conflict for Six Nations people for both Canada and the United States sought to prevent Iroquois people from crossing the border freely.[733] Chief Rickard and Chief David Hill, Jr. along with Sophie Martin would form the Indian Defense League of America to protect the border and Six Nations treaty rights according to the Jay Treaty of 1794. Six Nations members such as Martin and Hill were committed partners in this effort with the Tuscarora chief, for many men and women from the reserve such as traditional medicine man, Job Henry, were called before Immigration Boards in the United States and threatened with deportation.

Another international dispute concerned the Cayuga Claim for Natives who resided at Grand River claimed a share of the annuities garnered from their land

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[663] Public Archives of Canada, Indian Affairs, RG 10, Volume 7931, File 32-32, Part 3, Letter from Cecil Morgan to the Secretary, Department of Indian Affairs, December 8, 1924.

[732] "Appendix H, Minute Book of the Six Nations Hereditary Council of Chiefs," in a reprint of The Constitution of the Five Nations or The Iroquois Book of the Great Law, by A. C. Parker, (Ohsweken, Ontario: Iroqrafts, 1991), p. 199-201. Notes by Wm. Guy Spittal.

[665] Letter from George Decker to Rica Flemyng-Gyll, August 13, 1925, George Decker Collection, St. John Fisher College, Rochester, New York. Decker mentioned that Chief Rickard, situated on the border, would be an excellent conduit between the community at Grand River and his office in Rochester. This is how I learned about George Decker, for my cousin, Lynnette Jamieson Justiana, was the daughter of Chauncey Garlow. Our families worked closely with Chief Clinton Rickard, David Hill, Sophie Martin and when I began my Master's dissertation, she mentioned George Decker and remembered that he lived in Rochester, so I was able to quickly locate the archive.

purchased by New York State in 1795. An arbitration panel was empowered in Washington to settle this claim, but a question remained regarding the British and Canadian representation of Cayugas in this dispute. Deskaheh had decided to contest the right of these nations to act as fiduciary agents in these negotiations. The process dated back to 1912, but was delayed due to the First World War. According to George Decker's understanding of the issue, Canadian handling of Six Nations funds in the past been so abysmal that the Cayugas "… had sooner lose the money directly than to lose this indirectly and even with the danger of its being used against them."[734] The Cayugas, accordingly, withdrew their claim. Of course, this incident was planned to embarrass both Canada and Great Britain, but it speaks volumes that the Cayugas even considered forfeiting a large sum of money in an international negotiation. This incident marks the nadir to which Native-Canadian relations had fallen. As Decker recounted in his correspondence with Chief David Hill, Sr.: "The withdrawl [sic] of the claim took the breath away from the Council of the British government…"[735] The issue revolved around sovereignty and put the British in a difficult position. If they supported the Canadian stance that Native nations no longer existed, then there was no basis for a claim and the British could not seek a settlement. If the British had argued that indeed the Cayuga nation existed, it would have put them at odds with the Canadians – such is the leverage of Native nations with the West, for public embarrassment and international scrutiny are often the weapons of choice. The Cayuga Claim Commission was revived under the joint auspices of the United States and Britain. Chief Clinton Rickard acted as a Native representative in response to Governor Roosevelt's request, along with several Six Nations members, namely Robert Davey, Chancey Issac and George Nash. The Canadian government took control of the money awarded from the Commission, one hundred thousand dollars, and held the sum in trust. Canada still doles it out, literally several dollars, twice a year to members of the Cayuga Nation.[736] Decker was summarily

[734] Letter from George Decker to Ed. Junod, November 18, 1925, George Decker Collection, St. John Fisher College, Rochester, New York.

[735] Letter from George Decker to Chief David Hill, November 18, 1925, George Decker Collection, St. John Fisher College, Rochester, New York.

dismissed as legal advisor to the Six Nations by December 1924 by the third meeting of the newly elected council, although his strategy was successful in bringing the Cayuga claim to fruition.[737]

On the Grand River lands, despite the Canadian effort to crush Six Nations resistance the community held steadfast. Even Duncan Scott had to admit to his obvious chagrin: "While the agitation has lost ground on the reserve, it is still alive."[738] International agencies in Geneva were still inquiring about the situation at Six Nations and demanding answers from Canadian officials.[739] Edward Junod and Rene Claparede established a commission to continue the inquiry into Six Nations affairs in Geneva. This group included many women, such as Rica Flemyng-Gyll, who vowed to pursue justice for Six Nations and to continue Deskaheh's mission.[740] In 1929, inquiries about the Irish role in the League of Nations dispute led to an inquiry to the Department of External Affairs from Dublin. It may be remembered that Irish representatives had played a key role in the initial stages of the 1924 Six Nations challenge at the League, but they had not played a role at the close of the diplomatic conflict in Geneva, when Deskaheh had struggled to have the Six Nations perspective heard despite British opposition. The Canadian Office of External Affairs was able to convince the Irish representatives that the Six Nations conflict was a "domestic issue."[741]

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[736] "Accomplishments of the Indian Defense League," Clipping and Review File in the Niagara Falls, Ontario Public Library. See also the editor's notes to the Minute Book of the Six Nations Hereditary Council of Chiefs, a partial record from 1924 to 1941, reprinted by Wm. Guy Spittal, Iroqrafts, in Iroquois Reprints: The Constitution of the Five Nations, Ohsweken, 1991, p. 230.

[737] Public Archives of Canada, Indian Affairs, RG 10, Volume 2286, File 57,169-1, Pt. 5, Extract of Council Minutes of the Six Nations, December 9, 1924.

[738] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Letter from Duncan Scott to O. D. Skelton, Under-Secretary for External Affairs, May 18, 1929.

[739] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Letter to Dr. Riddell, Canadian Advisory Officer, League of Nations, from O. D. Skelton, Under-Secretary of State for External Affairs, May 22, 1929.

[740] Public Archives of Canada, Indian Affairs, RG 10, Volume 2286, File 57,169-1, Pt. 5, Translation, "The Death of Chief Deskaheh," *The Tribune of Geneva*, July 13, 1925.

O. D. Skelton became the permanent Under-Secretary of State for External Affairs in Ottawa and was effective in quashing discussion about the Six Nations affairs in Europe, with the advice of Duncan Scott. Skelton posited that the source of Deskaheh's ability to rouse opposition to Canada at the League had been that "…some European countries which had been called to task under the Peace Treaties for their conduct towards ethnic minorities were not averse to seeing a dose of the same medicine given to a New World member of the League."[742] Skelton wanted to make sure Scott kept him and Dr. Riddell, the Canadian permanent representative at Geneva apprised of developments at Six Nations. Scott, however, would finally retire in 1932 leaving a legacy of oppression of Native people in his wake. Newly appointed officials to Indian Affairs would have to understand the "time of troubles" in 1924, in order to explain the complaints of the Six Nations to international bodies, such as the League of Nations and the World Court about the Canadian government.[743]

The control of documents became critical in unearthing this narrative history, even for the Department, which sent memorandums to provide the history of the Six Nations and this long dispute.[744] One of the reasons for Scott's power in the Department was his long tenure and institutional memory. Political appointees relied upon this continuity. Duncan Scott had the knowledge and power to conduct a search of the files in Indian Affairs to back up his legal argument; records written and compiled by his own agents from the Canadian perspective. Yet, the Six Nations community who sought to

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[741] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Extract from communication of John J. Hearne, from the Irish Free State to Dr. O. D. Skelton, Under-Secretary for External Affairs, Ottawa, August 12, 1929.

[742] Public Archives of Canada, Indian Affairs, RG 10, Volume 2286, File 57, 169-1, Pt. 5, Letter to Duncan Scott, Deputy Superintendent of Indian Affairs, from O. D. Skelton, Under Secretary of State for External Affairs, Canada, June 12, 1925.

[743] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Letter to A. S. Williams, Acting Deputy Superintendent General of the Department of Indian Affairs, Ottawa, from O. D. Skelton, Under-Secretary for External Affairs, July 6, 1929.

[744] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Memorandum on Attempts Made in 1925 to Get the Six Nations Question Before the League, May 28. 1929. See also the history of the Six Nations provided to O. D. Skelton, Under-Secretary for External Affairs, from the Acting Superintendent General, A. S. Williams, July 12, 1929.

challenge the Canadian historical perspective had no similar access to the records of the Canadian government, or even its own archives, for lawyers kept their own files and did not generally turn them over to clients. For example, the records of George Decker went to the local college in Rochester near his home and many people from Six Nations do not know of his connection to their history.

In addition, the few lawyers and individuals who participated in these challenges to the Canadian government often did not archive this material and it was lost. Without access to funds for attorneys, a central repository for documents, or the professional cadre of support staff to keep these legal and historical briefs in order, it was extremely difficult for community members to retain a grasp of the multiplicity of narratives that constitute the Six Nations history of the Confederacy's challenge and claims against the Canadian government. There was a host of issues regarding land claims, sovereignty, the Indian Act, as well as human rights and civil rights cases.[745] While the Band Council was affiliated with the Canadian government and entitled to such access, archives have not been readily accessible to the wider Six Nations community. The pall cast over the community for challenging Indian Affairs was so great as to even stifle inquiry and dissent from the Loyalist faction as well.[746]

The Six Nations continued to declare and assert their independence from Canada. A 1928 declaration demanded that Canadian forces be withdrawn from the Grand River Territory. The announcement rankled the Canadians for it was made from Detroit, not only playing into the rivalry between the United States and Canada, but also underscoring the connection of Natives with the Black Free Press. Criticism of Ottawa's handling of the unrest at Six Nations was also rife and stinging from Montreal: "It was not, for instance, the wisest thing in the world to allow the impression to get abroad among the

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[745] For example, transcripts from civil trials are often not available in Canada from the central archives and if the lawyers have retired, or are deceased, the records are not available.

[746] Of course, the Canadian government probably did not want researchers from Native reserves pouring over records at Indian Affairs due to land claims cases. Presently, DIAND archivists in the Historical Research Center are extremely open with access to their files, but one must have academic credentials to gain access to these government archives, which remains a formidable obstacle to Native researchers for Six Nations.

wards of our nation, that their Great Father was no longer the King-Emperor, but a departmental Jack-in-office at Ottawa." *The Montreal Family Herald* argued that Native leaders had been insulted and treated shabbily: "Appeals to the Crown were by skillful jockeying side-tracked, so that powerful chiefs whose predecessors had been privileged to stand and plead before kings, found themselves compelled to wait, hat in hand, upon the leisurely convenience of bumptious officials, who displayed far less zeal for Indian rights, that for their own convenience , and the political interests of their party." The growth of Canadian bureaucracy had severely eroded any concept of reciprocity and respect that had once facilitated contacts between Natives and government leaders.[747]

A member of Six Nations, Jacob Lewis, journeyed to Geneva with Ockleslaw-Johnson in 1929 to protest Canadian treatment of Six Nations, after issuing a declaration of the independence of Six Nations in the Detroit Free Press.[748] Lewis and Johnson went to the Secretariat of the League of Nations attempting to have their case heard, as well as denouncing Canadian treatment of Six Nations and the abolition of the Confederacy by force.[749] The elective Band Council repudiated these activities as not representative of the legitimate government on the Reserve and passed a resolution denouncing Lewis and Johnson. Sadly, the Band council in its memorandum bitterly repudiated and castigated the efforts of their former speaker, Deskaheh, a sign that the steady assault against Six Nations leaders by Canadian officials was working. The resolution was counter-signed by Cecil M. Morgan, the pistol-toting Superintendent of Six Nations, and was designed to be circulated in Geneva. [750] Both a memorandum and the resolution were sent to Geneva to the Canadian delegates at the League and were intended as information to help crush any movement at the Assembly to hear the Six Nations case.

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[747] "Troubles Among the Indians," Editorial, *Montreal Family Herald*, July 11, 1928.

[748] "Ontario Indians Assert Six Nations Independence," Detroit Free Press, July 1, 1928. See also, an editorial, "Troubles Among the Indians," *Montreal Family Herald*, July 11, 1928. There is a long tradition of coverage of Native affairs in the Detroit press and the sympathetic coverage of Six Nations affairs has frequently made Detroit a site of Six Nations resistance to Canadian regulations over Native travel and transport across the border.

[749] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Memorandum: Six Nations Indians, August 14, 1929.

[750] Ibid.

Despite this setback, Johnson and Lewis made progress in engaging the sympathy of the Commission of Indigenes, a group similar to the London-based Bureau that had supported Deskaheh, who agreed to sponsor the case. [751] Presumably, it was this group that put forth a document published in Paris which summarized the conflict of Six Nations with Canada, entitled "Requete des Six Nations: Expose Juridique" a seventy-five page history of colonial relations with Six Nations, as well as a denunciation of recent Canadian policy imposing a government at Grand River.[752] "Expose Juridique" was created as a response to the Canadian government's statement of 1923 refuting the Six Nations appeal to the League.[753] An alarmed Canadian Advisory officer, W. A. Riddell sent the French document supporting the Six Nations bid for a hearing back to Ottawa and cabled the Secretary of State for External Affairs seeking "…figures showing total electors; number who voted and also numbers who voted for the Council of Six Nations." A contact within the French Commission of the Indigenes astutely reached the crux of the matter, assuring Riddell: "…that whole defence [sic] falls if it can be shown that the present council has support of majority of Indians on reserve."[754] Obviously, if the Canadian government were pressed on this, it would be clear that the Band Council was not representative at all. Although, the emissaries, particularly Ockleshaw-Johnson, might not have been all that could have been desired, their message had gained great sympathy in Geneva, according to Riddell.[755]

[751] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Code Telegram from the Canadian Advisory Officer to the Secretary of State for External Affairs, Canada, August 28, 1929.

[752] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, "Requete des Six Nations: Expose Juridique," with cover letter from W. A. Riddell, Canadian Advisory officer, League of Nations, August 27, 1929.

[753] Public Archives of Canada, Indian Affairs, RG 10, Volume 2287, File 57,169-1, Pt. 6, Letter to Dr. O. D. Skelton, Under-Secretary of State for External Affairs from Margaret Clark, Secretary to the Canadian Advisory Officer, League of Nations, August 10, 1929.

[754] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Code Telegram, Number 73, from the Canadian Advisory Officer to the Secretary of State for External Affairs, August 28, 1929.

In their resolution denouncing the Confederacy representatives at Geneva, the Band Council cited the generosity of the Dominion in providing funding for a new hospital, The Lady Willingdon Hospital, in Ohsweken, opened on October 16, 1927, as a signal example of the cooperation between the administration of Indian Affairs and Six Nations.[756] The outlay of the government in supporting the hospital, the Mohawk Institute and the improvement of roads on the reserve was cited in the report of the Band Council. Of course, the lack of freedom and accountability in managing one's own affairs was not addressed. Also, the land claims that are an issue up to the present day were not part of this discourse, for the Dominion officials convinced the councilors that these services were provided "free" to Six Nations – the operative phrase, "there is no free lunch" is pertinent in reflecting upon this period in Six Nations history.[757] Attached to the resolution was also a "rider" naming a number of figures, including Ockleshaw-Johnson and Jacob Lewis, and furnishing a "short dossier" on each individual. The unsigned document accused Johnson, Lewis and the late Chief Deskaheh of preying on the Six Nations, criminal activities and misrepresentation of the conflict to outsiders. It was a fairly salacious document and gave unsubstantiated details and charges about several of the individuals' personal lives and conduct.[758] This unsavory "dossier" appeared to be the work of Colonel Cecil Morgan.

The Canadian representatives to the League of Nations were frustrated in responding to the charges of ill treatment of Natives within their borders. In an atmosphere sensitive to national minorities, the subjugation of Native people by the West was rejected by members of the Assembly. The destruction of the Confederacy resonated

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[755] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Letter from W. H. Walker, Acting Under-Secretary of State for External Affairs, to Duncan Campbell Scott, Deputy Superintendent of Indian Affairs, August 14, 1929.

[756] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Report of the Deputy Superintendent General, to Charles Stewart, Superintendent General of Indian Affairs, Ottawa, November 1, 1928. This was the report ending in March, 1928.

[757] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, "Misrepresentations of Six Nations Conditions in Europe and Elsewhere by Irresponsible and Unauthorised [sic] Persons, August 6, 1929.

[758] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Rider to the Six Nations Council Resolution, Unsigned and Undated.

in Europe, much to the chagrin of Canadian officials. The distinction between a national minority and an indigenous minority was not a salient one among the European representatives, who perceived Canadian political oppression and desire for Native land to be illegitimate. The historic and cultural dimensions of the abolition of an indigenous form of government that had preceded colonization was embarrassing and could be used against the Canadian government in the internal politics of the League. The Canadian Advisory Officer at the League, W. A. Riddell, observed: "It is extremely difficult for a Canadian or a citizen of the United States to understand the appeal that a North American Indian can make to the popular imagination of European minds nurtured on romances and wild-west movies…"[759] This presaged success for the Six Nations in the international arena in the long-term and would give hope to the supporters of the Confederacy in the inter-war period that they would eventually prevail.

The delegation to Geneva resulted in yet another discussion of a commission to investigate complaints at Six Nations.[760] There was a total rejection of this idea by the officials in Ottawa: "…Canadian authorities are not prepared to offer Commission of enquiry…," according to a confidential telegram. The Secretary of State directed Riddell, the Canadian Advisory Officer at the League, to be extremely discreet with regard to whom he chose to give copies of the Band Council Resolution and the summary of Six Nations history. He also warned Riddell not to circulate the rider: "It might also be safer to use much discretion in conveying any information transmitted concerning personal character of these two men." Obviously, the Secretary was afraid this character assassination might back-fire. [761]

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[759] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Letter from Dr. Riddell, Canadian Advisory Officer, League of Nations, to O. D. Skelton, Under-Secretary of State for External Affairs, July 15, 1929.

[760] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Code: Telegram, Canadian Advisory Officer, League of Nations, to the Secretary of State for External Affairs, Canada, August 15, 1929.

[761] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Confidential Telegram in Code, to the Canadian Advisory Officer, League of Nations, from the Secretary of State for External Affairs, Canada, August 29, 1929.

Clearly, this affair was not going to go away as easily as Canada hoped, for the supporters of the Indians kept pressure on the Canadian Advisory Office at the League of Nations. Riddell, the Canadian Advisory Officer was in the middle between the Canadian government and League officials. At this point, Duncan Scott would weigh in, writing directly to Skelton, the Under-Secretary of State. Both Scott and the Superintendent-General of Indian Affairs, Charles Stewart, were "…emphatic in directing that the information asked for by the Canadian Advisory Officer should not be given."[762] Skelton tried once more to obtain some verification that the Band Council government was representative of the majority of Six Nations people, but failed to convince Ottawa. After a verbal conversation with Scott's assistant, Skelton, and a telegram from the Secretary of State, Skelton was directed to stop asking for numbers or some evidence that the Band Council was a representative government. Therefore, the Canadian government would provide no information to the Commission or even to their own representative at the League of Nations. Canadian officials were anxious that the Six Nations "annoyance" would be put to rest as simply a matter of the internal affairs of Canada. [763] This position was backed up by a telegram to Riddell in Geneva, by the Secretary of State, affirming that Six Nations affairs were a Canadian concern, not an international affair for a League of Nations inquiry.[764]

By September 21, Riddell informed Ottawa that Lewis had left Geneva for home after being advised by the Commission des Indigenes. Canadian delegates met privately with members of the Commission and deterred them from pressing the Six Nations inquiry at the League. "Although Commission is not completely satisfied, it is unlikely

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[762] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Letter from Duncan Scott, Deputy Superintendent-General of Indian Affairs, to O. D. Skelton, Under-Secretary of State for External Affairs, September 5, 1929.

[763] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, See letter from O. D. Skelton to Duncan Scott, September 6, 1929, as well as Letter to O. D. Skelton from T. R. L. MacInnes, for the Assistant Deputy-General, September 7, 1929.

[764] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Telegram in Code to the Canadian Advisory Officer from the Secretary of State for External Affairs, Canada, September 18, 1929.

to interest itself actively in support of any future agitation," Riddell reported.[765] This matter came briefly back in to the public sphere with the publication of an article in the Le Cooperateur Genevois, concerning the Commission of Indigenes' efforts at the League, on December 8, 1932, but faded quickly from the media.[766]

One reference from Lester Pearson to Senator Dandurand was part of the final references to the Assertion of Six Nations sovereignty at the League of Nations, mentioning a letter from Henri Junod, President in the Bureau for Defense of the Indigenous at the League of Nations, inquiring once more about Six Nations, but even Junod was silenced.[767] Canada successfully blocked Six Nations from obtaining a hearing at the League of Nations and continued to keep up the fight in the '30s and '40s. Six Nations finally found its voice to challenge Canada in the newly formed United Nations.

Revitalization of Ongwehònwe Identity

While the Liberals held sway under the leadership of Prime Minister Mackenzie King, the bureaucracy responsible for Indian policy was shifted from the Ministry of Interior to Mines and Resources in 1936, but in the interwar period, Canadian policy toward Native inhabitants changed remarkably little. The policy still emphasized the principles of paternalistic protection, advancement through education, as well as adoption of Christianity and enfranchisement under the Indian Act, all of which were assumed to be the keys to solving the Indian problem. Of course, "extinguishments of Indian title to the soil of any territory wanted for settlement or development" were also part of the master plan. Indians were regarded as in a state of wardship – as less than equal – and

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[765] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Coded Telegram, to Secretary of State, External Affairs, form the Canadian Advisory Officer, September 21, 1929.

[766] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Secretary of State for External Affairs, Canada, to the High Commissioner for Canada in India, New Delhi, September 15, 1948.

[767] Public Archives of Canada, Indian Affairs, RG 25, Assertion of Sovereignty, Six Nations, Volume 1330, File 1362, Pt. 2, Letter to Senator Dandurand, from L. B. Pearson, June 2, 1930.

the policies of the Department of Indian Affairs were shaped accordingly, largely for practicality, ease of administration and economy. The Department continued to follow Scott's policies, suppressing Native voices in its efforts to lead its charges to civilization through farming and the ethic of self-sufficiency; no one seriously questioned these goals in the Dominion. Scott viewed amalgamation with a "superior race," along with careful tutelage of proper Canadian officials like himself, as the solution to bringing the Indian race to civilization.[768] Although one must give Scott his due in relation to his debunking of the myth that Indians were dying out, he was devoid of a capacity for cross-cultural understanding.[769] Despite his rather pedestrian reputation as an essayist and poet, Scott was basically an administrator and manager – he did not create new policy. Always attentive to numbers, he simply observed the steady, but slow increase in the Native population and realized the Indian problem was not going away soon.[770] He was tenacious in a bureaucratic struggle, though. During the Six Nations long struggle with the Dominion, Scott left no detail to chance in trying to crush the Confederacy and their supporters, viewing them as ignorant and fanatical.

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[768] Titley, E. Brian, as quoted in "Duncan Campbell Scott and the Six Naitons' Status Case, Paper presented at the Canadian National Historical Meeting, Guelph, Ontario, June 11-13, 1984, p. 1.

[769] After a burst of ethnographic interest in Iroquoian culture and oral history in the nineteenth-century following the work published by Horatio Hale and Lewis Henry Morgan, there was rather a lull in significant anthropological publications about the Six Nations. E. M. Chadwick had published his oft-cited study in Canada, The People of the Longhouse, in 1897 and the American anthropologist, William Beauchamp, published his study of "Iroquois Women," in 1900, but Alexander Goldenweiser did not publish his studies of Iroquois work and culture in Canada until 1912 and 1914. Many of the monographs that were written about the Six Nations came from the Bureau of American Ethnology at the Smithsonian Institution rather than Canadian anthropologists. Topics of interest were the Longhouse religion, ceremonial dress, the role of women in society and on Iroquoian cosmology rather than on the day-to-day life of Native people on the reserve. Fieldwork was conducted among the Iroquois in New York and Canada in the early 1930's by the Smithsonian. Seneca anthropologist, Arthur Parker, wrote monographs on maize, the Code of Handsome Lake, the Iroquois Constitution and the Seneca culture when he was director of the New York State Museum. American anthropologists Frank Speck and William Fenton conducted research beginning in the 1940's and '50s. Fenton's classic study, "The Roll Call of the Iroquois Chiefs," was published by the Smithsonian in 1950. Fenton also worked with Seneca anthropologist, J. N. B. Hewitt on ceremonies of the Longhouse in the '40's. Not until the 1960s did Canadian anthropologist, Sally Weaver, begin her pioneering fieldwork on the Six Nations Reserve studying the "Non-conservatives" at Grand River. This was shortly after Annemarie Shimony, working through Yale University, began her classic work on the Longhouse community to systematically study the life-ways of the Six Nations non-Christian community. A broader anthropological perspective began to emerge that took in the entire society and culture, unlike the monographs.

[770] Taylor, John Leonard, "Canadian Indian Policy During the Inter-War Years," (Ottawa: DIAND, 1984), p. 211. The statistics cited were 105,000 in 1917 and 118,000 in 1939.

Scott's idealization of self-support and eventual advancement through material and moral progress would be carried on by loyal subordinates. T. R. L. MacInnes was the long-time secretary of the Department and adopted Scott's goal of the Indian administration as his own. [771] MacInnes was critical of Natives for their continued reliance on Indian Affairs, comparing it to a state of "tutelage" and endorsed his mentor's long-term goal of enfranchisement as the goal of the Department. When Scott retired he was succeeded by Harold McGill in 1932. McGill had been Scott's Deputy Superintendent. Brownlie points out that McGill shared Scott's essentialist conceptions regarding the character and abilities of Six Nations people. Natives were to be led to self-sufficiency by Department officials after Indians received a rudimentary education leading to a low-wage job. Stereotypically associating Native laborers with occupations that were ostensibly connected to their "traditional" lives such as fishing, farming, forestry – outdoor work without high pay – was regarded by McGill and his agents as a worthy progressive goal for dependent, child-like First Nations people. [772]

Native resistance to Canadian policy began to coalesce at Six Nations in the 1940's around the issue of land claims. Another vexing issue was suppression of Native ceremonies and religious precepts. Still, the Six Nations Confederacy was biding its time and would have no major legal case regarding the assertion of sovereignty at Grand River pending in Canadian courts until 1959, although there was obvious dissatisfaction with the elected council and the Dominion. Instead, Confederacy supporters endeavored to strengthen their own organizations, in both religious and secular realms, as well as their practices. Shut out of a recognized role in governing their own community, the Confederacy continued to meet, performing the appropriate ceremonies and rituals of office as a shadow government, while the chiefs bided their time before making a move to seize power.

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[771] Ibid., p. 201.

[772] Robin Jarvis Brownlie, A Fatherly Eye: Indian Agents, Government Power, and Aboriginal Resistance in Ontario, 1918-1939," (Don Mills, Ontario: Oxford University Press, 2003), p. 41.

Always adaptive, the Confederacy had existed for centuries and the ceremonies and rituals at the core of the "traditional" belief system had always evolved. As anthropologists grew more interested in Native populations many students flocked to Six nations as one of the major centers of traditional Iroquoian knowledge, as discussed in the first chapter. Journalists also sought to draw out traditional people about formerly secret ceremonies, for example, the White Dog and Little Water ceremonies.[773] The White Dog Ceremony took place five days after the new moon in February as part of the Mid-winter ceremonies, but due to Euro-American sensibilities concerning the treatment of animals, the practice of killing and burning a white dog in order to send the evil in the community heavenward, was abrogated.[774] As observed at Six Nations in 1936, even when no pure white dog was found on the reserve, the ceremony continued with dancing and the chant of Thanksgiving in the Cayuga Longhouse. This marked the turning point at the end of winter, when nature awakens and surrenders to the power of spring. Observed by journalists from the *Brantford Expositor*, reporters were struck by the manner in which the age-old ceremony was conjured up, without recourse to "buckskin" or "Indian decorations," only the dance, the chant and the drum and turtle rattles serving as accompaniment for the celebrants. [775] Traditional did not just mean exact repetition, for like all ongoing cultures, Native forms seamlessly adjust to change.

Yet, in the same year the former secretary of the Confederacy Council, Asa Hill, journeyed to the annual celebration of the Jay Treaty and complained bitterly of the destruction of Native life since the fall of the hereditary system. Hill blamed both the "white man" in both Canada and the United States for failure "…to understand the blight under which the Indians exist and until he is able to see the injuries through the eyes of the red man, nothing beneficial can be achieved." Asa Hill was no longer the progressive

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[773] See for example, Edmund Wilson's text, Apologies to the Iroquois, (Syracuse: Syracuse University Press, 1959).

[774] Dean Snow, The Iroquois, (Cambridge, MA, Blackwell Publishers, Ltd., 1994), p. 7. See also, "Indians Chant, Dance as Festival Goes On," *Brantford Expositor*, Undated clipping.

[775] "Indians Chant, Dance as Festival Goes On: Sacrifice of White Dog Without Dog on Six Nations Reserve," *Brantford Expositor*, February 19, 1936.

with an eye to future cooperation with the Canadian government. "We are restricted on every side and even the Royal Canadian Mounted police, who are charged with being our guardians halt our aboriginal ceremonies. They are nothing more than a fence around us," he proclaimed in a speech that was indicative of the attitudes expressed by the major Native spokesmen.[776] Grievances such as these led to the disillusionment of former "progressives" with the Band Council for became clear that it was not representative of the First Nations interests, but rather was expected to carry out the directives of the administrators at Indian Affairs. Personal "feuds" of the sort seen at Grand River between the agent and the residents of the reserves were apparently not uncommon as reported by Brownlie, who cited reserves near Georgian Bay and Manitoulin Island where agents were challenged by "returned soldier chiefs," men who had returned from the service and refused to be dictated to by an Indian agent.[777]

The year 1938 marked a great deal of media coverage of the installation of several new Confederacy chiefs at Grand River; for the first time photographers were allowed to take pictures of the ceremonies. This was all part of an ongoing campaign to publicize the continuation of the Hereditary Chiefs' Council, despite the existence of the Band Council. For example, the local press interviewed an eighty-year-old Mohawk chief, William Loft, a descendant of Joseph Brant, about his views concerning the two Councils. Chief "Sorenhowaneh," or Majestic Tree, argued that if the men of the reserve had the opportunity to abolish the elected council and re-install the chiefs, they would reestablish the Confederacy as rulers of the Grand River Territory. The chief regularly observed the elected council at work and found it wanting, noting that women had no role as in the older system.[778]

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[776] "Indians Berate White Attitudes, Methods of Treating Red Men in Border Crossing Rites at Falls," *Niagara Falls Gazette*, July 20, 1936.

[777] Brownlie, Robin Jarvis, A Fatherly Eye: Indian Agents, Government Power, and Aboriginal Resistance in Ontario, 1918-1939," (Don Mills, Ontario: Oxford University Press, 2003), p. 57.

[778] "Chief Sorenhowaneh Marks His 80th Birthday," *Brantford Expositor*, April 6, 1938.

The condoling of six chiefs had not taken place in thirty years. The event was witnessed by several thousand people who journeyed to Grand River in 1938 to observe the ceremonies. The chiefs translated the installation ceremony for the spectators, explaining not only the significance of the condolence ceremony, but the founding of the League of Peace. The chiefs used these ceremonies to educate the community and to buttress the claim that the Hereditary Council was still strong and committed to carrying on their duties into the future. News reports underscored the fact that the chiefs still met regularly in council and both chiefs and clan mothers still carried out their duties according to the Great Law. The dead or "fallen" chiefs are replaced in the ceremony by men appointed by clan mothers to the Council. All the men had Indian names from the Longhouse. The names were chanted melodically in the ceremony and cited in the article. The photos in the *Brantford Expositor* publicized the Confederacy and kept it in the public sphere.[779]

Yet, no matter their dissatisfaction with the government imposed upon their reserve, Six Nations was not disloyal to the Canadian government in times of war. Negative commentary from the German government regarding Canada's treatment of Native peoples was resented by the Six Nations community. As international tensions heightened before the Second World War Natives were unpleasantly shocked to be used as a propaganda tool by the German government against Canada in 1938. In an article in a Berlin newspaper, the Voelkischer Boebachter, in response to the Dominion's outcry over the Nazis treatment of the Jews, the German government fired back: "Why should Canadians look abroad? If Canadians want to see real atrocities they need only go to the Indian reservations of their own country. There they will find out what inhuman treatment really means, see how the old Indian population was destroyed by starvation and liquor." Natives at Six Nations quickly disassociated themselves from both the

[779] See two articles and accompanying photos from the Brantford Expositor, "Installation of Five New Chiefs," April 25, 1938 and "New Chiefs of Six Nations are Installed: Ancient Ritual and Ceremony Attended Dedication Yesterday," April 27, 1938.

allegations of persecution and addiction to alcohol charged in the German newspaper, amidst reports of Jews in Germany being arrested and placed in concentration camps.[780]

Indeed, Six Nations residents served in great numbers in the second World War, once more declaring their loyalty to Britain as faithful allies. Political protest arose against the United States, however, for attempting to draft members of Six Nations residing there. The Tuscarora Chief and Spanish-American War veteran who had helped Deskaheh, Clinton Rickard, championed their cause.[781] Although the United States had passed a citizenship act in 1924 making all American Indians citizens, many Iroquois Indians resisted this designation. Since the U.S. had also passed an exclusionary immigration act in the same year, there was a negative impact on Six Nations people crossing the international border.[782] Chief Rickard, along with many people from Six Nations, fought the application of the immigration act. Job Henry from Six Nations was summoned before an Immigration Board before the act was finally overturned in 1928.[783] In a similar fashion the Indian Defense League of America, led by Chief Rickard, resisted the imposition of the Selective Service Act in 1940 to Indian men. In demonstrations,

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[780] "Local Indians Resent German Newspaper's Atrocities Charges," *Brantford Expositor*, November 21, 1938.

[781] "Chief Rickard Dedicates Life to Cause of Indian," *Niagara Falls Gazette*, July 30, 1949. When I was a little girl, Chief Dave Hill, Jr. was an important and respected leader of the Indian Defense League of America, although overshadowed in the media by Chief Clinton Rickard. It was common for people from Six Nations to support the Confederacy on both sides of the border. The organization was simply a group of Six Nations families on both sides of the border who supported Native rights, who supported a legal defense fund and protection of their land. Chief Dave Hill, Jr. and Chief Clinton Rickard warned us about the stereotype of the drunken Indian and argued that if liquor was sold, it would give authorities an excuse to close the international border and we would lose our treaty rights. Chief Rickard and Chief David Hill, Jr., were very elderly, but even then, they were still harassed by Canadian officials.

[782] "Committee of Lower House Acts to Support Border Rights of Indians: Immigration and Naturalization Committee Reports Favorably on Bill to Allow Red Men to Cross and Recross Border," *Niagara Falls Gazette*, March 22,1928.

[783] U.S. Statutes at Large, 70th Congress, Sess. I, Chs. 307-311, 1927-1929, V. 45, Pt. 1, Public Laws, Chap. 308, "An Act to Exempt American Indians born in Canada from the operation of the Immigration Act of 1924," p. 401. This did not completely solve the problem because the U. S. could still bar these Indians using the Illiteracy Act of enacted in 1917; see "Garbed in Picturesque Clothing of their Ancestors, Indians Celebrate Border Freedom at Falls Gathering," *Niagara Falls Gazette*, July 15, 1928. This requirement, as well as a per capita tax of $8.00 for crossing the border, was removed from Six Nations Indians by the League. See "The Accomplishments of the Indian Defense League, in the file of clipping in the Niagara Falls, Ontario Public Library.

parades and even a war dance Canadian-born, Six Nations people demonstrated against forced registration for conscription in the United States.[784] Chief Rickard always preached the sovereignty of Indian nations as national entities apart from the United States or Canada. Focused on defending the border rights guaranteed by the Jay Treaty, Rickard always stood firm on the principle that all Six Nations Indians were citizens of their own nations.[785] One of the major conflicts during the tenure of the Commissioner of Indian Affairs, John Collier, was that Natives were required to register as aliens when filing for the draft. Men from Six Nations working in the United States took their cases to the United States Courts. Claiming special status in the Ex Parte Green case in the U.S. Court of Appeals, Native men argued that their special status prevented the United States from treating them as conscripts.[786] Two other cases involving the draft also were contested, namely the United States v. Claus and Albany v. United States. The outrage concerning the characterization of Native people as aliens, much the same as immigrants who were not citizens, struck a chord in Six Nations communities on both sides of the international border. Although the courts ruled in favor of the American government, the contest helped to reinforce a sense of solidarity and the need to uphold the principle of sovereignty at Grand River.[787] Two hundred, twenty-five Natives from Six Nations fought in the Second World War. They were celebrated by the local war correspondent of the reserve newspaper, *The Pine Tree Chief*, begun in 1941. Their correspondent was killed in battle.[788] The Canadian government did not conscript servicemen until nearly

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[784] "Indians Protest Registration in Full-War Regalia," *Niagara Falls Gazette*, December 27, 1940.

[785] Many League members were from the Canadian side of the border and were very resistant to the United States encroachment upon their sense of identity as Six Nations people, not American or Canadian citizens. They proclaimed their identity as Six Nations people when crossing the border and were subsequently harassed by border agents on both sides. Chief Rickard was deported from Canada over his fight to uphold the Jay Treaty and the open border for Six Nations members. See "Indian Defense League Held Annual Unique Celebration," in *Niagara Falls Evening Review*, July 17, 1933. This chief was probably the first person who influenced me regarding the articulation of an ideology of national self-determination as a part of an intrinsic Native identity and ongoing political struggle for civil rights.

[786] Roger Nichols, Indians in the United States and Canada, (Lincoln: University of Nebraska Press, 1998) p. 284.

[787] Hauptman, Laurence, The Iroquois Struggle for Survival: World War II to Red Power, (Syracuse: Syracuse University Press, 1986), p. 6.

[788] Ibid., p. 3.

the end of the war, so there was little of the public conflict seen in the United States over the draft of Six Nations servicemen in Canada.

Post-War Challenge to the Status Quo and the Indian Act:

In 1946, one of the successors to Duncan Scott, T. R. L. MacInnes, proclaimed that there were two possible scenarios for Indian development within Canada: assimilation or "…a separate racial life with its own distinctive culture and ideology…"[789] There had been a slowly building crisis in Indian administration in Canada since the 1930's – not enough funding, expertise or understanding of life on reserves to address the appalling social and economic conditions for Native people in regard to health, education and welfare. The growing Native population and the shrinking land base prompted an urban migration to Canadian cities where the issues engendered by poverty such as poor housing, healthcare and other social problems were more visible. Following the war Canadians began to be more interested in social welfare and civil rights for the Native populations in their midst. A Special Joint Committee of Parliament would soon recommend that a working partnership be developed between the federal and provincial level so the Canadian government might address health, education and social welfare of Indians in each province. By 1949, social scientists would begin working directly with officials in a research group centered within Indian Affairs to identify and study problems affecting Indians in Canadian society.[790] Finally, perhaps a glimmer of change had come to Canadian society regarding a future for Native peoples.

This transformation was also come about through the efforts of Natives themselves, particularly Andrew Paull and Dan Assu, affiliated with the Native Brotherhood of British Columbia. They not only journeyed to Ottawa with their complaints, but who also came to Six Nations to formulate a formal protest to present to the Canadian government and to demand a formal review of Indian policy. The petition

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[789] Taylor, John Leonard, "Canadian Indian Policy During the Inter-War Years, 1918-1939," (Ottawa, DIAND), p. 211.

[790] John Leslie, "A Historical Survey of Indian-Government Relations, 1940-1970," Paper Prepared for Royal Commission Liaison Office, December 1993, p. 20-22.

sought an end to enforced conscription, as well as the collection of off-reserve income tax and licensing fees from Natives. The Native activists sought a comprehensive review of policy, investigation of the conditions on the ground and of the Indian Act, itself. This journey of Paull and Assu to Ottawa and then to Ohsweken to meet with the chiefs of Six Nations, Micmac and Mississauga has been referred to as the signal moment when post-war Native activism began in Canada.[791]

Indian Affairs bureaucracy shifted after a series of retirements and replacement with officials who had some expertise with a more cooperative work ethic. With the arrival of J. A. Glen, the former speaker of the House of Commons, to take over as Minister of Mines and Resources in 1945, the atmosphere around Native affairs in Ottawa changed. Formerly, Natives had to file any complaints with their local agent, effectively suppressing any avenue to Ottawa. Suddenly, Indians were actually encouraged to participate in conferences in Ottawa and air their grievances directly. Of course, this did not mean that all grievances were welcome, or that spokesmen were not hand-picked by government officials. Yet, through the dialogue initiated after Glen's appointment a Special Joint Committee of the Senate and House of Commons began to consider reform of the Indian Act in May 1946. The major issues under consideration were treaty rights, enfranchisement, taxation, voting in national elections, residential schools and encroachment of non-Indians on reserve lands.[792] "The special joint committee of Parliament of 1946-48 recruited new policy actors to the post-war Indian policy community, breathed new life into Indian administration, and helped to recast Indian assimilation in more enlightened terms of Indian "integration" into Canadian society."[793] Social welfare would become part of this discussion, but services available to Canadians such as old-age pensions were not extended to Indians until 1952.

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[791] John Leslie, "A Historical Survey of Indian-Government Relations, 1940-1970," Paper Prepared for Royal Commission Liaison Office, December 1993.

[792] Ibid., p. 4-5.

[793] John Leslie, "Assimilation, Integration or Termination? The Development of Canadian Indian Policy, 1943-1963," Dissertation, Carleton University, March 1999, p. iv.

Similarly, the public sector was slow in including Natives within their sphere: the Disabled Persons Act was applied in 1955 and Children's Aid Societies did not include Indians until 1956.[794] Private charity organized by Six Nations people themselves or sponsored by the churches was the dominant form of aid on the reserve in the post-war period; obviously, this left many gaps and was one of the reasons for the appalling conditions found when Canadian anthropologists began surveying the conditions on Indian reserves. Even fairly prosperous farmers who were "progressive" supporters of the elected council often had no indoor plumbing, water or sanitation well into the 1960s.

Seeds of reform would also be nurtured by an academic report in the early 1950's on the Indians of British Columbia commissioned by Indian Affairs and directed Dr. Harry Hawthorn, an anthropologist at the University of British Columbia.[795] This report on the status of Indians in British Columbia would be the model for the national report Hawthorn completed in the 60's. The comprehensive 1966-67 Hawthorn Report had an effect similar to the 1928 Meriam Report in the United States – the sharp criticism of Indian administration resulted in government reform. Like Meriam, Hawthorne uncovered data that should have been obvious to the officials and administrators at Indian Affairs -- for Indians were living in deplorable conditions, without access to basic services such as education, decent housing and health care, despite being surrounded by a relatively affluent society.[796] Hawthorn's report made numerous recommendations to revamp Indian administration based on his comprehensive review of the host of problems aboriginal people faced in Canadian society.

A new national Indian organization was formed, as well, "The North American Indian Brotherhood (NAIB)," signaling the birth of Canadian Indian rights organizations. Members would testify before Parliament to articulate the plethora of Native perspectives emerging from Native nations across Canada. During the hearings before the Joint

[794] John Leslie, "A Historical Survey of Indian-Government Relations, 1940-70," Paper Prepared for the Royal Commission Liaison Office, December 1993, p. 32.

[795] Ibid., p. 24.

[796] Roger Nichols, Indians in the United States and Canada, (Lincoln, University of Nebraska Press, 1988), p. 274-5

Committee for the first time a Native political agenda emerged underscoring the following concerns: living conditions and poverty on reserves; social welfare; education; economic development; treaties and land claims; and self-determination.[797] Of course, issues and priorities differed from one nation to another and within bands – so did proposed solutions. This divergence of opinion was not what was expected from Native groups for governmental forums regarding Indian concerns had been tightly managed and controlled by Indian Affairs before this time.

The issues of concern to Six Nations were also debated locally, at the community level by both supporters of the elected council and the Confederacy in the community. Following the war, for example, there was discussion in the local paper, *The Pine Tree Chief*, about the role of the Indian in Canadian society. Brig. O. M. Martin, the first Indian appointed to a judicial post in Ontario as York County Magistrate, had distinguished himself through service in both world wars.[798] He argued in his home town paper: "Indians should be given the right to vote with the assurance that the lands held by them remain free from taxation. An act should be passed to allow for the appointment of an Indian senator, to advise Parliament, counsel the Indians, and to ensure that legislation passed in Parliament for the benefit of the Indians is carried out effectively by officials appointed for that purpose. Indians at the present time have no confidence in Parliament…" Another source contributing to the editorial page was Elliot Moses, also a well-know progressive from Six Nations. Moses welcomed the prospect of a Royal Commission, but with Indian delegates to put forth a Native perspective and with the objective to completely revise the Indian Act. Moses suggested: "…a portion of the membership of the Commission should consist of Indians whose qualifications are such as would enable them to convey to other members of the Commission the Indian point of view on all questions that may be considered."[799] Clearly, the transition to an elected

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[797] John Leslie, "A Historical Survey of Indian-Government Relations, 1940-1970," Paper Prepared for Royal Commission Liaison Office, December, 1993, p. 7-9.

[798] "Officer in War, Magistrate in Peace, Six Nations Man Made His Mark," *London Free Press*, June 18, 1966.

[799] Editorial, "What Should We Do About the Indians?," *Pine Tree Chief*, December 14. 1945.

council at Six Nations had not facilitated a Native voice in the highest councils governing the affairs of our First Nation. These two gentlemen voiced concerns that were to be part of the discourse for reform of the Indian Act, namely voting without losing one's rights, an appropriate role for consultation, freedom from taxation and change in Ottawa's perception of governance of Natives within Canada. If these progressives were dissatisfied and openly critical of the Canadian government shortly after the war, then what was to be done with the more radical elements of the Six Nations population who resented any interference with self-government, or who sought the return of the hereditary council?

Policy differences mounted after the war exemplified by the two separate delegations, one from the elected council and one from the Confederacy council, who went to Ottawa in May 1947. The group from the Band Council who testified before the Joint Committee regarding the revision of the Indian Act included Enos Maracle, J. H. Martin, H. Jamieson, Hilton Hill, Joseph Hill and Reginald Hill. The delegates sought greater control of their lands, trust funds, a greater degree of autonomy and self-government. The elected council wanted to have final authority and control over their own membership, rather than having membership determined by Indian Affairs in Ottawa. One reform that was eagerly sought was the right to vote without the loss of one's rights as an Indian. They also sought more support for education and social welfare from the Canadian government. [800] After 1916, the demographic data had indicated that Native population was increasing, while land and resources available to Indians decreased. This ran counter to the supposition that the Indian problem, as well as the Indian administration would fade away. Resources to sustain Native populations had decreased markedly since the Great Depression when prices plummeted for fish, fur and Canadian wheat. Poverty left some Natives dependent upon social welfare for the first time in their lives.[801]

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[800] "Indian Delegation Goes to Ottawa," *Pine Tree Chief*, May 30, 1947.

[801] John Leslie, "A Historical Survey of Indian-Government Relations, 1940-70," Paper Prepared for the Royal Commission Liaison Office, December 1993.

In contrast to the eleven-page brief submitted by the elected council, the Confederacy delegates sought the reinstatement of the Hereditary Council and the respect and observance of Six Nations treaties. The Confederacy was represented by Asa Hill. Representing the Indian Defense League of America were Sam Lickers and William Smith, the latter being Assistant Secretary of the Six Nations Hereditary Chiefs, who had formerly supported the elective system.[802] This underscores the fluidity of the political situation at Six Nations where people may shift their support and allegiance to either of the major political groups on the reserve depending upon the issue and/or personal ties.

The post-war period would be characterized by a radical reconfiguration of Native – Canadian politics, but did not result in major reform of the Indian Act. In fact, the Joint Committee of Parliament would result in some revisions and statutory adjustments, but no major changes to the Indian Act of 1951. Indian Affairs would be shifted in 1950 from Mines and Resources to the Department of Citizenship and Immigration, with the appointment of a new Minister, Walter Harris. A new definition of "Indian" was introduced, for one of the peculiarities of Canadian statutory law was that it attempted to define and determine at the Federal level who was, and who was not, a Native person. Official band lists were drawn up and posted and there was a mechanism to challenge the ruling – this resulted in great confusion and membership disputes throughout Canada. The ban on ceremonies and dances of Native groups was removed. For the first time non-Natives might raise money on reserves to fund legal proceedings for land and treaty claims, something that had bedeviled Six Nations in their struggles with the Dominion. Funding for education and teachers was increased. Nevertheless, the central principles of Indian policy remained – protection, advancement and assimilation. The thrust of the new policy according to Minister Harris was an emphasis on integration of Indians within Canadian society, rather than assimilation. [803]

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[802] "Indian Delegation Goes to Ottawa," *Pine Tree Chief*, May 30, 1947.

[803] John Leslie, "A Historical Survey of Indian-Government Relations, 1940-70," Paper Prepared for the Royal Commission Liaison Office, December 1993, p. 13.

This conception of integration was flawed for it was still based on the nineteenth-century principle of racial uplift, placing the onus upon each individual to embrace the work ethic and values of Canadian society, without any recognition of cultural difference, past or present disadvantages to Native groups or special status in regard to indigenous rights. The Canadian policy as formulated by the Indian Act would later be challenged by indigenous rights groups demanding recognition of Native sovereignty and special status as "citizens plus." This political stance incorporated the notion that special rights should be accorded to First Nations within the Dominion based upon treaty rights, land claims and the unprecedented losses First Nations endured, resulting from Canadian settlement. Unfortunately, the aboriginal challenge unfolded at the same time as the threat of the Quebec separatist movement unnerved the politicians in Ottawa and made any special cultural status moot.

Meanwhile, the notable issues that increased tensions in the post-war period between Six Nations and the Dominion were land claims, interference with ceremonies and cultural practices, and the Grand River Navigation case. The 1947 elected council put forth a claim to the Canadian government for $1,250,000 for the misappropriation of Six Nations trust funds they argued were invested in the canal project without Six Nations consent in the 1830s.[804] The company had been formed in 1827 and chartered five years later, mainly through the efforts of William Hamilton Meritt, a Member of Parliament, as well as the builder of the nearby Welland Canal. Meritt held 2,000 shares in the company and the Six Nations held 1,760 shares. A considerable tract of Six Nations land was flooded to construct a feeder canal from the Welland system to the Grand River system reliable and acceptable for transport, for the Grand River is notoriously shallow in many places. Like many companies of the canal age, the Grand River Navigation Company eventually went bankrupt, but it was intended to facilitate the growth of the town of Brantford as a port. The project was officially opened in 1848, but with the coming of the railroads, the company began to lose money. Forced to borrow money from the town, the company struggled for a short time, but the mortgage was

[804] See photograph of Six Nations members of the elected council, "Six Nations Council Reviws $1,250,000. Claim," *Brantford Expositor*, December 5, 1947.

foreclosed in 1861.[805] The Six Nations funds invested in this project amounted to $160,000 and a hearing pending further litigation began in 1948.[806] Six Nations representatives have consistently argued that the purchase of the stock was done without their knowledge. Another issue was whether this was done with criminal intent.[807] The Canadian government held hearings on this, but disavowed any responsibility to repay the trust funds because this was done before Confederation. Britain, too, had also refused to make good on the Six Nations loss. Even Thompson in his report strongly suggested that the Canadian government put the issue to rest by brokering a fair settlement of the Indians' long-standing claim, but nothing was done. The Department of Indian Affairs offered to settle out of court for $90,000, plus lawyer's fees, but the Six Nations Council refused, insisting on return of the principal and interest, leading to further litigation in 1951.[808] This incident poisoned relations between Canada and the entire Six Nations community.

Another signal that relations were worsening between Six Nations and the Canadian government was a presentation of grievances at the United Nations in September 1947.[809] Supported by the Indian Defense League of America, led by Chief Clinton Rickard, members of Six Nations journeyed to New York, marching down Fifth

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[805] "Brantford's Canal Age," *Brantford Expositor*, May 16, 1973.

[806] "Six Nations Council Seeking $1,250,000." *Pine Tree Chief*, Ohsweken, Ontario, January 9, 1948.

[807] A confidential report, with an unsigned cover letter was submitted by an archivist who worked in Indian Affairs during this litigation. He argued that this money was taken without Six Nations consent and "in connivance with Government officials appointed to protect their interests." In a 66-page report A. E. St. Louis, Archivist called to assist in the case detailed his findings and his subsequent dismissal by the Ministry of Justice on December 21, 1951. See "Confidential Report: Grand River Navigation Co., Investment 1834-1844, Litigation 1943-1952, Second Copy," (Ottawa: DIAND, Historical Claims and Research Office, 1952)

[808] S. J. Bailey, "The Six Nations Confederacy: An Attempt to Understand, from Available Documents, the Position Taken by the Indians of the Six Nations, (Ottawa: DIAND, Historical Claims and Research Office, 1999) P. 14.

[809] My mother, aunts and older sister went as part of the delegation to the United Nations, protesting treatment of Six Nations women at the hands of the Dominion of Canada. Women were denied Indian status, if they married out of their band. The Indian Defense League of American sponsored this trip. See *Pine Tree Chief*, February 27, 1948 and *Niagara Falls Gazette*, Niagara Falls, New York, "Six Indian Nations Protest Treaties Are Being Broken," December 4, 1952, p. 17.

Avenue in traditional attire and performing a peace dance, as well as holding a protest in Central Park to draw attention to the difficulties of Six Nations Indians in protecting their treaty rights.[810] This demonstration was also designed to call attention to Canada's abrogation of the Haldimand Proclamation guaranteeing the Iroquois Confederacy's traditional government at Grand River. The Confederacy was represented by William Smith, Jr., now Secretary of the Confederacy Council, who had switched his allegiance from the elected council.

Due to the work of Arthur Anderson, Secretary to the Confederacy Council for three decades, Bill Smith and Emily General, as well as numerous chiefs and clan mothers, the Confederacy was still organized and running. Alex General, brother of Deskaheh, was also involved in the planning of this event.[811] Emily General, a vocal supporter of the Confederacy from the reserve and sister of Alex and Levi General, was a former teacher until she was removed from her position in 1946 for not swearing allegiance to Canada, which was against her personal beliefs.[812] General was also active with the Six Nations contingent within the IDLA. The close-knit group from Six Nations had grown up and gone to school together. Even if they worked across the border, many Six Nations people traveled across the international border to visit family and attend festivals such as the Six Nations Pageant organized on an annual basis by Emily General, the Bread and Cheese Day and the Border-Crossing Celebration.[813]

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[810] "Six Indian Nations Protest Treaties are Being Broken," *Niagara Falls Gazette*, December 4, 1952, p. 17. The women in my family participated in this demonstration and one of my earliest exposures to these issues was viewing the old black and white photographs of my older sister Sharon, my mother and her sister, Edna, marching in New York City for the "League." All of them wore white, beaded buckskin dresses which attracted my attention, as a child – it was only later that I realized the significance of the dress.

[811] "Six Nations Indians at U.N. Headquarters," *Pine Tree Chief*, February 27, 1948.

[812] Ella Cork, The Worst of the Bargain, (San Jacinto, California: Foundation for Social Research, 1962), p. 10, 11.

[813] Ms. Emily General spoke at the Greystone Hall, Niagara Falls, New York, along with 150 delegates who came from Six Nations to complain of the treaties that were "broken like saplings." The Greystone was a favorite gathering place for dances and events run by the Indian Defense League and attracted Natives from the surrounding area, from both sides of the border.

Many of these individuals originally from Six Nations, but living in the United States were many IDLA members such as Melvin and Mary Johnson, Lehigh Antone, Frances and Ivan Maracle, and members of the Burnham, Hill, Martin, Jamieson and Froman family clans, joined with Confederacy advocates from all along the Great Lakes. It was in their mutual interest to fight for Six Nations treaty rights in cooperation with the Tuscarora chief, Clinton Rickard, who would soon face a huge battle with Robert Moses and the New York State Power Authority in the 1950s. Rickard was adamant that we should all fight this together as Six Nations. The persecution of Six Nations people at the border brought forth resistance and a sense of renewed solidarity from Indians scattered along the international border. The hereditary chiefs and the Indian Defense League both used this sense of Six Nations identity in their efforts to draw attention to their campaign to uphold treaty rights for all aboriginal communities. Notably, the band council was silent on these issues.

The next major dispute between the Confederacy and the Dominion was related to the right of Six Nations chiefs to conduct marriage ceremonies in the Longhouse without provincial oversight. The chiefs argued that marriage practice were guaranteed by their treaty rights. The fracas over tribal marriages, as well as a pending land claims case, set the stage for the next major legal battle between Six Nations and the Dominion in 1959. The dispute began when the province of Ontario attempted to regulate traditional Native marriages on the reserve through registering chiefs who performed marriage ceremonies in the Longhouse. This was vociferously resisted by the chiefs who viewed this as encroachment on their authority and culture. At issue was an amendment to the Ontario Marriage Act, which entailed Ontario's assumption of power they argued was better left in Native hands.[814] As Six Nations advocate Malcolm Montgomery argued: "In 1956 the Hereditary Chiefs of the Six Nations Confederacy ran afoul of the Ontario Marriage

[814] "Indians Reject Demands about Tribal Marriages, Stand on Treaty Rights," *Brantford Expositor*, February 15, 1957.

Act which provided among other things that all persons performing marriages should register with the Provincial Secretary's Office."[815]

By amending the Marriage Act, Ontario required the chiefs who performed marriage ceremonies in the Longhouse to register with the province. They also created a special form for Indians to submit to register their marriages. The legal principle the chiefs were disputing concerned Six Nations status as a national entity. The chiefs rejected the subordination of Six Nations to provincial restriction, for they argued that by treaty Six Nations officials did not have a legal relationship with the province, but only with the Federal government. This is commonly referred to as the "nation-to-nation" principle. Ontario had set July 1, 1956 to implement the new restrictions and to enforce compliance. The province would not recognize marriages conducted by unregistered chiefs after that date. Six Nations chiefs had not registered by the required date, so the Ontario Secretary ruled that four children born of marriages conducted by an unregistered chief, were illegitimate. At a meeting with provincial officials in the Onondaga Longhouse Six Nation chiefs rejected that demand, arguing that they would not obey Ontario law regarding marriage of Native people. The Chiefs who spoke on this issue were Joseph Logan, Sr., Arthur Anderson, the Secretary of the Confederacy, Bill Smith, Assistant Secretary, Howard Skye and Joseph Logan, Jr.[816]

At this juncture, the chiefs were fortunate to find a learned and honorable gentleman who would become their tireless legal advocate for decades, a local attorney originally from the nearby town of Brantford named Malcolm Montgomery. Montgomery was practicing in Toronto and had become interested in the case from news reports; he was convinced that the circumstances merited a legal challenge. He offered to take the case to the Ontario Courts and the Confederacy agreed. Montgomery was planning to challenge the Ontario provision on three points. First, he argued that the

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[815] Montgomery, Malcolm, "The Legal Status of the Six Nations Indians in Canada," *Ontario History*, 55 (1963) p. 102.

[816] "Indians Reject Demands About Tribal Marriages, Stand on Treaty Rights," *Brantford Expositor*, February 15, 1957.

clause of the Marriage Act requiring officials conducting marriages to be registered with the province, also makes note that a couple who marry in good faith and believe themselves to be acting in accord with the legal provisions, are legally married. Second, he was going to challenge the authority of the province over the Six Nations, since according to the British North America Act, the Federal government retains sole power over the Native population. Third, Montgomery lobbied the members of the Legislative Assembly, presenting a petition from the chiefs and skillfully using the media to present their case to a sympathetic public, caught up in the story of the babies' right to legitimacy – this proved to be the winning argument. No politician wants to be on the wrong side of a photo opportunity with an infant and mother. Before the case was even admitted to the courts, the legislators gave in and created an exception to the offensive statute.[817]

Leslie Frost, the Provincial Premier, introduced a bill that amended the Marriage Act to take note of the chiefs' objections. In debating the question in the legislature, Frost argued on March 28, 1957: "Mr. Speaker, the purpose of my moving this bill, seconded by the Hon. Provincial Treasurer, in [sic] this. Traditionally in this House, bills which affect other jurisdictions, other provinces and other governments are sponsored by the Hon. Prime Minister. On this occasion, in dealing with the Six Nations Iroquois Confederacy, we felt that it was better to keep relations on a diplomatic level, and therefore that is the reason I introduce this bill."[818] This would have great impact on the supporters of the Confederacy at Six Nations, for their whole argument was based on the idea of Six Nations sovereignty. Frost had also stated the previous day: "I think we should recognize them as a government in themselves which is equal in status to ourselves."[819] This notion was accorded little support at the time and some even argued that the comments were not meant seriously, but it served to encourage the Confederacy

[817] Ella Cork, The Worst of the Bargain, (San Jacinto, California: Foundation for Social Research, 1962) p. 4.

[818] Montgomery, Malcolm, "The Legal Status of the Six Nations Indians in Canada," *Ontario History* 55 (1963) p. 102.

[819] As quoted from Debates, Legislature of Ontario, March 26, 1957, p. 1570, in S. J. Bailey, "The Six Nations Confederacy," 1999, Research paper in the files of the Historical Claims and Research Centre, DIAND, Ottawa, p. 11.

and its supporters that their voices were not silenced, despite the legitimacy accorded to the Band Council. Having been successful in petitioning the Ontario legislature to reverse the objectionable ruling concerning the Ontario Marriage Act, the chiefs presumed that the Federal government would reverse its statutes with equal ease. [820] Under the sage advice of Malcolm Montgomery, the Chiefs were emboldened to bring a legal action to completely strike and set aside the Orders-in-Council that had removed the Hereditary Chiefs. Montgomery's legal strategy was to consistently question the authority of the Canadian government over Six Nations. Montgomery viewed Six Nations as a quasi-independent, Native enclave and he sought to challenge the Canadians in both the forums of national and international law. The Confederacy sought to reestablish the old familiar form of government at Grand River."[821] These different agendas were palpable and would eventually cause a rift.

One of the other issues that resonated nationally was the protection of Native civil rights and the inequities in the existing Indian Act. The Canadian Bar Association Civil Liberties Section, under the direction of Ruth Gorman, from Calgary, conducted an investigation of Native civil rights under Indian administration and recommended many changes. Numerous challenges to band membership were mounted after the revised Indian Act was made law in 1951. Since there was a new legal definition of an Indian, there was great confusion over membership roles. These disputes were particularly prominent in the West and roused a great deal of media and political attention.[822]

The Bar Association focused on the new definition of Indian on which membership status was based. Its committee on Indian Civil Rights unanimously recommended a change to a particular section of the Indian Act, namely: "That all Indians who are signed in treaty or who are the descendants of Indians who were signed

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[820] Montgomery, Malcolm, "The Legal Status of the Six Nations Indians in Canada," *Ontario History* 55 (1963) p. 102.

[821] Ibid., p. 97.

[822] John Leslie, "A Historical Survey of Indian-Government Relations, 1940-70," Paper Prepared for the Royal Commission Liaison Office, December 1993, p. 27, 28.

in treaty should register as Indians." According to the 1951 Act, Section Twelve, so-called "treaty Indians" could be removed from the rolls, losing their right to live on reserves for five reasons: If one was of illegitimate birth, or a descendant of one who was illegitimate; if one had "mixed blood;" if one was "allotted scrip," or descended from those who had; if one was enfranchised, or a descendant of an enfranchised individual; or finally if one was a female who married a non-Indian. Scrip was often referred to as "half-breed scrip" in the nineteenth-century, meaning individuals of mixed blood often accepted a payout, rather than land, that was issued by the government. Scrip was a certificate redeemable only in a particular way, from a particular site – it was not convertible currency, but similar to credits at a company store, for example. There was massive speculation in scrip, even before it was issued, so the Indians who obtained scrip were rapidly divested of it and left with nothing – neither land, nor money. The Canadian Bar Association argument against the existing statute was that many of the factors through which Natives were removed from tribal rolls were the result of decisions of a prior generation, having nothing to do with the individual in question.[823]

Curiously, the committee on civil rights saw no problem with an Indian woman losing her enrollment if she married a non-Indian, a principle that would be vigorously contested in the future and discussed in detail in a later chapter. In fact, the committee lauded this principle: "Since an Indian woman takes the status of her husband, and since her husband is prohibited from being registered as an Indian, it is logical that she too must cease to be an Indian. Furthermore, although this is a surrender of her treaty rights it is voluntary and necessary." Though the women's movement, as discussed in Chapter Fourteen, would vigorously contest this statement it would be a long time before it would be brought under the glare of public scrutiny and overturned. The Bar Association Committee on Civil Rights vowed to continue monitoring Native civil rights and to press

[823] Public Archives of Canada, Indian Affairs, RG 10, Volume 7104, File 1/3-3-17, Pt. 1, "1958 Report of Committee on Legal Status and Civil Rights of the Canadian Indian."

Parliament to grant Indians the right to vote in national elections without having to become enfranchised or having to waive the right to exemption from taxes. [824]

John Diefenbaker, the next Prime Minister and a populist from the Canadian prairie was able to successfully capitalize on his long- standing relationship with Native leaders from Western Canada. He represented Prince Albert, an area that had a significant Native population, both treaty Indians and Metis. Diefenbaker had long heard complaints about the arrogance and paternalism of the officials at Indian Affairs and sought to investigate the Department and amend the Indian Act. Diefenbaker, a champion of human and civil rights, promised Native leaders in his 1957 campaign to remove the threat of enfranchisement and give Natives the right to appeal the rulings of the Minister, two problems he identified in the recently revised 1951 Indian Act. Diefenbaker's commitment to the reform of Indian Affairs, now part of the Citizenship and Immigration Ministry, dovetailed with the agenda of the Canadian Bar Association. Both the Prime Minister and the legal reformers sought four reforms: curbing the power of the Minister; eliminating compulsory enfranchisement; respecting and fulfilling treaty obligations and granting the right to vote. [825] Diefenbaker's advocacy of Natives' right to vote and his work on a Canadian Bill of Rights would place him in the center of a storm of controversy, for he was a harsh critic of apartheid in South Africa. This debate would lead to the denunciation and exclusion of South Africa from the Commonwealth, so Canada could hardly be seen as disenfranchising its own Native citizens while condemning South Africa for a similar policy.[826]

Among the politicians Diefenbaker tasked with the responsibility for reforming Indian Affairs, Ellen Fairclough was particularly suited for the job. She hailed from Hamilton, a city quite close to Six Nations Reserve. Fairclough announced the formation

[824] Public Archives of Canada, Indian Affairs, RG 10, Volume 7104, File 1/3-3-17, Pt. 1, "1958 Report of Committee on Legal Status and Civil Rights of the Canadian Indian." Enfranchisement entailed a substantial material loss for Natives, including their claim to tribal assets, reserve land and treaty payments.

[825] John Leslie, "Assimilation, Integration or Termination? The Development of Canadian Indian Policy, 1943-1963," Dissertation, Carleton University, March 1999, p. 302, 306, 307.

[826] Desmond Morton, A Short History of Canada, (Toronto: McClelland and Stewart. 2001) p. 270-276.

of a Joint Committee of Parliament to examine the Indian Act and Indian administration in 1958, due both to the pressure of Native groups and civil libertarians.[827]

The Hearings of the Joint Committee would continue from May 20, 1959 and would not conclude until June 8, 1961.[828] Members of Six Nations would testify at the hearings, airing their grievances. The Confederacy sought abolition of the Indian Act, while the elected council sought more power and control over membership and funds. The Confederacy representatives bitterly condemned the Canadian government's policy: Irving Logan recited a litany of government abuse of Six Nations. "They (the government) took away our government…They made us go to their schools. They took away our languages. An now, they won't eve let us bring up our own children."[829] The fear in the Six Nations community was that social welfare agents would take children away from parents they deemed "unfit." One could lose one's children to white foster-families, merely by having a greater number than the social workers thought was appropriate.[830] Verna Logan, a clan mother and wife of a Six Nations chief, testified at these hearings, questioning the veracity of Minister Fairclough regarding unfulfilled promises to Six Nations. Bill Smith, Assistant Secretary of the Confederacy argued that since only a minority of people vote for the band council, most people from Six Nations would never recognize them as a legitimate form of government.[831]

By the conclusion of 1959, there would be a clash between the two councils resulting in an Ontario Supreme Court case. This would consist of the second phase of the assertion of sovereignty and status of Six Nations. The genesis of the case involved

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[827] John Leslie, "A Historical Survey of Indian-Government Relations, 1940-70," Paper Prepared for the Royal Commission Liaison Office, December 1993, p. 28, 29.

[828] Ibid., p. 33.

[829] "Six Nations Demand Self Rule: "'Government Is Destroying Our Race,' Indians Charge," *Brantford Expositor*, June 23, 1960.

[830] See my interview with Lenora Jamieson.

[831] Six Nations Demand Self Rule: "'Government Is Destroying Our Race,' Indians Charge," *Brantford Expositor*, June 23, 1960.

elements familiar to Native legal disputes – land claims, sacred rites and ceremonies and self-government, but also subtle expressions of Six Nations culture and identity.

Chapter Nine

Warriors' Revolt at the Council House

The 1959 Warrior's Rebellion and its long-term results rank among the most significant events in Six Nations twentieth-century history, or since the failed 1924 League of Nations appeal. The rebellion illustrates clearly the complex nature of reserve issues and the existing social complexities resulting from decades of argument and disagreement over contested principles among Six Nations people and their ongoing subjugation by Canadian bureaucrats. The 1959 trial that followed the Warriors Rebellion challenged Canada's claim to political sovereignty and the legitimacy of the local government on the reserve. Until 1959, the legal status of the Six Nations had not been legally established in the courts and the authority of the government to impose an elected system on the Six Nations community had not faced a decisive legal challenge.

A concurrent theme explores the myriad ways in which Six Nations identity was manifested on the reserve, at the trial and in the media for context and setting altered its presentation. The expression of tribal/band and racial identity, sometimes referred to rather awkwardly in academic papers as the manifestation of "Indianness," was presented quite differently in the formal setting of the Supreme Court of Ontario and the informal, familiar confines of the Six Nations Reserve. The 1959 incident touches upon many of the themes relevant to the assertion of Six Nations sovereignty at the League of Nations, but it was done close to home, rather than in Europe. This time there would not be an American lawyer defending the Confederacy, but an attorney from Toronto, Malcolm Montgomery, who would prove to be devoted to the cause of the Six Nations Confederacy. The status case would earn the Six Nations case a place in the history of legal treatises across Canada.

By 1959, the dispute between two so-called "factions" supporting either an elected system or the traditional Confederacy system of local government had waxed and waned on the Six Nations reserve for thirty-five years. The proposed sale of a three-acre tract of Six Nations land to a local concern, the Cockshutt Farm Equipment Company by the elected council focused renewed attention on the long-simmering dispute within the

Native community.[832] In 1957, the dispute moved beyond the bounds of the reserve, when a legal challenge to the sale of the land was mounted in the Supreme Court of Ontario by the supporters of the Confederacy. This legal challenge, close to home rather than in Ottawa or an international forum, led to an examination of the significance of Six Nations identity in relation to issues of daily life as well as the relations of the Six Nations community to Canadian society. Trials involving Native people often bring to the forefront signal markers of cultural identity such as language, physical appearance, religious practices and beliefs and in this case, governance. [833] Claims of cultural and political "authenticity" resonated through the trial as both the supporters of both councils vied to sway the court's decision as to who should rule at Six Nations Reserve.

In the spring of 1959 on March 5, commemorated as the day of the "rebellion" in local lore, the supporters or "warriors' of the Confederacy, many of whom had nursed their grievances since 1924, took action en masse. Over one thousand people would peacefully takeover the old Council House in Ohsweken. At 10:30 a.m. the warriors ripped the door of the venerable old building off its hinges and proceed to occupy the building in the name of the Hereditary Council of Chiefs. For one week, the warriors and their legion of supporters held their ground, disavowing the authority of the elected council, the provincial police, only succumbing to the armed invasion of the Royal Canadian Mounted Police.[834] The "Mounties" attacked and subdued the occupiers of the site on March 13, adding another chapter of bitter oppression to the saga of the creation and support of the "democratically-elected" council who governed Six Nations with only

[832] S. J. Bailey, "The Six Nations Confederacy," Paper in the Claims and Historical Research Office Files, (Ottawa: DIAND, 1999) p. 11.

[833] See for example, James Clifford's explication of Native identity the trial involving the Mashpee Wampanoag Indians in his text, The Predicament of Culture: Twentieth-Century Ethnography, Literature, and Art, (Cambridge: Harvard University Press, 1988) p.277-346. Although Clifford argued against the claim of the reality of cultural authenticity throughout the work, he ultimately supported the Wampanoag court claim regarding tribal recognition and the legitimacy of their own voice in defining themselves as Native people. He compared the presentation of Native American identity in diverse settings, such as the trial court, through "expert" testimony and histories of the tribe. Clifford noted in his "Afterthoughts" that there were "truths missed by the dominant categories and stories in the courtroom." This "absence" of the reality of Native lives in the court process still somehow yielded in the face of the "persistence" of ongoing Native culture, at least in Clifford's judgment on the Mashpee case. The persistence of Six Nations culture was something I tried to probe in this chapter as I explored diverse settings that affected the presentation of identity..

[834] "Six Nations Council Ousted by 'Warriors' on March 5, 1959, *Brantford Expositor*, November 1, 1969.

one-quarter of the support of its Native inhabitants.[835] The take-over of the Council House by the "warriors' was a hallmark of the open confrontation with the Canadian government that began in the '60s, an era of Native activism that still characterizes the relationship of Six Nations with the Canadian government today. [836]

Technically, the 1959 dispute began with authorization of a sale by the elected council of a three-acre tract of land that had been leased to a farm equipment company during the war. The company built a plant on the land and sought to buy it outright. Cognizant of the resistance of Natives to participate in band council governments, which many viewed as merely representing Ottawa, Indian Affairs devised a way to circumvent the "silent majority." When the 1951 Indian Act was revised, Indian Affairs created a statute to deal with the resistance of Native leaders to surrender any more land. In an effort to expedite land sales from reserves, two public meetings were to be announced and held to facilitate the process. In the first meeting if a majority of eligible voters from the membership of the band did not refuse to sell, or reach a decision on land surrender, a second meeting could be called and held in thirty days. At the second meeting, only a majority of those band members eligible to vote in attendance at this particular meeting was needed to decide the issue.[837] This was a perfect strategy to defeat the chiefs at Six Nations, for they did not participate in any electoral process using voting. The first meeting on the land surrender was held on June 1, 1957 and the second followed on July

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[835] "Six Nations Council Ousted by 'Warriors' on March 5, 1959, *Brantford Expositor*, November 1, 1969, and also, S. J. Bailey's article, "The Six Nations Confederacy," in the Survey of Documents, Claims and Historical Research Centre, DIAND, Ottawa, 1999, p. 11.

[836] The present occupation of a tract of land by Six Nations near the town of Caledonia, has been termed the reclamation site of "Kanonhstaton." This occupation has fueled tensions between the reserve and the surrounding community, but has sown the seeds of a tense peace between the Confederacy and the elected council, whose members are cooperating in the negotiations with the Canadian government. The incident began with plans for private development of land under the cloud of Six Nations claims. Kanonhstaton is celebrated in the community for the number of Six Nations people who have surged to continually defend and maintain the site against developers. It is one of twenty-eight land claims that have been dormant in the Ottawa bureaucracy for decades. This occupation is the subject of current debate and wide media coverage in Canada. See current issues of the local Six Nations press, *Tekawennake* and *Turtle Island News*, Ohsweken, Ontario, Canada and "Expanded Mandate Has Some Concerned, Others Happy: Twenty-eight other Six Nations Claims Now on the Table," *Tekawennake*, April 4, 2007.

[837] Ella Cork, The Worst of the Bargain, (San Jacinto, California: Foundation for Social Research, 1962), p. 5. See also, Revised Statutes of Canada, (Ottawa: Queen's Printer, 1952) Chapter Fourteen9, s.39, 1b ii,2, 3.

27, with about the same number of people in attendance. The sale of the land was approved during the first meeting by a vote of 37 out of 54.[838] Following their usual practice, the chiefs and their supporters boycotted the meeting – 3, 600 persons were eligible to vote. The second meeting resulted in 53 persons voting, with 30 for surrender and 23 against.[839] After this maneuver, however the hereditary chiefs hired Malcolm Montgomery to obtain an injunction to block the sale of the land.[840]

Native views were presented to the public during the tumultuous events in the spring of 1959 in three distinct forums. All of these forums involved coverage by the media. The most dramatic was the proclamation of Six Nations sovereignty that accompanied the takeover of the government on the reserve by the followers of the hereditary chiefs. Letters to the editor of the local newspaper following the "revolution," as well as testimony at a trial, also served to delineate the complex view of Six Nations identity from within the community. International organizations were not prominent in this struggle as they had been in the 20's, for as John Leslie has pointed out the "…response of international organizations to Indian complaints, while less amenable to government manipulation, was minimal: Indian leaders lacked the financial resources, organizational skills and contacts to take full advantage of events and to launch sustained lobbying efforts."[841]

The way in which the media projected an image of Indianness to the public and the way Native spokesmen and women employed the media to, alternately, contest and reinforce that projection was key to understanding the complexity of Indian identity. Rather than a polarized view of Indians as either traditional or acculturated, the expression of Six Nations identity seemed centered upon elements selected from evolving

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[838] Ibid. Bailey's dates differ for the first meeting, listing June 3, as the relevant date, with the vote listed as 37 for surrender, while 16 were against, with l rejected ballot.

[839] S. J. Bailey, "The Six Nations Confederacy," Paper in Claims and Historical Research Files, (Ottawa: DIAND, 1999), p. 11.

[840] Ella Cork, The Worst of the Bargain, (San Jacinto, California: Foundation for Social Research, 1962), p. 4.

[841] John Leslie, "Assimilation, Integration or Termination? The Development of Canadian Indian Policy, 1943-1963," Dissertation, Carleton University, March 1999, p. 302.

Native traditions, as well as contemporary life – but, it was distinctly centered on the homeland of Grand River.

As stated succinctly by William Smith, Assistant Secretary of the Confederacy Council in Hearings before a Joint Committee of the Senate and House of Commons that met in the Spring, 1959 and continued its hearings until 1961: "The Indian is desirous of remaining and retaining his Indian identity. This applies to the Six Nations confederacy particularly…"[842] The Confederacy Secretary, Arthur Anderson, was even more direct in his testimony: "So far as this Indian Act is concerned, the Six Nations never accepted the act. You must realize through the papers for many years now they have never got a quarter of the voters to vote in those elections. …I understand that Canada is a member of the universal declaration of human rights. In there we find: every person has the right to his nationality…We want to hold our nationality…"[843] Here it was, stated simply, devoid of academic parlance and political demagoguery. Six Nations people were proud of their past, their language, their spiritual beliefs, culture and their form of government and sought to move forward as one people, not two. The Canadian government had sought to divide the community. Yet, at critical breakpoints in history, an over-arching Six Nations identity has triumphed over factionalism due to a nexus of overlapping relationships, cultural affinities and shared ideology. Respect for cultural knowledge, beliefs, history and language among our people is enormous, irrespective of political affiliation on the reserve – there is a desire for a "harmony ethic" at Six Nations, which has drawn researchers to the community for over a century.[844]

Neo-colonial oppression was recognized for what it was in the aftermath of the 1924 removal of the hereditary chiefs. The sudden empowerment of the elected council benefited some residents by providing jobs and opportunities, but further divided one segment of the community from another. A discussion on Six Nations identity taking place during the 1959 uprising and trial was evidence not of a struggle between tradition

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[842] Joint Committee of the Senate and House of Commons on Indian Affairs, Twenty-fourth Parliament, Third Session, (Ottawa: Queen's Printer, June 22, 1960) p. 1150.

[843] Ibid., p. 1152.

[844] Sturm, Circe, Blood Politics: Race Culture, and Identity in the Cherokee Nation of Oklahoma, (Berkeley, California: University of California Press, 2002.

and modernism, but attested to an evolving sense of identity that sought to encompass the many elements composing Six Nations cultural affinity as myriad points on a continuum. This was despite the strictures of static cultural definitions that suggested a stark dichotomy in reserve life. Six Nations cultural life was not conceived in the sense of a static and sacred ideal, even among the "traditionalists." Even when the Great Law was first written down in the nineteenth-century different versions in oral tradition were recognized for particular speakers voiced what they had been taught.[845]

The twentieth century dilemma of ethnic and cultural identity has been described in James Clifford's Predicament of Culture as a "feeling of lost authenticity, of 'modernity' ruining some essence."[846] In examining attitudes expressed by members of the Six Nations' community, the concept was useful albeit limited, for as Krupat pointed out, not all Natives were "likely to think, speak, and write from a sense of lost authenticity or centrality."[847] Yet, Clifford's emphasis on resourcefulness and invention among people once consigned by ethnographers to a "traditional" role was particularly pertinent to my analysis of the Six Nations community. "Distinct ways of life once destined to merge into the modern world reasserted their difference, in novel ways."[848]

The rubric of "identity" included myriad cultural traits referred to by individuals interviewed within the Six Nations community. Yet, in 1959 these markers of identity varied greatly and were not easily characterized as common to all Six Nations people. While tentatively using the notion of an "ethnic boundary" in support of group identity, as well as distinct "value systems," the community at Six Nations was not so easily

[845] Even oral tradition is not static, but presents many variations over time. For a humorous anecdote and example of how this is discussed within the community, see Brian Maracle's text, Back on the Rez, when he notes that one resident responded to someone citing the Great Law by responding: "Which Great Law? There's twenty of them!" See Back on the Rez: Finding the Way Home, (Toronto: Penguin Books, 1997), p. 250.

[846] James Clifford, The Predicament of Culture: Twentieth-Century Ethnography, Literature, and Art (Cambridge: Harvard University Press, 1988) p. 4.

[847] Arnold Krupat, Ethnocriticism: Ethnography, History, Literature (Berkeley: University of California Press, 1992) p. 125.

[848] James Clifford, The Predicament of Culture: Twentieth-Century Ethnography, Literature, and Art (Cambridge: Harvard University Press, 1988) p. 6.

interpreted as an "ethnic contest."[849] These terms were markedly foreign to the emphasis at Six Nations on belonging to a Native group of closely related clans and Indian nations, sometimes expressed by the Confederacy supporters by the term, Ongwehònwe. Six Nations is a very fluid ethnic system, with people of the community migrating in and out, but even after many years, reestablishing themselves within the community.[850] Even after many years of absence, cultural, religious and familial connections are maintained and celebrated. As one keen observer of Six Nations reflected from his post at Indian Affairs: "My investigations lead me to the belief that there is a fallacy in the assumption that these people are divided into two camps. Difference of opinion only arise in respect to what form of local government is best. They are all basically one people, proud and jealous of their Six Nations heritage and given to interpret no action on the part of non-Indian governments towards recognition of this fact as being a desire to destroy what is so dear to their hearts." Ironically, this statement was made in the midst of the 1959 incident by Col. E. Acland, charged with assessing the situation on the reserve for Indian Affairs in 1959. [851]

In short, during the 1959 dispute over the legal and political status of Six Nations as a sovereign entity and the legitimacy of the elected system, individual members of the Six Nations community offered differing perceptions regarding their sense of Native identity. The reliance on a notion of a boundary and value system to maintain a Six Nations sense of identity as separate from the dominant society emerged, but was also fluid and contested, especially when compared within different forums. These concepts enabled a more nuanced reading of Native behavior and perceptions within the broad construct of Six Nations identity than was available in the Ontario court room.

In January 1959, Montgomery attempted to use the political tactics that had been so effective at the provincial level with the Legislative Assembly. Meeting with the new Minister of Immigration and Citizenship, Ellen Fairclough, he laid out the parameters of

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[849] Ann Marie Plane and Gregory Button, "The Massachusetts Indian Enfranchisement Act: Ethnic Contest in Historical Context, 1849-1869," Ethnohistory 40:4 (Fall 1993) p.594.

[850] See Brian Maracle's narrative, Back on the Rez: Finding the Way Home, for a menoir concerning his personal journey and celebration of homecoming, (Toronto: Penguin Books, 1997).

[851] Acland, Col. E., as quoted by S. J. Bailey in "The Six Nations Confederacy," Paper in the Claims and Historical Research Office Files, (Ottawa: DIAND, 1999) p. 13.

his case, but received no overture for settlement from the Diefenbaker government. Whether Fairclough failed to recognize the danger in ignoring the long-simmering conflict, or Diefenbaker missed this opportunity, for he was often characterized as particularly inept in public relations, is not clear.[852]

The trial in the Supreme Court of Ontario between the plaintiff, Verna Logan, and defendants, Clifford Styres, R. J. Stallwood and the Attorney General of Canada, however, was widely recognized as a test case to determine who would rule on the Six Nations Reserve. Despite the Canadian government's attempt to dissolve the Confederacy Council in 1924, it had persisted, albeit without "official" recognition and requisite legal power. The imposition of an elected council had been employed by the Canadian government as the "means to destroy the last vestige of the old "tribal system," the traditional political system."[853] It was assumed that through education and practical exposure to the elective process, Indians would be guided away from their "inferior" political system and toward full assimilation in Euro-Canadian society.[854] Yet, the persistence of Native identity and cultural norms had impeded assimilation. The 1959 rebellion and trial focused attention on which group - the hereditary chiefs or the elected council - constituted the voice of legitimate authority on the reserve and, ostensibly, who best expressed the sense of Six Nations' identity.

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[852] Desmond Morton, A Short History of Canada, (Toronto: McClelland and Stewart, 2001), p. 270-281. Morton provides a devastating critique of Diefenbaker's administration as a populist who seemed unable to listen to the public, particularly about defense issues. Although Diefenbaker was keenly interested in Native affairs, he was also against separatism and vowed to preserve Canada as undivided, according to Morton: "To Diefenbaker, who preached 'unhyphenated Canadianism,' cultural and language rights were irrelevant or divisive," p. 272/

[853] John L. Tobias, "Protection, Civilization, Assimilation: An Outline History of Canada's Indian Policy," Western Canadian Journal of Anthropology, 6:2 (1976) p. 19. See also, E. Brian Titley, A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada, (Vancouver: University of British Columbia Press, 1986) p. 125, 119. Scott, the Deputy Superintendent of the Department of Indian Affairs, "had been convinced of the necessity of replacing the hereditary council with an elective one as early as the spring of 1920." By 1922, Scott viewed the "agitation" on the Six Nations reserve as "fanatical" and favored a tough government stance: "If the government fails to take the fullest measures consistent with justice and fairness to suppress this agitation, it will weaken our administration of Indian affairs in Canada."

[854] Ibid., p. 17.

The skirmish on the reserve raised questions in the press, once again, about the legitimacy of the elected council. The publicity surrounding the incident put the Canadian government on the defensive at a time when the official policy under the new Minister, Ellen Fairclough, was to emphasize the integration, rather than the assimilation of Native people. In responding to a resolution seeking an "accelerated assimilation" of Native people put forth by the Canadian Bar Association, Fairclough while admitting that "…this should be and is the objective of Government," was cautious. Fairclough noted that Indians took "strong exception" to the term, therefore: "Our objective is to assist Indians in making the necessary adjustments to become fully participating members of the general community without necessarily losing the identity as Indian Canadians, and at the same time respecting such rights as they may have under treaty." [855] Treaty rights were certainly the subject Six Nations chiefs sought to discuss with the Canadian government and would be a central focus of the 1959 dispute.

The historical circumstances surrounding the 1924 removal of the hereditary chiefs was an important part of the 1959 discourse on the reserve. [856] This renewed interest on the reserve was similar to the aftermath of World War I, when Six Nations Indians while conducting "research among their archives, noticed the expression allies, and began to agitate for a declaration of independence."[857] By 1920 extensive documentation of Six Nations history had been compiled with the aid of counsel and submitted to the Canadian government, along with a petition seeking the "status of an independent protectorate."[858] This concept would be revisited by Malcolm Montgomery

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[855] Public Archives of Canada, Indian Affairs, RG 10, v. 7104, File 1/3-3-17, Part 1, Letter to Walter S. Owen, President, Canadian Bar Association from Ellen L. Fairclough, Minister, February 5, 1959.

[856] See the testimony of Ella Cork, who wrote her rather histrionic narrative, The Worst of the Bargain, (San Jacinto, California: Foundation of Social Research, 1962, during the time of the 1959 incident. Ms. Cork acknowledged the outpouring of testaments, clippings and materials brought to her attention by residents of the Six Nations Reserve at the time, something that I will argue has changed markedly as the Band Council increased control of documentation and record-keeping on the reserve and the Confederacy remained out of power over the following decades.

[857] *Brantford Expositor*, September 12, 1923, p.17.

[858] Joint Committee of the Senate and House of Commons on Indian Affairs, "The Status of the Six Nations in Canada: Their Status Based on History," Third Session, Twenty-fourth Parliament, June 22, 1960, Appendix Ml, p. 1305. The following argument was presented at the conclusion of the 1920 document

in the 1959 back-channel negotiations, but to no avail.[859] The chiefs feared that compulsory enfranchisement would be thrust upon them by the government under the guise of citizenship and they protested any incursion on their sovereignty.[860] The dispute between the Six Nations' leadership and the Canadian government had "become acute since the war," and the government was determined to forge a settlement.[861]

In his report of 1924 it will be recalled, Thompson declared that the Six Nations had "no written constitution" and that the procedure of the Council of Chiefs rested upon oral tradition, which he regarded as highly dubious, since it was "impossible to ascertain the facts with exactness."[862] Thompson's report was also highly critical of the selection of chiefs by clan mothers, noting that "a comparatively small number of old women have the selection of the business of the Six Nations Indians, while the vast majority of the people have nothing whatever to say in the choice of their public servants." The report alleged that some of the chiefs were "grossly ignorant" and perhaps "mentally unsound."[863]

Pressure for change to a "democratic" form of government came not only from Ottawa, but also from within the reserve itself. In the early part of the twentieth century,

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concerning the status of the Six Nations: "Since Canada has administered Indian Affairs, the Indian Department has by its powers assumed under the Indian Act, and amendments to the same from time to time, suggested by its officers, as to which the Six Nations have never been consulted; sought to apply the same rules under which it manages the affairs of the blanket Indian of the West to its dealings with the tribal affairs of the Ancient Six Nations Confederacy, till practically all their ancient rights and liberties, have been denied them." The Six Nations sought a determination from the Supreme Court of Canada on their petition. "On 27 November 1920, the Privy Council handed down an order-in-council rejecting the Six Nations' demand that the Supreme Court consider their status." See E. Brian Titley, A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada (Vancouver: University of British Columbia Press, 1986) p. 115. See also Malcolm Montgomery, "The Legal Status of the Six Nations Indians in Canada," *Ontario History* 55 (1963) p. 97.

[859] See S. J. Bailey, "The Six Nations Confederacy," Paper in Claims and Historical Research Division, 1999.

[860] *Brantford Expositor*, March 16, 1921.

[861] *Brantford Expositor*, September 12, 1923, p.17.

[862] See Privy Council 1629, p. 1, reconfirmed by P.C. 6015, November 12, 1951.

[863] Ibid., p. 2. This appraisal conflicted with Noon's study of the records of the Confederacy Council. Noon concluded that the chiefs had shown "amazing skill in using the powers of government to adapt their political forms to the regulation of a new societal pattern." See John A. Noon, Law and Government of the Grand River Iroquois, (New York: Viking Fund, 1949) p.113.

a "progressive" faction on the reserve had agitated for a voice in Six Nations government - this group was then known as the Warriors Association.[864] In 1914, as part of a highly laudatory study of Canadian Indian Administration, a United States official visiting the Grand River observed: "The only note of discontent which reached my ears during my visit here was from some of the younger Indians, who believed that the hereditary council…should be abolished and should be supplanted by an elective system."[865] In 1959, in sharp contrast, many of the Warriors were young men who supported the Confederacy. The Mohawk Workers who had formed to support the Confederacy in 1922, now espoused a more militant agenda aimed at resisting assimilation and achieving political autonomy and the Warriors of 1959 identified with these objectives.[866] This group of young Mohawk men was literally celebrated for their prowess working on high steel in an article by Joseph Mitchell, entitled "The Mohawks in High Steel," which was featured in Edmund Wilson's book, Apologies to the Iroquois, published in 1959. The identity forged in the industrial world gave these young men pride in their history and in the masculine warrior tradition of the ancient Confederacy. According to Ella Cork, also writing a book on the reserve at the time: "As the time for the trial of the case came closer, the word went around and dozens of them came home suddenly, devoting their March vacations to help with their support."[867]

At the root of the trial was the contention of the Confederacy Chiefs that the Dominion's Indian Act was not applicable to them, for the Six Nations were "not composed of subjects, but of allies."[868] This argument echoed through the proceedings of the trial in 1959, for Malcolm Montgomery, the lawyer for the chiefs, argued: "...if the Canadian Government at this time proposes that the Six Nations Indians are not sovereign

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[864] See Noon, p. 48.

[865] Abbott, Frederick, The Administration of Indian Affairs in Canada, (Washington, D. C.: Government Printing Office, 1915) p. 63.

[866] Frank Vallee, "Unrest at Branford," National Commission on the Indian Canadian, (NCIC), June, 1959, Bulletin vii, p.2.

[867] Ella Cork, The Worst of the Bargain, (San Jacinto, California: Foundation for Social Research, 1962) p. 6.

[868] *Brantford Expositor*, March 14, 1921, p. 2.

in their own municipal affairs, then the Government of Canada should show precisely upon what date the said Six Nations of Indians ceased to be sovereign in that right."[869] Not only did the Confederacy Chiefs argue that the Six Nations were an exception to the Indian Act, they also insisted that their affairs were to be conducted on a Federal, rather than a provincial level. They resisted the government's attempt to turn over responsibility for Native affairs to the provinces, a process begun in the 1950s.[870]

It may be recalled that when the Council of Hereditary Chiefs was officially abolished by a proclamation read by Colonel Cecil Morgan on October 7, 1924, Morgan was accompanied by Royal Canadian Mounted Police (RCMP). The ceremonial wampum used in Council as a symbol of authority was allegedly seized by the RCMP.[871] The RCMP would play a similar, though far more aggressive role in the '59 dispute, undercutting the peaceful integration policy promulgated by the Diefenbaker government.

The 1924 election reflected a deep sense of alienation from the process; only 52 ballots were cast, "somewhat less than ten percent of the voting population of the reservation."[872] Voter participation on the reserve remained historically low; by this measure, support for the elected council by the 50's had "…never risen much beyond that which they received in the first election."[873] Contrary to expectations, perhaps, the Confederacy Council was not dissolved by Canadian decree, but persisted as a parallel government on the reserve, periodically challenging the legitimacy of the elected council and denouncing it as a "puppet" government.[874] In his study of the Law and Government

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[869] File #4052/1957 of Supreme Court of Ontario for York County, Verna Logan v. Clifford E. Styres, R. J. Stallwood and the Attorney General of Canada, Particulars of the Statement of Claim, p. 4. Note that the transcript of provincial trials in "action files" is not available in non-criminal cases. Transcripts of these cases are not retained in the historical archives in the Canadian system. The proceedings of the file only include the Statement of Claim, Particulars of the Statement of Claim, the Statement of Defence [sic] and Affidavits, as well as a number of orders, notices of motions and a writ of Summons. The content of the file was verified by Joseph Solovitch, Associate Achivist, Justice Records, January 27, 1995.

[870] Telephone nterview with George Beaver, March 13, 1995. See also Tobias, p. 26.

[871] See John A. Noon, Law and Government of the Grand River Iroquois, (New York: Viking Fund, 1949) p. 64.

[872] Ibid., p. 65.

[873] Ibid., p. 65.

of the Grand River Iroquois, in 1949, John Noon attested to the lasting power of the Confederacy chiefs: "...although the Confederacy no longer exercises any semblance of sovereignty, the claim persists on an ideological level and is still a factor to be reckoned with in dealings between the Iroquois and the Canadian government."[875]

Several of the elderly Confederacy chiefs from the 1920s would testify at the trial in 1959; they were a living link with the past and evidenced no sense of "lost authenticity." Demonstrably, Joseph Logan, Sr., could only speak in Onondaga and had to have an interpreter.[876] In seeking to establish the chiefs as the true and legitimate voice of the Six Nations Indians, Alex General, brother of Deskaheh and appointed as a Confederacy chief in 1917, used the language of epic poetry to bear witness to the chiefs' rule "from time immemorial." [877] It was interesting that Justice King echoed the phrase in his final decision on the case: "Almost from time immemorial the Indian Bands which formed, first the Five Nations Confederacy, and later the Six Nations Confederacy were governed by their hereditary chiefs."[878]

Chief Alex General used a modern legal document to signal the acceptance of the political sovereignty of the Six Nations by European governments. A 1921 passport issued by the Confederacy Council to Deskaheh, when he had traveled to England and Switzerland to appeal for aid for the Six Nations, was introduced into evidence. The passport had been "honored by immigration authorities in the United Kingdom, France and Switzerland," substantiating the Six Nations claim to national authority.[879] By 1959, the passport itself had become a linchpin of the structure of Native identity and a symbol of an "ethnic boundary" that separated Six Nations Indians from the dominant society.

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[874] Frank Vallee, "Unrest at Branford," National Commission on the Indian Canadian, (NCIC), June, 1959, Bulletin vii, p. 2.

[875] See John A. Noon, Law and Government of the Grand River Iroquois, (New York: Viking Fund, 1949) p. 14.

[876] *Brantford Expositor*, April 16, l959, p. 1.

[877] Ibid.

[878] Dominion Law Reports, 20 (2d) p. 417.

[879] Montgomery, Malcolm, "The Legal Status of the Six Nations Indians in Canada," *Ontario History*, 55, no. 2 (1963), p. 99.

The Iroquois or Haudenosaunee passport has since been used by Native leaders from different reserves to travel throughout the world, exhibiting the genesis of a new tradition.[880]

The formal setting of the 1959 trial fostered a presentation of Native identity as dependent upon the preservation of static traditions and cultural forms. This effect was magnified by the fact that twelve Six Nations Indians who appeared as witnesses in the trial appeared in support of the hereditary chiefs. No residents of the Six Nations Reserve were called upon by the lawyer for the Canadian government to defend the position of the elected council.[881] This time some of the key supporters of the Confederacy system participated, although this was a controversial decision among the Chiefs, and the supporters of the Elected Council were silent, letting their voice be heard through the Canadian government. This added to the general impression on the Reserve that the Elected Council was in a symbiotic relationship with Indian Affairs. The entire affair was almost the mirror image of the Thompson Commission, when the Confederacy was conspicuous by its absence. Indeed the 1959 proved to be the long sought opportunity for the Confederacy to show case tradition, authenticity and cultural continuity to substantiate its claim to legitimacy as the rightful government of Six Nations Reserve. As Justice King clearly noted in his decision: "The defendants did not consider it necessary to present any evidence with respect to the merits of the hereditary system as opposed to the elective system so that only one side of this matter was before the Court."[882] *A priori*, the superiority of the elected system was presented by the Canadian government as self-evident, with no testimony by the elected council or their supporters. Hubris, perhaps, on the part of the Attorney-General might have explained these tactics, but the Canadian officials appeared not to anticipate any judgment from a Canadian court that would question its policy.

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[880] See for example, reference to the travel of Chief Oren Lyons, from the Onondaga Nation as he worked for recognition of indigenous rights and sovereignty in "Sovereignty Summit," by Bruce Johansen in Akwesasne Notes, Fall 1995, p. 78.

[881] *Brantford Expositor*, April 21, 1959, p. 20.

[882] See Dominion Law Reports, p. 418.

The legal strategy of Malcolm Montgomery, the lawyer for the chiefs, was to substantiate the legitimacy of the Hereditary Council of Chiefs of the Six Nations Confederacy through its links to the past, quoting "more than one hundred citations from the old records which affirm a possession of sovereignty by the Iroquois and status as allies which the Confederacy Chiefs claim was transferred undiminished in 1784 when the displaced Six Nations took possession of their Grand River lands."[883] Montgomery contended that the Canadian Parliament had extended its rule over the Six Nations without requisite authority since the Six Nations had a unique status preceding the Dominion.[884] The history of the Iroquois Confederacy was delineated through references to documents and treaties, wampum, the Longhouse religion, as well as oral tradition; all of these elements were brought to bear in the effort to validate the Confederacy Council. The legal strategy of the lawyer for the defendants was to deem all of this evidence as irrelevant to the case; the procedure to sell the land through a vote of the band had been strictly observed – as far as the Dominion was concerned, it was an open and shut case.[885] The Chiefs maintained that the vote was illegal and had "instructed their followers on the Reservation not to vote in this election."[886] Manifestation of the Six Nations community's alienation from the elected council, according to the perspective of the hereditary chiefs, mandated non-participation in a political process outside of the Six Nations' "ethnic boundary."

Verna Logan, the wife of Joseph Logan, Jr., a Mohawk chief, was nominated by the hereditary chiefs to represent them in the legal proceedings. Native women's

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[883] Ella Cork, The Worst of the Bargain, (San Jacinto, California: Foundation for Social Research, 1962), p.9.

[884]Montgomery, Malcolm, "The Legal Status of the Six Nations Indians in Canada," *Ontario History*, 55, no. 2 (1963), p. 103. "The plaintiff stressed the fact that the Parliament of the United Kingdom could not give the Parliament of Canada more rights than the United Kingdom had itself over the Six Nations Indians at the time the British North America Act was passed in 1867."

[885] File #4052/1957 of Supreme Court of Ontario for York County, Affidavit of R. J. Stallwood.

[886] See File #4052/1957, Affidavit of Joseph Logan, Jr. It should be noted that according to the provisions of the Indian Act, a second vote was required since the "majority of electors did not vote" in the first referendum, according to the Affidavit of R.J.Stallwood. In the second vote on July 27, 1957, "only 53 votes were cast out of which 30 voted for surrender and 23 against surrender and this out of about 3,600 eligible voters." Dominion Law Reports, 20 (2d), p. 418. Thus, the law was structured so that in the second vote only a plurality of votes was necessary to surrender the land to the crown. Revised Statutes of Canada, (Ottawa: Queen's Printer, 1952) Chapter Fourteen9, s.39, 1b ii,2, 3.

powerful role within Six Nations culture was a key part of the presentation of the Confederacy as a system to consciously differentiate itself from the patriarchy of Western society. Women were the bedrock of the matrilineal system of clans and also nominated, or removed the chiefs. The deeper significance of women's power in Ongwehònwe beliefs could be traced to the origin myth of Sky Woman falling to earth and landing on the back of the turtle, the earth-bearer, or perhaps to the importance of Jigonhsasee in the origin of the League, as the first person to accept the message of peace from Deganawidah. It was natural for a woman to take center stage in this fight concerning the very identity of the Ongwehònwe.[887] Vera Logan's designation as the plaintiff evoked a predictable response from Canadian authorities – her ability to represent Six Nations was immediately contested by the defendants. Clifford E. Styres, the chief councilor of the elected council, the Superintendent of the Reserve and R. J. Stallwood, and the Attorney General of Canada complained that it was not customary for a woman to assume this role..[888] Justice King allowed the case to go forward with Verna Logan as plaintiff, however.[889] Malcolm Montgomery it may be recalled, had filed this injunction very soon after the first vote was held in order to halt the surrender of the land and she was involved in the Confederacy's planning of the case, both as a clan mother and the wife of Chief Joseph Logan, Jr.[890]

Impatient with the pace of the legal proceedings, a march on the Oshweken council house by a large group of young men, women and children of the Six Nations community, including the Warriors already mentioned was organized to evict the elected council and clear the way for the Chiefs to retake power. The chiefs led this march, according to Cork's account, but it was an effort of a considerable number of people in the Six Nations community.[891] The elected council withdrew without incident – simply

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[887] Dean Snow, The Iroquois, (Cambridge, Mass.: Blackwell Publishers, 1994) p. 2, 3, 58.
[888] *Ontario Weekly Notes*, 1959, p. 361.

[889] See Dominion Law Reports, 20 (2d) p. 416.

[890] See File #4052/1957, Writ of Summons, July 16, 1957, p. 2. The injunction also claimed that the Orders in Council, P.C. l629 and P.C. 6015 that had mandated the change in Six Nations government were "ultra vires," or beyond the legal power of the Governor General of Canada.

going out the back of the council house, which had long served as a symbol of contested authority, and thus, avoided a confrontation. The "warriors" declared the hereditary chiefs to be the legitimate government of the Six Nations and issued an eight-point proclamation that they nailed to the door for emphasis, in symbolic repudiation of Colonel Morgan's act in 1924.[892] Through the conflation of the two events, the act served as an important marker of Six Nations identity, for the followers of the Confederacy.

It was important to note that the role of the "warriors" in the Six Nations community had been completely transformed and reconstructed from its "progressive" connotation in the 20s, to support of "traditional" cultural life by 1959. Many of the progressives of the early twentieth-century were Mohawks, but after 1924, Mohawks were the leaders of a conservative revitalization movement throughout reserves in both Canada and the United States. For the remainder of the twentieth-century, to the present, it would be the Mohawks who grew ever more ardent in their advocacy of the Great Law and the principles of the Confederacy. Yet, as will be discussed in the concluding chapter, presently many Mohawks "…do not attend the traditional Council because of old battles over the introduction of religion to the original Great Law, which most traditional Mohawks reject." They dispute the conflation of the present-day Confederacy and the Great Law with what they deem to be the misguided religious tenets of Handsome Lake, an artifact of an early nineteenth-century revitalization movement. In seeking to base the Confederacy on what they deem to be the "authentic" Great Law, they share an Ongwehònwe identity, but desire to reshape the Confederacy Council.[893] This will be discussed in more detail in the later chapters. The reshaping of this particular aspect of group identity is significant for it not only heralded a new era of Native activism, but also because it bears witness to the dynamic shifts in the construction of Six Nations identity over time.

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[891] Ella Cork, The Worst of the Bargain, (San Jacinto, California: Foundation of Social Research, 1962) p. 6.

[892] Telephone Interview with George Beaver, March 13, 1995.

[893] Jim Windle, "Mohawk Workers Vow to Get More Assertive," *Tekawennake*, May 30, 2007.

The "rebellion," derided as a "stunt" or as a "pathetic conflict" by the white community, evoked a renewed commitment to Native identity on the reserve. In the spring of 1959, the march and takeover of the council house demonstrated loyalty to the "traditional" authority of the chiefs. It was evidence of a sense of the solidarity of the Six Nations community that had not been subsumed within Euro-Canadian society. Despite the government's attempt to divest the chiefs of their power and erode their significance in the daily life of the reserve, the chiefs were not regarded as artifacts of the past, but acknowledged as an integral part of community life. The chiefs performed marriage ceremonies, bestowed Indian names, and were an important source of information about an array of domestic affairs, such as clan membership, burials, naming and raising-up chiefs, as well as the condolence ceremonies, guaranteeing the continuity of the Confederacy, but also broader issues such as the environment, relations with other indigenous groups and treaties. The chiefs often served as representatives of the Six Nations at international forums and offered their views at government hearings on Indian affairs. These diverse roles had enabled them to continue to command respect and maintain an independent base of authority within the Six Nations community. Although the authority of the chiefs was no longer exclusive in 1959, it remained significant. Thus, loyalty to the chiefs provided an important framework for segments of the Six Nations community who based their identity on the Confederacy traditions, as well as ongoing community practices.

The warriors' proclamation was issued under the joint authority of the Longhouse and the Confederacy, reinforcing the link between the sacred and secular authority of the chiefs. Chiefs and clan mothers then entered the council house, which also underscored the Confederacy's hierarchy of authority. In the sweeping condemnation of the Indian Act contained in the proclamation, the Six Nations Confederacy Chiefs, clan mothers, and warriors repudiated the authority of the Dominion of Canada over the reserve. The Chiefs promptly proclaimed a holiday, closing the schools, a move that was later criticized by the elected council.[894]

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[894] *Brantford Expositor*, March 5, 1959, p. 12.

The assertion of power by the warriors in support of the chiefs was a manifestation of an assertive part of Native identity that could not be expressed in the formal setting of a court--such an expression would have been suppressed by the legal authorities. One of the first actions of the "new" government was to disavow the authority of the Royal Canadian Mounted Police on the reserve and replace them with Iroquois police. The chiefs were given power to conduct trials, adjudicate disputes, and punish crimes. Control over issues of daily life by people from the community, rather than white outsiders, seemed to be central to the concept of Six Nations identity as expressed by the warriors and had long been an issue of concern on the reserve..

Control of the membership of the band was also challenging for one of the points of the Confederacy proclamation was "...all Six Nations Indians who have been illegally deprived of their membership status shall have the right of appeal through the Confederate Council of Chiefs, who shall have complete control of the membership roll at all times."[895] Embodied within the Indian Act was the precedent that "non-Indians determined who was an Indian and the Indians would have no say in the matter."[896] A patrilineal model had been imposed to determine band membership and ancestry. There were also discriminatory provisions of the Indian Act regarding Native women who married out of the band. These women were no longer considered Indians and could no longer live on the reserve, while Native men in the same circumstances not only kept their status, but were able to provide Indian status for their wives and children.[897] Other ways in which band members might have lost their status were by attending a university, becoming a member of the clergy, the armed forces – or, as civil libertarians had protested – through enfranchisement by a relative or ancestor.[898]

Affirmation of Six Nations identity was not the issue for the political groups on the reserve, rather it was the struggle for power to control their daily lives against the sway of the dominant society. Although the proclamation issued by leaders of the

[895] *Brantford Expositor*, March 5, 1959, p. 1.

[896] See Tobias, p. 15.

[897] See Revised Statutes of Canada (R.S.C) Chapter Fourteen9, s.14, 10.

[898] *Brantford Expositor*, March 17, 1986, p. 7.

rebellion on the reserve might inveigh against the elected council for the "confusion, dissension, hardship and inconvenience" they had caused on the reserve with the backing of the Canadian government, William Smith, assistant secretary to the Confederacy, was quick to refrain from an escalation of hostile rhetoric that would have further polarized the Six Nations community.[899] Smith had once been a member of the elected council. His extended family were all supporters of the elected council and he lived right across the street from them.[900] Bill Smith stipulated that the Confederacy had no wish to exacerbate the dispute with the elected council and affirmed, "They are our people...But I don't like the things they stand for."[901] Yet, political differences did not overshadow the necessity for the delicate negotiations that sustained the intricate web of kinship and identity for Six Nations Indians on the reserve.

Resolution of the outstanding differences between the two groups seemed a possibility in the immediate aftermath of the rebellion. Walter Lickers, a member of the elected council, attended a Confederacy Council meeting and pointed out: "I am here to see the people of the Six Nations grow together."[902] Political affiliation with the elected council or the confederacy did not determine Native identity, which often hinged on informal and often unexpressed kinship ties, that were nevertheless well-known within the Six Nations community. There was no need to display evidence of one's background of blood quantum within the community through a recitation or demonstration of cultural traits. One only needed that evidence as a response to inquiries from outsiders for belonging to Six Nations was implicit in the everyday life of the vibrant community. It was noteworthy that leaders within the Confederacy, elected council and warriors seemed

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[899] *Brantford Expositor*, March 5, 1959, p. 1.

[900] Bill Smith lived across the road from his brother, Wilfred Smith, and Beatrice Martin Smith, Wilfred's wife, who happen to be my aunt and uncle. Bill Smith was a jocular man with a ready smile and keen interest in politics and Indian Affairs. Although my uncle, Wilfred Smith, was a life-long supporter of the elected council and my aunt comes from a family closely affiliated with the Mohawk Workers, they both clipped articles tirelessly from the local papers for decades, creating a mini-archive about Indian Affairs all over Canada, many of which I used in this dissertation.

[901] *Brantford Expositor*, March 6, 1959, p. 2.

[902] *Brantford Expositor*, March 7, 1959, p. 2.

to back away from outright conflict, perhaps due to the perception that the entire reserve might suffer as a result. In this instance silence served as a marker for Six Nations identity, as it often does in response to inquiries from outsiders.

The web of kinship and the constraints imposed in face-to-face relations in a small community did not operate as forcefully upon Wallace Anderson, a Tuscarora known as "Mad Bear," who had been a principal architect of the uprising at Six Nations. An activist from the Tuscarora reservation near the border at Niagara Falls, New York, Mad Bear's efforts were clearly intended to focus international attention on Native affairs.[903] In meeting Edmund Wilson, the American essayist, Mad Bear and the Iroquois "resurgence" gained considerable interest. An article in *The New Yorker*, by Edmund Wilson that provided material for a later book, was widely read and discussed, reportedly, even by President John Kennedy in reference to the hydro-electric projects on the border. Wilson traveled extensively in Iroquoia during the dispute while doing research for his book, Apologies to the Iroquois. Wilson argued that Mad Bear best exemplified a spirit of nationalism arising among the Iroquois people in reaction to government encroachment upon their lands. Wilson, the author of To the Finland Station, exploring the moments at the outset of the Russian Revolution , believed that Mad Bear served as a messianic leader of the younger warriors in the United States and Canada. Interestingly, Fidel Castro also saw promise in Mad Bear and welcomed him to Cuba, giving him a "state welcome" to the July 26th Day of Liberation festival in Cuba. Castro formally recognized the sovereignty of the Six Nations at the time.[904]

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[903] In the midst of the rebellion at the Six Nations Reserve, Mad Bear had journeyed to Washington and acted as a spokesman for a group of Iroquois and Western Indians who marched on Washington, seeking an audience with President Eisenhower. See *Niagara Falls Gazette*, March 19, 1959, p. 21. Also, see Ella Cork, The Worst of the Bargain (San Jacinto, California: Foundation for Social Research, 1962) 11. Cork noted that after the trial, while the Six Nations community awaited the decision of Justice King, Mad Bear journeyed to Cuba where Fidel Castro "formally recognized the Six Nations Confederacy." According to Edmund Wilson, Iroquois nationalists hoped that Castro would sponsor them in a bid for United Nations membership. See Edmund Wilson, Apologies to the Iroquois (New York: Farrar, Straus and Cudahy, 1959) 272.

[904] Ella Cork, The Worst of the Bargain, (San Jacinto, California: Foundation for Social Research, 1962) p. 11.

The complex delineation of Native identity was elucidated by a series of letters to the editor of the *Brantford Expositor*, written in response to the rebellion on the reserve and the extensive media coverage it received. The voice of the Indians in the community who did not support the chiefs emerged on the editorial page; an ostensibly neutral, protected forum. The clearest challenge to the chiefs came from a young schoolteacher, George Beaver. He noted that support for the chiefs was far from unanimous and came from "malcontents," led by an outsider from the United States (obviously, Mad Bear Anderson).[905] Another writer also questioned the leadership of Mad Bear, pointing out that he was not from within the Six Nations community. This perception of an ethnic boundary between Iroquois Indians on different sides of the international border would have clearly militated against the widening geographic and political consciousness of Iroquoian identity that Wilson envisioned as the key to a nationalist movement.[906]

In his letter to the editor, George Beaver argued that the "thinking people" of the reserve did not support the chiefs. He also pointed out that in his school, very few pupils observed the holiday declared by the chiefs and that the entire affair had been distorted by news coverage. Beaver's stand was praised by a supporter of the elected council who noted: "...publicizing of our side of the question has not been considered either wise or necessary."[907] Silence was the strategy chosen both by the elected council and the Canadian government in response to the fairly successful use of the media by the followers of the chiefs. Mad Bear attributed his success directly to the media - particularly the newspapers, through which he could "…reach the ordinary citizen, place his case before them and ask for their sympathy."[908]

Beaver was picked up from school by the newly appointed Iroquois Police and brought to the council house where he was warned not to "undermine our cause,"

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[905] *Brantford Expositor*, March 10, 1959, p. 4.

[906] Ibid.

[907] Ibid.

[908] Ibid., p. 13.

ostensibly, that of the Warriors. [909] In a recent interview, George Beaver recollected that he had observed the group that was gathered for his interrogation and concluded that it was a "group of activists."[910] He added that not all of the Confederacy chiefs spoke with one voice, or concurred with a militant approach.[911]

Judging from newspaper accounts, Chief Joseph Logan, Jr., appeared to have come closest to successfully integrating and presenting Six Nations' identity in terms of militant resistance, associated with the younger warriors, and traditional authority, the hallmark of the older chiefs. In his various roles as spokesman for the hereditary council, leader in the council-house takeover and witness in the trial, Logan was able to mediate the tension between tradition and modernism and give shape to a fuller, more complex Native identity.[912] The activists were clearly concerned with projecting a view of Native identity to the public that affirmed Six Nations traditions, yet emphasized a revitalized conception of who Natives really were as individuals. Rather than focus on contemporary grievances, the activists sought to project pride in Six Nations heritage, as a source of confidence to plan for the future. It was essential to them that the Six Nations people appear undivided in their support of the Confederacy.

Mad Bear served as the prosecutor of the improvised court, hastily assembled for the trial. George Beaver recollected: "It was for publicity purposes because they wanted to get their story before the public...they didn't come right out and tell me that, but I soon caught on and so I wasn't too worried about them doing anything desperate. I think Mad Bear himself might have written my statement, a very innocuous statement about having been arrested."[913] Mad Bear's stature in the Six Nations community was rather doubtful according to Beaver, despite his prominence in the press and in Edmund Wilson's

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[909] Ibid., p. 1.

[910] Telephone Interview with George Beaver, March 13, 1995.

[911] Ibid.

[912] Perhaps this tension was manifested in Joseph Logan's subsequent decision to run for elected council, a decision that was difficult to understand given his leading role in the struggle to restore the Confederacy to power. Interview with George Beaver, March 13, 1995.

[913] Ibid.

account.[914] Before he was questioned and charged with treason, George Beaver, who resided at Six Nations and taught in the local school, had never met him. "We didn't know who Mad Bear was...now, the activists knew and he'd been active before. Nowadays, I think he'd be more of a hero than he was at that time."[915]

Wilson's notion of the uprising as a manifestation of Indian nationalism is undercut by the obvious fragmentation of the Six Nations community. Wilson interpreted the Six Nations' incident as the key to uniting the Iroquois on both sides of the border under the leadership of Mad Bear.[916] Wilson was a remarkably quick study and well-informed about Native protests against major public works projects underway in New York state in 1959 that threatened Indian land, such as the Kinzua Dam and Robert Moses' hydroelectric project. The Robert Moses Power Project bordered the Tuscarora reservation where Mad Bear lived and the Tuscaroras eventually lost considerable land to the New York State Power Authority in this dispute. No Native newspaper covered Indian affairs on both sides of the Canadian-United States international border, however. Often communication between the various Iroquois nations was through the Longhouse, or perhaps through informal extended family networks. Even so, many people on the Six Nations reserve were apparently unaware of the activists' agenda. This points out that the

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[914] Telephone interview with George Beaver, March 13, 1995. Also, see Graymont, p. 145, 129. Mad Bear's following on his own reservation might have been rather limited as well. He was not mentioned in Graymont's description of the Tuscarora's fight against the New York State Power Authority, as recounted in Fighting Tuscarora: The Autobiography of Chief Clinton Rickard. Chief Rickard also diminished the importance of Wilson's essays on the Iroquois: "We do not take his book at all seriously because he was not among us long enough to know our people or our situation. There are a number of errors and misinterpretations in this book, some of which are very laughable. Everywhere he went on the different reservations, he was unable to understand or represent the Indian situation properly." Contrary to Edmund Wilson's assumption, there had been ample precedent for cross-border cooperation between the Tuscaroras and the Six Nations throughout the twentieth century. Chief Rickard had worked with Six Nations Indians to secure border-crossing rights in the 1920s and had highlighted the unfair restrictions imposed on Indian women by the Indian Act by taking up the cause of Dorothy Goodwin, a Cayuga from Six Nations reserve. He championed Paul Diabo, a Mohawk from a reserve on the Canadian side of the border who was arrested in Philadelphia as an illegal alien. This case sparked the founding of the Iroquois Defense League of America to protect the rights of border crossing under the Jay Treaty.

[915] During a recent interview, George Beaver noted that he had changed his own political position, in regard to the incident. He attributed the change to better information about Native affairs and history. "I guess maybe I'm becoming an activist myself...I found that there hadn't been enough pointing out...there were real grievances and these grievances didn't come out clearly." Interview with George Beaver, March 13, 1995.

[916] Edmund Wilson, Apologies to the Iroquois (New York: Farrar, Straus and Cudahy, 1959) p. 254.

status of "insider" does not guarantee that one is as politically well informed as a keen, outside observer, such as Wilson. Residents probably had a better working knowledge of the relations various "factions" within the reserve, though, that Edmund Wilson delineated.

The community was divided four ways: the Confederacy had supporters who were Christians, (for example, many Mohawk Workers were Anglican; there is no Mohawk Longhouse on the reserve) as well as members who formed its base in the Longhouses.[917] One Six Nations woman specifically wrote to the local newspaper to make clear to the white community outside the reserve that there were "not only believers in the Longhouse but many churchgoers who support the Confederacy."[918] Likewise, the elected council was supported by both Christians and surprisingly, some members of the Longhouse. In addition, there always were people in the Confederacy who did not believe in the Handsome Lake tradition of the Longhouse, referring to that as a "new" religious sect, even though it began in 1799.[919]

This complicated matrix of political and religious affiliations belied the simplistic view that was manifested on the editorial page of the local paper, namely that the conflict was between Christian and "Pagan."[920] "Pagan" was used as a derisive term that arose during the nineteenth-century to label the followers of the Longhouse religion, in contrast to those Indians who followed the teachings of the Protestant missionaries.[921] By the 1920s, it had developed a political connotation as well, since it was employed by the white community in nearby Brantford to distinguish Six Nations Indians who resisted the

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[917] Interview with G. Beaver, March 13, 1995.

[918] *Brantford Expositor*, March 20, 1959, p. 4. See also Sally M. Weaver, "Six Nations of the Grand River, Ontario" in Northeast, ed. Bruce G. Trigger (Washington, D.C.: Smithsonian Institution, 1978) p. 534. "Cross-cutting the Longhouse-Christian alignment is a divided allegiance to either the Confederacy or the elected band council."

[919] Wallace, Anthony F. C., The Death and Rebirth of the Seneca, (New York: Vintage Books, 1969) p. 239.

[920] *Brantford Expositor*, March 9, 1959, p. 4. However, the editor was candid about his lack of information: "Perhaps we, on this newspaper, don't know what the score is, precisely, but at least, over many years, we have tried to find out. Ottawa evidently hasn't."

[921] See Titley, E. Brian, A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada, (Vancouver: University of British Colulmbia Press, 1986), p. 112

efforts of the Department of Indian Affairs to assimilate them within Euro-Canadian society.[922] The characterization of the Native religious beliefs in a negative manner as somehow "primitive," along with the assumption that religious beliefs were the sole determinant of Indians' political views on the reserve, contributed to another sense of Six Nations identity forged in opposition to the white community.

Not all of the Six Nations Indians felt represented by the chiefs' vision of Native identity. Residents of the reserve, some of whom identified themselves in their letters to the editor of the local Brantford paper under pseudonyms such as "Thankful Indian," "Canadian Indian," or simply "A Mohawk," stressed the economic benefits of the elected council's policy of cooperation with the Canadian government and, while voicing pride in their heritage, disavowed what they deemed an archaic political system of rule by hereditary chiefs. Six Nations identity, as presented in this view, had evolved to encompass the democratic process and the social welfare state. For some residents of the reserve, Six Nations sovereignty was an idle dream, undermined by economic dependence: "Our chiefs wail about our being allies and not subjects. I would rather be a subject than a beggar."[923] Anthony F. C. Wallace pointed out that this expression of Indian identity reflected "a loss of confidence...a lessening of respect" for the efficacy of a "traditional" Indian way of life.[924]

Yet, Indianness might also be construed as a defensive psychological posture, as a bastion against the devaluation of the status of the Indian in the larger society. One writer asserted: "The Indians cherish their Reserve in a way no white man would understand. It is a haven from snobbishness and discrimination at the hands of the whites."[925] This reasoning led the writer to support the chiefs as a symbol of the religious faith of the Longhouse, the centerpiece of the Iroquois revitalization movement of the nineteenth-century. The core of the writer's identity rested in the Longhouse and the land. This example illustrated the complex process through which Native identity was forged - the

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[922] *Brantford Expositor*, March 14, 1921, p. 2.

[923] Ibid., p. 4.

[924] Anthony F. C. Wallace, The Death and Rebirth of the Seneca (New York: Alfred A. Knopf, 1970) p. 184.

[925] *Brantford Expositor*, March 18, 1959, p. 4.

result of interplay between Native perceptions of group identity, as well as a response to the Euro-Canadian image of the Indian.[926]

The complicated portrait of what might be referred to now as the identity of members of First Nations, rather than the awkward term, 'Indianness,' perplexed Natives themselves, particularly the juxtaposition of the yearning for the elements of a cultural tradition that were increasingly perceived to be in flux, along with the necessity to function in the wider community in modernity. One elderly writer noted that the chiefs' supporters had the conveniences of modern society and dressed in contemporary clothing, except when they attended conferences. She commented that: "Even in my day Indians did not dress like that. In those days very few understood or could speak English. Now I doubt whether many of them can speak their own language."[927] I have heard Cayuga Chief Jake Thomas make similar comments as he strove to educate people about the Great Law, just before he died.

Native languages, however, were not taught in the schools on the reserve as Six Nations suffered under the impact of internal colonialism. The concept has been analyzed by Robert Hind of the University of Sydney and has been used to describe diverse societies existing within nation-states, often characterized by persistent, ethnic identity and solidarity of an objectively defined group of individuals, who react as a group to hierarchical cultural divisions and economic oppression by a majority society. Examples cited are as varied as indigenous populations within South Africa subjected to a pattern of separate development in a rural economy, ethnic groups in Wales and Scotland following nineteenth-century, rapid industrialization, or Native Americans within the United States. The model of internal colonialism describes particular modes of political,

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[926] In this view it is instructive to compare not only the texts devoted to the image of the Indian in popular culture, such as The White Man's Indian, by Robert Berkhofer, Jr., but also to view African and African American perspectives on colonialism and neo-colonialism. For example, see Franz Fanon's work, noting the signal moment that the hierarchy of Western racism is imprinted within an individual's consciousness of his own identity, as objectified by the colonizer and then re-internalized within the self. W. E. B. Du Bois in his path-breaking text, The Souls of Black Folk, explicated this idea in his concept of double-consciousness. Frantz Fanon's study, Black Skin, White Masks, was equally insightful. The most carefully crafted explication of the sensibilities of the colonized consciousness was found in the work of John and Jean Comaroff, in the text, Of Revelation and Revolution: The Dialectics of Modernity on a South African Frontier.

[927] *Brantford Expositor*, March 31, 1959, p. 4.

social and economic domination resting on an ethnic or racial basis, characterized by a colonial form of exploitation and use of power by post-colonial settlers' societies. [928] Hind specifically cited Gary Anders' work on the Cherokee, who identified the United States and the "Federal Government's policies towards Native Americans" as forming a case study that does "conform to a clearly colonial pattern." Native underdevelopment is often related to the model of internal colonialism and is "uncontrovertible," Hind argues in assessment of Kathleen Ritter's work on Alaska.[929]

Gerald Alfred argued in his first book, Heeding the Voices of Our Ancestors, that Canada's relations with its Native population reflected a system of internal colonialism, primarily because the indigenous population, with its "ethno-nationalist" yearnings has not consented to the Canadian constitution in order to normalize relations within the Canadian nation-state.[930] Alfred goes on to argue: "By attempting to impose Euro-American values and institutions, eliminate rooted indigenous cultural complexes, and supplant long-standing institutions, Canadians have created a country which holds little appeal for those Native people who have retained or revived the essential nature of their own traditional culture." Yet, many Six Nations people aver political, social and cultural affinities – not to mention economic dependence, with regard to Canada, as critical and valuable. This reflects some degree of attachment, or at least a grudging acceptance and sense of misbegotten familiarity with the Canadian system. This exists simultaneously, of course, with a concurrent sense of detachment and yearning for cultural and/or political separatism. The Six Nations community has struggled mightily with the internalization of this duality of a Canadian and Native consciousness – there is no "either-or," however, for that dichotomy negates the very nature of the syncretic process and model of internal colonialism. Simply incorporating minority values and institutions within the majority nation state is not a solution, but neither is indigenous separatism.[931]

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[928] Hind, Robert J., "The Internal Colonial Concept," (Sydney, Australia: Society for Comparative Study of Society and History, 1984) p. 543-568.
[929] Ibid., p. 552.

[930] Alfred, Gerald, Heeding the Voices of Our Ancestors, (Toronto: Oxford University Press, 1995), p. 188.

[931] See Alfred's conclusion in his first book, cited above, in comparison to his focus on Mohawk nationalism in his second publication. Alfred, Taiaiake, Peace, Power and Righteousness: An Indigenous

I find myself in closer agreement with Mudimbe in his analysis of African gnosis as a model for understanding the psychological under-pinnings and mentalite of formerly colonized populations, for he declines to posit a new beginning of purist, essentialist aspirations. Pragmatically, colonized populations have to begin somewhere to rid themselves of the internalization of oppressive strategies and that somewhere is working with what is extant – we cannot root out entirely the traces of empire from our languages, our cultures, or from our complex sensibilities. Conversely, neither can nation-states expunge ethno-nationalistic traces from their national political cultures and pretend they are architects building from a *tabula rasa*, as if questions of prior identity and sovereignty do not exist.

Nothing conveys the complex duality of Six Nations allegiances as clearly as the history of the repressive institution known as the "Mush Hole." Children speaking their own language had been punished at the Mohawk Institute, the boarding school that had been originally established by the New England Company.[932] In addition, many parents who may have felt that their Native language had been an impediment to them, preferred for their children not to taught Native languages, in order for them to progress in Canadian culture and society.[933] Confusion among the younger people was particularly acute: "History tells us how much we were cheated by the white man. That time has gone. We are living in 1959. What use is it to store up bitter feelings about things that happened long ago?" Yet this young writer, who identified himself in his letter to the editor as "Thankful Indian," added, "I agree with the hereditary council's stand for our land rights, and understand that it is the generations to come that they have in mind when

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Manifesto, (Toronto: Oxford University Press, 1999). Alfred specifically cites as dysfunctional the inability of the Six Nations Council to evict a woman from the reserve who was "white," but classified as Native. Alfred labeled this as totally wrong-headed for a Native government, while I would argue that this prevailing sentiment of humanitarian interest in the human condition at Six Nations is exactly what it necessary to reach nuanced understandings and create real-life solutions in the post-colonial world.

[932] Interview with Lorna Jamieson, January 1995. Now, adult education classes are held on the reserve to teach Native languages. There is also a Mohawk Immersion School where Mohawk is used exclusively to teach the primary grades. For the history of the Mohawk Institute, which operated until 1970, see The Mush Hole: Life at Two Indian Residential Schools, by Elizabeth Graham, (Waterloo, Ontario: Heffle Publishing, 1997). See also, "Feds to Probe Report of TB deaths at FN [First Nations] Residential Schools," *Tekawennake*, May 2, 2007, in which the Toronto *Globe and Mail* reviewed archival records and found that "…as many as half the pupils who attended the early years of residential schools died of tuberculosis."

[933] Interview with George Beaver, March 13, 1995.

they fight..."[934] The presentation of Six Nations identity in the letters to the Brantford newspaper revealed an infinitely more complex framework for identity than would be offered in the Brantford courthouse a month later.

After the treason "trial" of George Beaver at which he was found guilty and strongly cautioned not to write any further letters, the Canadian government moved quickly to reinstate the elected council. The RCMP raided and cleared the council house in the middle of the night, reportedly at 3 a.m., after a violent scuffle with approximately 120 men and women who had occupied it for the Confederacy.[935] Moments of the fracas within the council house were filmed by the Canadian Broadcasting Corporation until the television camera was destroyed by the RCMP. The CBC photographer filmed up to the moment a club smashed his lens and this dramatic footage, aired on local Canadian televsion, created a national audience for the dispute at Six Nations which called the government's handling of the incident into question.[936] A Senator from Alberta, whose mother was a member of the Blackfoot tribe, came to the reserve to investigate and backed up the claim by the activists that several of them had been beaten by the RCMP.[937]

Ella Cork, the writer who found herself in the midst of the incident also backed up the account of the unnecessary violence used by the RCMP to break up a group of people who were either sleeping, socializing or playing euchre to pass the time when the attack began.[938] A number of Confederacy supporters were rounded up, charged and imprisoned and the elected council was restored to power – force used by the Canadian government had once again imposed an elective system at Six Nations.

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[934] *Brantford Expositor*, March 12, 1959, p. 4.

[935] Ella Cork, The Worst of the Bargain, (San Jacinto, California: Foundation for Social Research, 1962), p. 7.

[936] Ella Cork, The Worst of the Bargain, (San Jacinto, California: Foundation for Social Research, 1962), p. 8.

[937] *Brantford Expositor*, March 17, l959, p. 20.

[938] Ella Cork, The Worst of the Bargain, (San Jacinto, California: Foundation for Social Research, 1962), p. 7-8.

In a scathing letter, a self-proclaimed "Freedom-Writer" accused the Canadian government of using the George Beaver incident simply as a pretext for restoring its own hegemony. He asserted: "Citizen Beaver was not kidnapped. He was detained under the constitutional law of the Confederacy. If he was kidnapped, the RCMP have also kidnapped members of the Six Nations."[939] An illuminating addendum to the situation was offered by George Beaver, who recollected that the day after the "kidnapping" he had been approached again by supporters of the Confederacy, subsequent to the incident reported in the press, and asked to return to see Mad Bear and augment his statement for presentation on television. George Beaver willingly returned of his own volition, for he knew many of the young men involved; they had grown up together on the reserve and he was unafraid and not coerced.[940]

Twenty of the Confederacy supporters faced charges ranging from "impersonating peace officers," obstructing the police, to kidnapping.[941] The political fallout from the RCMP raid on the reserve, coupled with a public perception of government ineptitude in handling Indian affairs, resulted in the dismissal of the charges. A majority of the elected council appeared to favor pressing charges, reflecting the degree of bitterness the incident engendered on the reserve.[942] Yet, the chief of the elected council, Edward Garlow, was in favor of granting amnesty to the Natives involved in the Confederacy uprising.[943] Although he dismissed the charges, the magistrate, J. T. Shillington, sternly lectured the chiefs and their supporters "in this disgraceful affair." He emphasized that the dismissal of charges was not to be construed as leniency on the part of the government and he went on to warn the chiefs not to live in the past, for the "hands of time cannot be turned back." He extolled the virtues of progress: "Surely you did not wish to inflict on the

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[939] *Brantford Expositor*, March 19, 1959, p. 4.

[940] When the RCMP questioned George Beaver, he was asked specifically if he wished to press charges against the men who had picked him up from school, but he refused. (Interview with George Beaver, March 13, 1995.

[941] *Brantford Expositor*, March 17, 1959 p. 1, March 20, 1959, p.3.

[942] *Brantford Expositor*, March 25, 1959, p. 12.

[943] "Foresee Settlement of Indians' Dispute After Ottawa Talks," *Brantford Expositor*, March 18, 1959, p. 1.

generation here today and on the generations to come tomorrow, the type of life and the type of living without all the advantages of educational facilities and health and welfare facilities? Would you deny your children all that? It is just a matter of common sense."[944]

The welfare state precluded discussion of Native autonomy. This was the inauspicious prelude to the trial that began a month later in Ontario Supreme Court. Acculturation or "traditionalism;" Indian identity was presented as an either/or choice between "progress" and "backwardness." The complex nuances of ethnicity that were often manifested in the expression of Six Nations people in alterNative forums were to be ignored.

Although the trial served as a showcase for the past, there were occasional windows into the complicated search for identity in the present. Wampum referred to as the "two-road belt" was introduced as evidence in the trial and its significance was explained by a "Caretaker of the Wampum" from the Six Nations.[945] He asserted that it dated from 1664 and showed the status of Indians and Europeans as "separate and equal."[946] The belt's authenticity was contested, as well as the interpretation of its meaning, in the court proceedings. The Six Nations Native who interpreted the belt for the court defended his claims based on an oral tradition that dated back several hundred years in the Iroquois Confederacy.[947]

Religious beliefs entered into the proceedings, particularly with respect to a reverence for the land. Clan mother Emily General, sister of Levi and Alex General, testified that: "This land was given to us by our Creator and we have a duty to preserve it for future generations."[948] The sacred nature of wampum to adherents of the Longhouse religion was underscored by Verna Logan's demand to take her oath on a piece of wampum, rather than the Bible, at the opening of the Court hearing.[949] By identifying

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[944] *Brantford Expositor*, March 25, p. 1.

[945] *Brantford Expositor*, April 16, 1959, p. 1.

[946] As quoted in Ella Cork, The Worst of the Bargain (San Jacinto, California: Foundation for Social Research, 1962) p.52.

[947] Ibid., p. 52.

[948] *Brantford Expositor*, April 16, 1959, p. 1.

themselves to the court according to their position within the Confederacy, namely, as clan mothers and chiefs, as well as by their positions such as fire-keeper, or wampum-keeper, Six Nations Indians reaffirmed their identity and emphasized the legitimacy of the Confederacy as an ongoing government "which still exists and meets regularly."[950]

Other ways in which the witnesses at trial affirmed a sense of Six Nations identity were through an insistence upon "treaty rights," along with a refusal to vote in elections.[951] The two issues were inextricably linked according to the perspective of the witnesses, due to a provision in the Indian Act that specified that an "enfranchised person ceases to be Indian."[952] The fear of the loss of treaty rights through enfranchisement was a recurring theme throughout the trial. Native people were only eligible to vote in provincial elections in 1959; they were not given the right to vote in Federal elections until 1960. If they applied to vote in Federal elections, they had to sign a "waiver of income tax exemption rights."[953] The hereditary chiefs and their followers boycotted Canadian elections and argued that non-participation of members of the Six Nations community in the voting process signaled support for the Confederacy Council as the legitimate government.[954]

The records detailing Euro-Canadian and First Nations interaction bore witness to the Six Nations as an historical entity. Records had also became a significant element in the construction of Native identity, but the Six Nations community did not have access to them all, for the Band Council and Ottawa imposed barriers to access records. The Confederacy was required to provide historical references and citations to back up its claims, but without access to power the flow of many of these documents created over

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[949] *Brantford Expositor*, April 15, 1959, p. 1.

[950] File # 4052/1957 of Supreme Court of Ontario, Affidavit of Verna Logan.

[951] *Brantford Expositor*, April 16, 1959.

[952] See Revised Statutes of Canada Chapter Fourteen9, s.109.

[953] *Brantford Expositor*, April 16, 1959, p. 14.

[954] Only 200 of approximately 3600 eligible voters on the reserve had chosen to cast ballots in the preceding provincial election. *Brantford Expositor*, April 16, 1959, p.1, 14. As further evidence to bolster their claim of a broad base of support, the Confederacy chiefs introduced the results of a house-to-house canvass that showed that out of the 4400 residents, about 3600 favored the hereditary system. *Brantford Expositor*, April 16, 1995, p. 1.

time and archived, stopped. This would have great significance in the future hearings and legal cases in which Six Nations witnesses would play a part; it would also resonate in determining the overall historical literacy of the community, as the oral culture of the Confederacy would slowly give way to the elected council's way of doing business – shuffling paper in meetings and forwarding memoranda and reports through a labyrinthian bureaucracy. Control of the access to information had always been used by Indian Affairs to disempower the Native population at Six Nations, but once the Band Council was employed as an additional gate-keeper, it became much easier to keep information within a small group. Over time this was used by Ottawa to extinguish the power of the Confederacy and confuse the electorate about their own political and cultural history. I will demonstrate in a subsequent chapter how Six Nations leaders by the 1970s will argue in hearings, for example, that Six Nations was always a patrilineal tribe. The destruction of Native identity, cultural heritage and history was the objective of Canadian policy – not simply integration.

In 1959, there was still coherence and continuity. The importance accorded to the Haldimand and Simcoe deeds by people from Six Nations attested to a facet of a stable identity derived from the designation of the Six Nations people as a singular unit, apart from other Indians, not just due to their relations with Britain, but as part of a tapestry of domestic and foreign relations – both intra-Native and also, between Natives and Euro-Canadians. During the course of the trial, the insistence of Malcolm Montgomery upon the identification of the Six Nations Indians as "allies of Her Majesty rather than subjects" reflected not only a carefully constructed legal strategy to win local autonomy for the Confederacy Council, but also was a significant thread in the fabric of identity for some members of the Six Nations band. It was noted that there was an outpouring of documents, sometimes fragmentary but notable, from people on the reserve at the time of the trial: "copies of treaties and declarations, petitions, pleadings and verdicts from old cases" were brought forward.[955] This was not merely a record indicative of self-determination, but was a critical piece in Six Nations community's complex sense of

[955] Ella Cork, The Worst of the Bargain, (San Jacinto, California: Foundation of Social Research, 1962), p. 9.

cultural identity, giving a sense of stability and continuity to be sure, but also used as a sense of reference to build from, in order to seamlessly refashion identity.

The manner of dress of the Indians who attended the trial was illuminating with regard to the tensions inherent in the expression of Native identity in the twentieth-century. Indians attended from the United States, including representatives from the reservations in New York, as well as Six Nations residents. Ceremonial dress, ranging from sober, neutral buckskin to the colorful feathers worn by Mad Bear, all stood in stark contrast to the conservative dark suit worn by a chief of the Onondagas, attesting to the multiplicity of ways Native people expressed a sense of their own cultures. [956] These expressions were often contested by the community; for example, Edmund Wilson, both an observer and witness at the trial, dryly noted that Mad Bear's "regalia...was not well received in Canada."[957] Mad Bear was flamboyant for his own Tuscarora reservation, as well, for he was much younger than Chief Clinton Rickard and very different in manner – he was rebellious and confrontational, where Chief Rickard by that time was elderly and had mellowed.[958] Ella Cork, the self-styled advisor to the Six Nations Confederacy also was impressed by Mad Bear, also known as Wally Anderson: "It is around him that the hopes of the Six Nations center with messianic connotations."[959] Perhaps, Wilson and Cork were so taken with Mad Bear because he was so much more comfortable handling Americans, as well as the attendant publicity and media surrounding a trial than the hereditary chiefs, four of whom were original members of the 1924 Council.

Justice King seemed rather perplexed, not only by the morass of historical documentation presented, but also by the intensity with which the sale of the reserve land

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[956] See Wilson, p. 265.

[957] Ibid.

[958] This is taken from my own encounters with them both, for they were familiar figures in Indian affairs at the time, for my extended family worked with Chief Rickard and we frequently ran into Mad Bear on the Tuscarora reservation. Although he did not participate with the other Tuscaroras in the IDLA, he was popular with the Native men of his age group – he usually wasn't dressed in "regalia," just a simple white tee shirt and dark pants. I remember he was a powerfully built man, rather stocky and with a good sense of humor.

[959] Ella Cork, The Worst of the Bargain, (San Jacinto, California: Foundation of Social Research, 1962), p. 11.

was disputed. He noted, while ruling against the claim of the hereditary chiefs, in his decision:

> It should be remembered that the Indian Act provides in ss.39 and 40 that the Governor in Council may accept or refuse a surrender of land so that it is still quite possible for the Governor in Council to take the position that the surrender of the land in question in this action should be refused. From the evidence given at the trial it is difficult to see what advantage would accrue to the Six Nations Indians by surrendering the land in question.[960]

In response to a direct question from Justice King regarding the benefit of the sale to the Indians, Superintendent Stallwood had testified that the money would merely "increase their capital fund," allowing the government to reduce its monetary support for the Six Nations.[961] In other words, no money would be gained for Six Nations on the balance sheet, the Canadian government would just pay less.

The action was dismissed without costs. Justice King's ruling on September 3, 1959, relied upon the paternalistic provisions of the Indian Act if Six Nations was to further adjudicate the matter, under which the land dispute might still be arbitrarily decided at a higher political level. In other words, the sale could still be set aside at the discretion of a Minister or, highly-placed, pre-eminent politician. [962] Wading through the historical record presented to him, King ruled on the implication of the Haldimand (1784) and Simcoe (1793) deeds with regard to the legal status of the Six Nations. "In my opinion, those of the Six Nations Indians so settling on such lands, together with their posterity, by accepting the protection of the Crown then owed allegiance to the Crown and thus became subjects of the Crown." [963] The judge proposed that a wiser tack for the Six Nations to take might be to challenge the particular Order in Council that was objectionable, rather than the authority by which the order was issued.[964] He was fairly sympathetic but unyielding in his closing statement.

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[960] See Dominion Law Reports (1959) 20 (2d) p. 418.

[961] *Brantford Expositor*, April 17, 1959, p. 1.

[962] The Governor in Council did not follow Justice King's lead to set aside the decision of the elected council and the surrender of land proceeded. The land was sold for $25,000 to the farm equipment company. See Cork, p. 12, 13.

[963] See Dominion Law Reports (1959) 20 (2d) p. 422.

[964] Malcolm Montgomery, the counsel for the hereditary chiefs, had clearly attempted to distance his appeal from the more radical demands for full sovereignty for the Six Nations that had been articulated by leaders of the rebellion. In his closing argument, he told Justice King that the Six Nations hereditary chiefs sought local autonomy rather than full sovereignty. See *Brantford Expositor,* April 22, 1959, p. 1.

> While it might be unjust or unfair under the circumstance for the Parliament of Canada to interfere with their system of internal Government by hereditary Chiefs, I am of the opinion that Parliament has the authority to provide for the surrender of Reserve land....[965]

Contrary to the expectations of their lawyer, Malcolm Montgomery, the chiefs did not launch an appeal. After the trial, there was some speculation about whether there might have been a settlement, if either side might have explored what would have satisfied the chiefs desire for self-government. Focusing on Montgomery's argument, much was made about his statement that the chiefs had exercised autonomy exercised on the municipal level. In fact, R. F. Wilson, Counsel for the Defense wrote to the Deputy Attorney General of Canada, W. R. Jacket, regarding Montgomery's statement. Wilson wrote that Montgomery was not trying to achieve complete sovereignty, but partial sovereignty, a concept that was not fully explored at the time. Montgomery compared the power held by the two councils: "While he [Montgomery] conceded that the Six Nations did not have complete sovereignty, he contended that they did have complete autonomy at the municipal level. In support of this partial sovereignty concept, which is a rather difficult thing to understand, he relied on the Haldimand Deed…and also the Simcoe Deed…"[966]

Another possibility for a negotiated settlement might have taken shape under the auspices of Indian affairs. A senior official from Indian Affairs, Col. E. Acland was sent to directly assess conditions at Grand River during this period. At the time of the 1959 incident Acland argued that Indian Affairs should reach out to the Six Nations community in an effort to educate the younger members in regard to he actual state of their affairs, also informally visit the Longhouse to study traditions and show an interest in preserving Six Nations history. This was a long-term strategy to "win hearts and minds," but that over time, this approach would pay off. Acland was also the Senior

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[965] Ibid., p. 424.

[966] S. J. Bailey, "The Six Nations Confederacy," Paper Submitted to the Claims, Historical Research Centre, (Ottawa: DIAND, 1999), p. 13.

officer who, after visiting the reserve, argued that the assumption that Six Nations was divided into two camps was flawed. Unfortunately, his recommendations were not acted upon by Ottawa.[967]

The Confederacy Chiefs would once again secure Montgomery's help in another more complex case in the 1970s which was fought along similar lines, leading to a case in the Supreme Court of Canada which we will examine in a subsequent chapter.[968] Montgomery obviously formed close ties with the Logans and advised them for years on a number of issues. The chiefs were obviously disappointed with the verdict, yet they refused to hold a referendum to confirm their support on the reserve, much to the chagrin of Ella Cork. She portrayed herself as an "enlightened" friend of the Indians, who used her research and the trial as the basis of her Master's thesis, as well as a book. Although she initially wrote with considerable empathy for the chiefs' cause, it was soon undercut by her patronizing perspective. Cork completely changed her tone to impugn and castigate the chiefs for their "martyr complex" by conclusion of her narrative.[969] She maintained the exigencies of "real power" demanded that the chiefs abandon delusions of "imaginary grandeur" and follow her recommendations to make the reserve an economically viable community, "fully Indian yet fully integrated into Canadian political and economic society as its proper end."[970] This arrogation of authority to impose a stranger's perspective and reconstruction of identity upon the Six Nations as a result of a relatively brief encounter was echoed in Wilson's account, too, although of course, his essay was infinitely more eloquent in style. Wilson's so-called, "apologies" were related to his perception of loss of "pure" traditional cultural forms to mass culture – his sentiment appears to regret the changing milieu in which the cultural ethos of indigenous people is subsumed within modernity. This perspective was reflected, as well in Clifford's assertion about aboriginal people who are operating under the constraints of a

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[967] Ibid.

[968] *Brantford Expositor*, June 1, 1977.

[969] Ella Cork, The Worst of the Bargain, (San Jacinto, California: Foundation for Historical Research, 1962), p. 161.

[970] Ibid., p. 161, 171.

Western sense of "lost authenticity."[971] The location of narrative authority outside of the Six Nations community was a considerable barrier in the consideration of this incident and trial from a Native-centered perspective. One wonders when reflecting upon the writers' texts and the scholarly legal article of Malcolm Montgomery, how this resonated and redounded upon Six Nations discourse at the time.

In contrast to the staid presentation of the elderly chiefs in court, the presentation of Native identity on the reserve had been remarkably lively. It was focused less on the legacy of the past and more on the every-day issues of the present. Yet, the creative tension between very different forums and differing interpretations of the modalities of Six Nations identity underscore the energy poised within an ostensibly staid and static aboriginal presentation of self. Further, the significance of the court challenge, namely the preservation of the land and restoration of traditional government, was not inherently "backward" or static simply because these concepts were couched in the language of tradition.[972] Many Six Nations leaders intuitively grasped the subtle implications of these cultural nuances. Deskaheh, for example, manipulated expectations of European audiences to his advantage. Mad Bear was also an expert at using media for attention, power, or simply for his own amusement. Native humor often relies on tricksters who turn the tables unexpectedly, to seize a moment for advantage, power, or to use to teach a lesson. Perhaps, that was the key to the media's fascination with Deskaheh and to a lesser extent, and for a different cohort, Mad Bear. There seemed to be a flash of recognition and respect at the unexpected way aboriginal identity was displayed. Chief

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[971] See Clifford, p. 4. It is also noteworthy that the reverse has also been the case; the negation of manifestations of Indianness according to the arbitrary appraisal of an "expert." For example, Weaver concluded in her appraisal of the Six Nations community, "Six Nations of the Grand River": "The Longhouse institution also provides a substantive cultural basis for identity as Iroquois and Indian, which the Christian can not claim. Among many Christians acculturation has proceeded to the degree that although they identify as Indian, they are in behavior and belief indistinguishable from Whites." Weaver negated the aboriginal identity of the Christian Native population with whom she worked most closely. See Weaver, page 534 in Northeast, (Trigger.Finish Footnote)

[972] Furthermore, two significant issues that were raised in the Proclamation put forth at the outset of the March rebellion, namely, the removal of the Royal Canadian Mounted Police from the reserve and the control of Six Nations membership were later addressed by the Canadian government. In 1968, the RCMP detachment was removed in favor of provincial police. See Weaver, p. 535. The discrimination against women under the terms of the Indian Act was finally remedied in 1985. Native women who married non-Indians regained their Indian status under Bill C-31, an amendment to the Indian Act. See the *Brantford Expositor*, September 13, 1986, p. A6.

Joseph Logan, Jr. would grow in his ability to project this nuanced sense of Six Nations identity.

Clifford posited that too much attention to the loss of an idealized "authentic" past had often precluded the appropriate emphasis on inventive "local futures."[973] The agency and activism of Native people themselves frequently becomes overshadowed by the ostensible perspicacity of skilled legal patrons and other outside experts. This has proved to be a formidable barrier to understanding Native concerns and often proves to be exercise in frustration for the 'expert,' as well. It appears very important to recognize how "traditional" authority was coupled with adaptability on the part of the Confederacy Chiefs, rather than simply static compliance with established norms. The legal challenges to the Canadian government mounted by the Chiefs throughout the twentieth-century attest to their ability to formulate an innovative strategy of resistance to government policies, especially when they regarded the policies as intrusive or harmful to Native interests.[974]

The persistence of the 'parallel' governments on the reserve has unfortunately, been viewed only as a liability that allows the Canadian government to exploit factionalism. The two systems can also be seen as facilitating a flexible and more varied response to the expression of Indian identity at Six Nations – unwittingly, and for Six Nations especially, it proved to be a painful, but unique experiment. As the two systems collided and evolved, they offered alternate models that interacted to enrich the cultural context of Six Nations identity. This may lead to sharing areas of responsibility within a restructured system of governance. I will explore current developments on the reserve that indicate a rapprochement is in the offing, as the leaders of Confederacy and Elected Council come together to discuss areas of mutual concern at a later point in the narrative.[975]

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[973] See Clifford, p. 5.

[974] "Of great interest is the fact that the hereditary chiefs on two occasions went to Ottawa and were able to stop the building of a hydro line across the reserve (even though they had no actual political status) and to stop the conscription of Indians on the reserve." Speech by Reg Henry, Keeper of The Faith of the Seneca Longhouse, Six Nations Reserve, as quoted by George Beaver in A View From an Indian Reserve, (Brantford, Ontario: Brant Historical Society, 1993) p. 32.

Close examination and investigation of the trial and rebellion on the Six Nations Reserve in 1959 undermined the notion of a community polarized between acculturation and traditionalism, as might have been expected from the broad outlines of the dispute. Yet, the presentation of Native identity in the three forums I examined was complex and belied the supposition of a collective and homogeneous identity within the Six Nations Reserve. While Six Nations Native identity emerged as an implicit construct in the discourse between members of the community, it was self-consciously delineated in the context of Euro-Canadian - Native interaction. The depiction of Native identity was adapted and refined with a high degree of concern for the setting in which it was to be presented. Indianness was shaped as a positive construct from cultural traits, as well as group behavior and perceptions. Reflected in presentation of an individual's sense of Six Nations ethnicity though is a sensitivity to the image of Indians in the view of the dominant society. In addition, the complex interplay between the tensions inherent in evolving Six Nations traditions and twentieth-century life imparted a degree of ambivalence to the construction of Native identity that was conveyed in the letters written to the local newspaper.

In the conclusion of a novel, Tracks, by Louise Erdrich, one of the characters made the pessimistic observation that once government intrudes on the lives of Native people their identity was reduced to meaningless entries on ledgers, "tracks" across the pages.[976] Yet, the movement from oral to written history within Native communities need not be viewed as an antithesis to Native identity, indeed it served as a complement, an expressive means to create and innovate, to shape a vibrant and reinvigorated future for the community. The Six Nations have left their own "tracks" in the annals of the struggle for Native self-determination, expressing their desire for self-government in the courts and political forums of Canada and abroad. This struggle within the Six Nations community persists long after Mr. Justice King's decision in 1959, for the court ruling was largely irrelevant to the way Six Nations people adopted strategies to conduct their

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[975] Jim Windle, "Caucus Renews Talks Between Band Council and Haudenosaunee," *Tekawennake*, July 25, 2007.

[976] Louise Erdrich, Tracks (New York: Harper and Row, 1988) p. 225.

daily life, irrespective of the labels of "traditionalism" and "modernity." The Confederacy still endures, side-by-side with the elected council.

A group of Six Nations writers commemorated passage of the Confederacy government in 1994 after seventy years by carrying a banner, written in Mohawk, simply stating "I remember," to the steps of the former council house. One of the writer's pointed out at the time: "If you destroy a history, you destroy a people."[977] Canada is being increasingly held to account for these policies by all segments of the community at Six Nations. Perhaps these frequent commemorations play a small part in encouraging a closer examination of the myriad paths members of the Six Nations community choose in order to reference both the strength of past traditions, as well as innovations from modern society that they incorporate into a more intricate tapestry of Six Nations identity.

Rather than fading away, the voices of Six Nations would be heard in the coming decades within the Canadian Supreme Court and the United Nations, as we examine a new cycle of Six Nations activism and legal cases in the next section.

[977] *Brantford Expositor*, October 8, 1994, p. A3.

Part Three

Chapter Ten
DIAND and the Evolution of the White Paper

In 1969 the Minister of Indian Affairs and Northern Development, Jean Chrétien presented the infamous White Paper to Parliament on June 25.[978] Prime Minister Trudeau's manifesto and policy statement, intended to abolish the Indian Act and the protective, gradualist, assimilationist policy that had been in place since Confederation was quickly tabled in the House of Commons. The policy had shocked Native representatives for it proposed to end the reserve system. It had been created without consultation with First Nations leaders, nor with the officials at Indian Affairs who had been engaged in a simultaneous process to reform the Act and create a Land Claims Process for at least a decade.

The Prime Minister's Office and the Office of the Privy Council were intent upon imposing this policy on the bureaucracy, but it was leaked to academics and the press.[979] Former Prime Ministers Diefenbaker and Pearson were much more wary of the bureaucracy than relative political newcomers such as Trudeau and Chrétien, and sought to head-off and circumvent opposition from within the government, unlike Trudeau.[980] Native representatives were outraged when they realized that the government was proposing to end the Indian Act and the Department of Indian Affairs by Ottawa within five years.[981] One Indian leader deemed it "instant cultural genocide."[982]

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[978] "Statement of the Government of Canada on Indian Policy 1969," (The White Paper) Presented to the First Session of the Twenty-eighth Parliament, Indian Affairs and Northern Development, (Ottawa: Queen's Printer, 1969)

[979] Sally Weaver, Making Canadian Indian Policy: The Hidden Agenda 1968-1970, (Toronto: University of Toronto Press, 1981) p. 75.

[980] Morton, Desmond, A Short History of Canada, (Toronto: McClelland & Stewart, 2001), p. 301.

[981] As late as May 20, 1969 Chrétien visited the Six Nations Reserve and when asked by a reporter for the Brantford Expositor if he planned to abolish the Indian Act, replied that he was not going to abolish

Trudeau had promised the "Just Society," but justice depends upon one's perspective and the prevailing distribution of power. First Nations were about to discover the limitations of the Liberals' commitment to social justice. In turn, an unseasoned and inexperienced administration was also to undergo a trial by fire, as one Native group after another abandoned age-old feuds and joined forces to fight this assault on treaty rights and privileges. These rights had been historically encoded within an admittedly abhorrent instrument of colonialism, the Indian Act. The adherents of the Confederacy and the supporters of the Six Nations Elected Council would find common ground in terms of their opposition to the White Paper, if little else.

Under the guise of equality and full integration within Canadian society, the Liberal government was essentially admitting failure of a century of gradual assimilation. The promise of rapid integration and full participation in Canadian society was viewed as no bargain by Native groups who were distrustful, disaffected and alienated from a Canadian culture that had shut the door to any meaningful exercise of sovereignty and denied the reality of Native identity.

Trudeau had won the election on by promising to keep Canada united as one nation and refusing to accommodate the nationalistic desires of Quebec separatists. Denying any possibility of special status for Quebec, Trudeau promised a Federal union of ten equal provinces. The over-riding objective for Prime Minister Trudeau's policy was to keep the Canadian nation from being divided. The policy of bilingualism was an acceptable legacy of Pearson's Official Languages Act, but the Quebecois were to be held at bay regarding any further pretensions to sovereignty.[983]

Holding the line was not going to be easy though, for unrest, strikes and mob violence in Montreal had become an unpleasant fact. Trudeau personally experienced this reality when he was campaigning amid bottle-throwing nationalists.[984] Smoldering

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anything. See "Chrétien Mum on Indian Act But Promises Policy in June," *Brantford Expositor*, May 20, 1969. Also, "Reserves Will Disappear With Repeal of Indian Act," *Brantford Expositor*, June 26, 1969.

[982] Joe McClelland, "Indians Claim New Policy 'Instant Cultural Genocide,'" *London Free Press*, January 31, 1970.

[983] Desmond Morton, A Short History of Canada, (Toronto: McClelland and Stewart, 2001), p. 304.

[984] Ibid., p. 306.

discontent in Quebec could conceivably spread and evoke more violence or perhaps, even result in the political dissolution of Canada. This process of dissolution among European constituents signifying the fabric of the nation was feared more than the disgruntled, but generally quiescent efforts of indigenous peoples challenging the status quo. Natives had always had a long list of complaints for the Indian Department – but Native affairs had generally received sporadic attention in national policy cycles. The intense and sustained attention paid to Native policy during the Diefenbaker administration was unusual.[985]

Indeed, the immediate danger of the escalating violence in Quebec struck home in 1970 when two civil servants were suddenly kidnapped. The Quebec Labour minister, Pierre Laporte, was eventually killed by his captors resulting in the proclamation of the War Measures Act by Trudeau's government and the dispatch of ten thousand troops to Quebec.[986] The Quebecois danger obviously took front, center-stage in Canada, and resulted in a tougher stand of the Prime Minister in suppressing nationalistic aims of ethnic minorities. National politicians were obviously not focused on Native policy and planning at this point.

Indeed, the Liberals could hardly grant cultural and political autonomy for Native groups while steadfastly denying them to French-speaking citizens of Canada. In addition, the newly appointed Minister of Indian Affairs, Jean Chrétien, appeared to have very little practical experience or patience for dealing with the often fractious and contentious politics of First Nations. Six Nations desires for autonomy certainly took a backseat at this time. The department had been reinvigorated during the Diefenbaker period, when Natives had an opportunity to be stakeholders, in collaboration with Indian Affairs officials and social scientists following the recommendations of the Hawthorn Report when the atmosphere favored the creation of a integrative approach to policy. In

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[985] See Dr. John Leslie's analysis of the period from 1943-63 when Native policy became the focus of a fruitful collaboration between Native groups, social scientists, Indian Affairs officials and Prime Minister Diefenbaker's administration. "Assimilation, Integration or Termination? The Development of Canadian Indian Policy, 1943-1963, Doctoral Thesis, Carleton University, 1999.

[986] Desmond Morton, A Short History of Canada, (Toronto: McClelland and Stewart, Ltd., 2001), p. 304-7.

fact, the term “citizens plus” so popular in the late ‘60s and ‘70s originated in the post-war politics of the Canadian welfare state.[987]

Historically, though, Indian Affairs was plagued with frequent leadership changes and moves within various departments of the federal government. Nevertheless, the post of Minister of Indian Affairs was often regarded as a stepping-stone to gain the position of Prime Minister and Chrétien was ambitious.

Trudeau sanctioned a plan to use a bold policy to weld First Nations to the Canadian body politic by ridding them of the hated Indian Act. In five years the detested Indian Department which indigenous groups had long disparaged for its bureaucracy, oversight and incompetence would disappear…who could resist? Seeking to terminate a historic Indian status that was suddenly deemed racially discriminatory in light of evolving international norms, Ottawa sought to wash its hands of its entire "Indian problem" and free Canada from the growing economic burden of social programs for its Native population. Akin to the Federal policy of Termination enacted during the 1950's in the United States, the White Paper sought to shift responsibility to Natives as independent Canadian citizens. Indian Bands would have responsibility for Reserve lands including possible sale under a proposed "Indian Lands Act," Chrétien announced in a news conference. The Provinces would direct programs for Indian education and health after a requisite shift in Federal funding for Indian programs.[988]

This policy was an abrupt reversal of the triad of principles that had been forged in the nineteenth-century regarding Canadian and aboriginal relations: “protection, amelioration, and integration,” aimed at improving relations between Natives and

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[987] The argument for treatment of Natives as “citizens plus” was made to Prime Minister Diefenbaker in a letter of June 15, 1959 by a lawyer from Regina, Morris Shumiatcher, who advocated for “full citizenship” for Natives on the CBC radio on May 15, 1959. In the ‘50s, “citizens plus” as interpreted by the Canadian audience meant the full measure of Canadian citizenship plus additional help in terms of social welfare, along with treaty rights. It did not mean Native sovereignty, self-government or a third order of government as it came to be interpreted in later decades. A plan for an independent Indian Claims Commission was also envisioned and introduced to Parliament under the auspices of Diefenbaker’s administration, notably with the backing of Ellen Fairclough, Minister of Citizenship and Immigration. This intervention was strongly supported by Prime Minister Diefenbaker and Lester Pearson, but did not pass Parliament. Under the plan for the Land Claims commission, statutes of limitations were not to be invoked, evidentiary rules and practices would be suspended and archival records would be made available to Native people. See the doctoral dissertation of John Leslie, “Assimilation, Integration or Termination? The Development of Canadian Indian Policy, 1943-1963,” Carleton University, 1999, p. 392-97.

[988] "Reserves Will Disappear With Repeal of Indian Act," *Brantford Expositor*, June 26, 1969.

Canadians until Natives were assimilated as citizens.[989] The White Paper resulted in a profound sense of betrayal for both Native negotiators and the Indian Department's own bureaucrats. Especially disgruntled were the researchers and representatives engaged in the creation of the Hawthorn Report, the far-ranging national survey of Indian communities commissioned and sponsored by the Department of Indian Affairs.[990] The study was conducted by a team of anthropologists and was the result of an extensive national survey of Native needs.[991] Senior officials at the Department of Indian Affairs were included and actively participated in review of the findings in forums conducted as the research progressed. The Hawthorn report was notable for its "philosophy of enhancing special status or 'citizen plus' status for First Nations..."[992] Still, the lead agency in implementation of the report's suggestions would have been the Department of Indian Affairs, a traditionally paternalistic and authoritarian agency, especially within its mid-level bureaucracy. This criticism was voiced in a journal on public policy, for the structure of the agency was regarded as an obstacle to implementation of the Hawthorn recommendations.[993]

These proposals for restructuring Indian administration and revising the Act itself were worked out during the waning years of Prime Minister Lester Pearson's administration. Pearson, a Nobel Peace Prize winner, was lauded for his conciliatory role

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[989] John Leslie, "Assimilation, Integration or Termination? The Development of Canadian Indian Policy, 1943-1963," Doctoral Dissertation, Carleton University, 1999, p. 392-97.

[989] "Reserves Will Disappear With Repeal of Indian Act," *Brantford Expositor*, June 26, 1969.

[990] Hawthorn, H. B., "A Survey of the Contemporary Indians of Canada:" Economic, Political, Educational Needs and Policies, 2 vols., (Ottawa: The Queen's Printer, 1967).

[991] The creation and use of the Hawthorn Report as analyzed by the late anthropologist, Dr. Sally Weaver, is particularly interesting, not only for its significance in connection with the White Paper, but also due to Weaver's close links to the Six Nations community over her career which gave her a rather unique perspective on the process. Weaver "broke" the story of the White Paper and its potential to devastate Native peoples in her text, Making Canadian Indian Policy: The Hidden Agenda, 1968-69.

[992] Sally M. Weaver, "The Hawthorn Report: Its Use in the Making of Canadian Indian Policy," in Anthropology, Public Policy and Native Peoples in Canada, edited by Noel Dyck and James B. Waldram, (Montreal: McGill-Queen's University Press, 1993) 79.

[993] Sally M. Weaver, "The Hawthorn Report: Its Use in the Making of Canadian Indian Policy," in Anthropology, Public Policy and Native Peoples in Canada, edited by Noel Dyck and James B. Waldram, (Montreal: McGill-Queen's University Press, 1993) 75-81.

in international affairs and his approach of "quiet diplomacy" in the United States. Lester Pearson's Minister of Indian Affairs, Arthur Laing, proposed in 1967 to reform and modernize the cumbersome and highly criticized Indian Act, but in consultation with Native leaders.[994] An Indian Claims Commission to deal with a multitude of land claims was proposed, drafted but was not enacted despite being introduced a number of times in Parliament.[995] Under Pearson's government treaty rights and special privileges of Natives encoded in the Indian Act were not to be touched. Some of the most egregiously discriminatory features of the Indian Act such as compulsory enfranchisement and the gender discrimination against Native women were slated for removal by the Conservatives under their planned revisions.[996] These were major points of difference with the next Liberal administration, after Pearson's retirement, under the leadership of Pierre Trudeau.[997]

Trudeau came to power in 1968 with a leadership style infused with an emphasis on individual rights, equality and social change, contemptuous of incremental process and bureaucracy, unlike the former civil servant, Lester Pearson.[998] A figure of great charisma and style, Trudeau turned the Indian policy of his predecessors on its head. The separatist movement in French Canada under Rene Levesque of course, colored the Prime Minister's political discourse toward special rights for cultural minorities, but Trudeau would eventually accede to special status for Native people within the constitutional framework he pursued, despite denying them to French Canadians.[999]

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[994] John Leslie, "A Historical Survey of Indian-Government Relations, 1940-1970," A Paper prepared for the Royal Commission Liaison Office, December 1993, p. 53.

[995] See John Leslie's dissertation for a summary of the steps in this long process over successive Canadian administrations, "Assimilation, Integration or Termination? The Development of Canadian Indian Policy, 1943-1963," Doctoral Dissertation, Carleton University, 1999, p. 395-98.

[996] This was one of the most intriguing points of the analysis by John Leslie, namely, how much progress had been made in the early '60's in refashioning the agenda for Native peoples before the White Paper was released by the Trudeau administration. See "Assimilation, Integration or Termination? The Development of Canadian Indian Policy, 1943-1963," Doctoral Dissertation, Carleton University, 1999, p. 393-406.

[997] Sally M. Weaver, "The Hawthorn Report: Its Use in the Making of Canadian Indian Policy," in Anthropology, Public Policy and Native Peoples in Canada, edited by Noel Dyck and James B. Waldram, (Montreal: McGill-Queen's University Press, 1993), 82.

[998] Desmond Morton, A Short History of Canada, (Toronto: McClelland and Stewart, 2001) 290-96, 300.

According to Sally Weaver's discerning analysis of the shifting power vectors surrounding DIAND in the Trudeau administration, for the first time the Prime Minister's Office and the Office of the Privy Council were both enlarged and given more power in advising the Cabinet. The Prime Minister's Office pressured the bureaucrats of Indian Affairs to produce far-reaching Native policies in the context of the overall political philosophy of the Prime Minister. In contrast, the Office of Privy Council sought to elicit proposals in sync with the overarching priorities, policies and initiatives of the administration as a whole. As part of DIAND'S own assessment of policy and planning the Hawthorn report was still a central piece of the agency's future plans, but the report as well as its proposed implementation by the agency were savaged by both the Prime Minister's Office and the Office of the Privy Council.[1000]

DIAND'S leadership had changed at the executive level, but not within the Department's bureaucratic labyrinth. Jean Chrétien, and a new Deputy Minister, John MacDonald, headed Indian Affairs for Trudeau. Chrétien's public statements indicated major changes were in the offing for he stressed the need for Indians to "make their own decisions." Bluntly and with a confrontational attitude, he outlined his philosophy in the House of Commons, warning that the "price of liberty is the freedom to make good and bad decisions and the government should not be asked to over-protect the Indians."[1001] Yet, the officials who had participated in the Hawthorn Report were still in place at the agency, setting the stage for a full-blown, intra-agency fight. MacDonald, who had previously worked with Arthur Laing, the former Minister of Northern Affairs and Natural Resources, had initiated a review of the agency and commissioned a five-year plan as the first order of business at the Department. MacDonald along with other senior members of the Trudeau administration would privately develop the policy leading to the

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[999] Sally M. Weaver, "The Hawthorn Report: Its Use in the Making of Canadian Indian Policy," in Anthropology, Public Policy and Native Peoples in Canada, edited by Noel Dyck and James B. Waldram, (Montreal: McGill-Queen's University Press, 1993), 83. See also, Morton, p. 346-50.

[1000] Sally M. Weaver, "The Hawthorn Report: Its Use in the Making of Canadian Indian Policy," in Anthropology, Public Policy and Native Peoples in Canada, edited by Noel Dyck and James B. Waldram, (Montreal: McGill-Queen's University Press, 1993), 83. Weaver cites the rapidly changing political context as “Trudeaumania,” in which politicians, not civil servants were to be in charge of making Indian policy.

[1001] "Over-Protection For Indians Bad Claims Chrétien," Beatrice Smith Clipping File," January 24, 1969.

White paper, while the career officials at DIAND were still focused on implementing the principles of the Hawthorn Report.[1002]

The critique of DIAND offered by the Privy Council Committee was more systemic, for it focused on the lack of Native participation in the formation of policy at DIAND, as well as the separation of the bureaucracy from the problems of everyday life on the Reserves. The officials brought in during the Trudeau administration articulated little understanding of Native ambivalence toward the Indian Act as a symbol of colonial oppression, but also as a symbol of hard-won battles over treaty rights. This would be exactly where the policy would founder.

Privy Council Committee assessment of the Hawthorn Report was extremely negative particularly for the lack of integration of Native voices and perspectives in the final report. According to this critique the five-year plan of DIAND was the narrow view of academics and bureaucrats, who had failed to address Native problems in the past, but were sure they had answers for the future.[1003] The template of the Hawthorn Report was rejected on all fronts. As a centerpiece for the Department's five-year plan it was viewed as parochial and outmoded, from the Prime Minister's Office it was viewed as insensitive to political exigencies and from the Privy Council it was viewed as divorced from Native realities.

The policy under-pinning the White Paper evolved along two separate trajectories. While officials, social scientists and Native delegates deliberated in public about maintaining aboriginal rights, the need for reform of the Indian Act, as well as alleviating social and economic deprivation, the process was effectively derailed by a hidden agenda. Consultations were underway at the upper echelons of the Canadian government involving senior officials who conducted their deliberations largely in secret. Three decisions were reached by officials determined to reshape Native policy: they were determined to revoke the Indian Act; dissolve the Department of Indian Affairs,

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[1002] John Leslie, “A Historical Survey of Indian-Government Relations, 1940-1970,” A Paper prepared for the Royal Commission Liaison Office, December 1993, p. 55.

[1003] Sally M. Weaver, "The Hawthorn Report: Its Use in the Making of Canadian Indian Policy," in Anthropology, Public Policy and Native Peoples in Canada, edited by Noel Dyck and James B. Waldram, (Montreal: McGill-Queen's University Press, 1993), 85-7.

effectively Hawthorn ending separate status; and finally, merge Native people into the greater Canadian society.[1004] Weaver stated that the researchers connected to the Report within DIAND knew nothing of the impending White Paper until it was made public.[1005]

The White Paper, as the policy would come to be known, was brandished as enlightened liberalism under the guise of granting equal opportunity, since the accompanying political rhetoric heralded the color-blind, inclusive pluralism of the Canadian nation. The dichotomy between two distinct approaches to aboriginal affairs and rights, namely "citizens plus" or ending special status entirely, was readily apparent to Native leaders and officials at the Indian Department and social scientists. The academics and bureaucrats who had been involved in reform were chagrined at their participation in such a deeply flawed political process. It is broadly speculated that these officials leaked the signal points of the White Paper to ensure its defeat.[1006]

The debacle over the White Paper fashioned under the auspices of Prime Minister Trudeau and Minister Chrétien inflamed First Nations' opposition to further reform of the Indian Act and deepened their suspicion of the Canadian government. Fears of Quebec separatism dramatically shifted the ground for construction of Indian policy and the historic protection of First Nations' rights encoded within the paternalistic and authoritarian Indian Act. Ironically, in an era of social activism, in which one focus was on the dispossession and displacement of indigenous peoples in North America through the Red Power Movement and civil rights, the White Paper was an poignant reminder of Native disempowerment. Heralded as a liberal sea change in Canadian policy toward First Nations, the White Paper turned into a signal public relations disaster for the Trudeau government.

One result of the uproar over the White Paper was increased prominence and funding for the emerging National Indian Brotherhood, an organization representing

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[1004] John Leslie, "A Historical Survey of Indian-Government Relations, 1940-1970," A Paper prepared for the Royal Commission Liaison Office, December 1993, p. 55.

[1005] Sally M. Weaver, "The Hawthorn Report: Its Use in the Making of Canadian Indian Policy," in Anthropology, Public Policy and Native Peoples in Canada, edited by Noel Dyck and James B. Waldram, (Montreal: McGill-Queen's University Press, 1993), 89.

[1006] The most compelling analysis of this period was written by the late Sally Weaver in her book, Making Canadian Indian Policy: The Hidden Agenda, 1968-1970, (Toronto: University of Toronto, 1981).

status Indians.[1007] Among a host of Native spokesmen and Indian Rights groups, the NIB repudiated the White Paper: "If we accept this policy, and in the process lose our rights and our lands, we become willing partners in cultural genocide. This we cannot do."[1008] Using the rubric "citizens plus" as a defense of special status, the Chiefs of Alberta led a unified Native repudiation of the White Paper in a report known simply as the "Red Paper."[1009] The old term from the 1966 Hawthorn report denoted an enriched status for Natives, grounded in common citizenship in the Canadian nation, but also respectful of difference embodied in aboriginal cultures and rights. As used within a philosophical framework regarding indigenous people, it eschewed assimilation, separatism and reification of difference for an emphasis on and advocacy for shared experience, improved cultural contacts and social relations built upon mutuality and interdependence.[1010]

The glaring omission of aboriginal representation on academic panels, studies and in the government left First Nations without a voice in the development of policy and planning for indigenous development. The stunning arrogance with which the Trudeau administration introduced the White Paper by ignoring Native input in the process, as well as the secrecy with which the policy was forged, resonated well beyond the Native community. A firestorm of criticism surrounding proposed termination of the special status of First Nations erupted after Chrétien announced the new policy.

In defense of the White Paper, Prime Minister Trudeau complained that there were competing voices emerging from Native communities with no consensus for policy makers to draw upon. The finality of the White Paper overshadowed any discussion of the multiplicity of Natives' aspirations and possible choices on the continuum of cultural

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[1007] John Leslie, "A Historical Survey of Indian-Government Relations, 1940-1970," A Paper prepared for the Royal Commission Liaison Office, December 1993, p. 55.

[1008] Olive Patricia Dickason, Canada's First Nations, (Toronto: McClelland and Stewart, Inc., 1992) p. 386.

[1009] Indian Chiefs of Alberta, "Citizens Plus," (Edmonton: Indian Chiefs of Alberta, 1970).

[1010] Yet, as Cairns himself later pointed out the Hawthorn team was not representative of Native people either, for the Federal officials who had commissioned the study were more concerned about insuring a balance of French and English representatives on the panel. See Cairns' text reflecting on changing Native policy, Citizens Plus: Aboriginal Peoples and the Canadian State, (Vancouver: British Columbia Press, 2000) p. 23,

separatism, assimilation and acculturation in relation to the Euro-Canadian society. The Prime Minister simply interpreted indigenous divisions in terms of a generation gap as profound as the differences besetting the majority society, projecting the alienation of the Euro-Canadian culture onto Native groups.[1011] Trudeau's focused on the racially discriminatory nature of the historic difference in status for Indians, arguing that this placed Natives in isolated "islands of poverty" at the end of a "blind alley of deprivation and frustration" that could threaten the health of the entire nation. The main thrust of the White Paper was for Natives to solve their own problems by articulating their needs through regional groups and interacting directly with the provinces rather than with the Federal level after a five-year transition period.[1012]

Much to the shock and outrage of First Nations people, rather than finding themselves deliberating about gradual change and reform of Indian Department and Native policy, previously called “Choosing a New Path,” the new political reality as bluntly announced by Chrétien appeared to place them at the brink of a chasm.[1013] Native people faced a potential loss of Indian status, reserve lands and identity. Termination had sought to end federal responsibility for Native tribes in the United States and to dissolve the Bureau of Indian Affairs, the agency charged with responsibility for Native American policy in the United States.[1014] The policy was one of the worst blows dealt to Native people in the U.S. since the Dawes Act, for it alienated Indians from the land and cast them adrift into the mainstream of American capitalism.[1015] The new policy initiative of the incoming Trudeau administration amounted to a similar abrogation

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[1011] "Our Divided Indians," Editorial, *Brantford Expositor*, January 15, 1969.

[1012] "Statement of the Government of Canada on Indian Policy, 1969," Presented to the First Session of the Twenty-eighth Parliament by the Honorable Jean Chrétien, Minister of Indian Affairs and Northern Development, (Ottawa: Queen's Printer)

[1013] John Leslie, “A Historical Survey of Indian-Government Relations, 1940-1970,” A Paper prepared for Royal Commission Liaison Office, December 1993, p.47.

[1014] Termination resulted in the virtual destruction and impoverishment of tribes such as the Menominees and Klamaths before the tribes were reconstituted and somewhat stabilized.

[1015] Roger Nichols, American Indians in U.S. History (Norman: University of Oklahoma Press, 2003), p. 189-92.

of federal fiduciary responsibility for First Nations and the elision of aboriginal rights and treaty rights historically embodied in the Indian Act.

Native people mounted a campaign to force the jettisoning of the initiatives within the year.[1016] The "White Paper" was widely seen as a betrayal of indigenous leaders who had taken their role of consultation seriously. As the policy was assessed in First Nations communities it quickly became evident that the White Paper was the antithesis of what was envisioned during public consultation and discourse about revisions to the Indian Act that would have protected Federal guarantees for land, treaties and social welfare. Instead of increasing opportunity for Native people in Canadian society and elevating their agency in policy and planning for self-determination under the philosophy of "citizens plus," their aboriginal rights, benefits and treaties were in grave danger.[1017]

The National Indian Brotherhood, representative of Western Bands, was pressing for a national Indian conference and calling for a new policy statement almost immediately. The "hot-button" issues were the taxation of Indian land, alienation of land from Native control and subordination of Indian affairs within a provincial framework.[1018] Three-fourths of the Native population at the time lived on reserves and a number of significant land claims were being pursued in the courts. One claim sought all the territory in British Columbia, for example, while another, the Northwest Territories.[1019] Chrétien wanted these cases negotiated with the provinces. One

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[1016] Several representatives of Indian groups gathered to critique the policy, such as The National Indian Committee on Indian Rights and Treaties; National Indian Brotherhood; and the Manitoba National Indian Brotherhood. See the photograph of Native leaders in the June 27, 1969 issue of the Toronto *Globe and Mail.*

[1017] This term was introduced into public policy discourse in 1966 through the Hawthorn Report. Cairns later elaborated on this concept in his text, Citizens Plus: Aboriginal People and the Canadian State, (Vancouver: University of British Columbia, 2000). Cairns argued that this key phrase was used to defeat the government's 1969 mandate, the White Paper. It was also adapted as the title of a paper by the Alberta Indian Association, also known as the "Red Paper," which framed the Indians' reply to the government See also, Olive Dickason's account of this period in her survey, Canada's First Nations, (Toronto, McClelland and Stewart, 1992).

[1018] "Indians Press Ottawa for Policy Change," Beatrice Smith Clipping File, June 27, 1969.

[1019] "Indians See Rights Ignored in Changes Ottawa Proposes," *Brantford Expositor*, June 27, 1969.

newspaper report sardonically remarked, "To the Indians, this is like suggesting they negotiate with the burglar for the return of part of their own goods."[1020]

Pressure to slow implementation of the new initiatives came from Parliament in the form of a special House of Commons debate due to adverse Native reaction to the policy statement. Minister Chrétien was on the defensive, assuring the Commons that Indians would have a voice in the process, for strong criticism emerged about the lack of consultation in creation of the White Paper. He also responded to fears that Reserves would be sold arbitrarily, stating there would be safeguards against this and a majority of a band would have to agree to a sale.[1021] Safeguards such as these had failed to stop the sale of Native lands following the Congressional enactment of Termination, decimating the society and economy of affected tribes in the United States and leaving them with no land base.

It is interesting that the single Native Member of Parliament in the House of Commons from British Columbia, Len Marchand, offered guarded support for Chrétien's speech indicating the movement away from the paternalism of the Indian Act is "what Indians aspire to."[1022] The credence given this quote in the press underscores the problem of complex representation of Native voices, given that the barriers to access for Natives within the political process make it extremely hard to gauge Native sensibilities through the privileged voice of one speaker.

Chrétien continued to respond aggressively to the strong assault against the White Paper, even touring the provinces to consult with Natives and provincial officials. He asserted that a Commissioner was to be appointed by the Federal government to investigate Native complaints, but stipulated the Department would have final say over who was appointed. Autocratic and blunt, despite his continual disavowal of being cast

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[1020] "Indians See Rights Ignored in Changes Ottawa Proposes," *Brantford Expositor*, June 27, 1969.

[1021] "Chrétien Assures Indians of Voice in Future Policy,"Beatrice Smith Clipping File, July 12, 1969.

[1022] "Chrétien Assures Indians of Voice in Future Policy,"Beatrice Smith Clipping File, July 12, 1969.

as the "Great White Father" in his role as Minister of Indian Affairs, Chrétien insisted that his policy was being misunderstood.[1023]

Inauspiciously, as Chrétien began his tour in Vancouver, the Native leader of the Tribal Federation refused to meet with him until there was an alterNative policy to discuss.[1024] Chrétien remained undeterred, vowing to speak to other Indian leaders interested in ending what he deemed, "the kind of apartheid" represented by racial division encoded in the Indian Act.[1025] In a speech to the Empire Club in Toronto, Chrétien again argued that Indians in Canada were "living in a kind of apartheid," instead of being given more freedom to make their own decisions. Yet, by the fall of 1969 he began to speak of gradually phasing out the Indian Affairs Department and the tentative nature of White Paper proposals, while underscoring a protective aspect to the plan. Chrétien renewed his call for an Indian Lands Act to make sure Indian Reserves would not be alienated from aboriginal control.[1026]

Ongwehònweh Citizenship

One of the great difficulties in gauging Native response to the proposals emanating from Ottawa was that there was no single indigenous group representing all Indians in Canada. Even status Indians, those Natives specifically recognized as belonging to federally recognized bands, were not united in support of one political position. Adding to the confusion was the ambivalence of many Indians to the Indian Act, particularly apparent at Six Nations Reserve with its bifurcated and contested system of government. Yet Six Nations was extremely important in the equation of Indian politics for it represented approximately twenty percent of Ontario's Indian population.[1027] Minister Chrétien made a major political blunder in not involving Six

[1023] See articles in defense of the White Paper, "Chrétien to Consult Indians, Discuss New Federal Policy," in Beatrice Smith's clipping file, July 4, 1969.

[1024] "Not an Indian to be Seen as Chrétien Starts Tour," Beatrice Smith Clipping File, July 15, 1969.

[1025] Ibid.

[1026] "Present Indian Act Was Unnecessary," Beatrice Smith Clipping File, October 17, 1969.

[1027] "Ottawa Denies Reserve Chief Delegate Status at Meeting," Beatrice Smith's clipping file, April 30, 1969.

Nations leaders in the evolution of his policy and planning. For example, the Chief Councilor of Six Nations, representing the Elected Council, was not even invited to the Ottawa talks to make final comments on the revision of the Indian Act until the Union of Ontario Indians extended him an invitation. Isaac then was selected as an honorary chairman of the conference, but was refused status as a delegate.

Even before the release of the White Paper, Six Nations Confederacy Chiefs from several reserves conveyed their discontent to Ottawa. They expressed a desire to meet directly with the Prime Minister, Pierre Trudeau. The chiefs met at Six Nations to decry the existing system, denounce the Indian Act as illegal and protest a plan for a 578-acre easement from Ontario Hydro through Indian land. Speaking in Mohawk, Chief Harry Henhawk questioned the entire framework of relations between Six Nations and Canada, condemning the Canadian government: "The Indian Act is illegal...There are no Indians here. We are the Ongwehònweh." Chief Henhawk railed against the installation of a "puppet government" in 1924 using force and brutality as well as the social services extended to poor Indians to gain their political support. "We know some people in the Six Nations accept the act to get benefits. We also know we lose something when our people accept your welfare," noted Chief Henhawk.[1028]

The multiplicity of positions regarding nationhood and citizenship mystified the surrounding community of Brantford, for it would have appeared that with the abolition of the reviled Indian Department the Confederacy and its supporters would have been vindicated. Supporters of the Band Council would ostensibly achieve equality with full Canadian citizenship and a greater voice in Ontario and national affairs. Finally, "Friends of the Indians" noted with satisfaction, the Minister of Indian Affairs was offering to abolish the maligned Indian Act and the hated agency enforcing its directives, the Department of Indian and Northern Affairs. Instead, as one writer pointed out, "The public is astounded to find not the enemies of the Indians, but Indian leaders themselves, angrily declaring that their people are not yet ready for such freedom lest they mortgage away their land for liquor and waste their substance."[1029]

[1028] "Indians Want to Hold Council with Trudeau for Justice," *Brantford Expositor*, June 9, 1969.

[1029] "Indians' About-Face," Letter to the Editor, *Brantford Expositor*, July 8, 1969.

A former Six Nations resident addressed this issue directly, citing racism of the white community as the most significant factor in Natives desires to retain their separate status and Reserve land. Even though this individual had made a successful transition to the wider community, they reported: "I find a strained attitude toward me at all times. Employment has often been denied because of my color." Pointedly, this writer asked, "Would any MP pick an Indian family to live next door to him or would he share his home with some of the needy poor on the reserves when their last piece of land is seized for non-payment of taxes?"[1030] Economic resentment against Natives was quite evident in a random survey of the community in nearby Brantford: One speaker complained that the Reserve should have been abolished long before, stating: "Who else has homes handed to them. My parents had to work for everything and so do I." While another speaker argued, "They do not appreciate the privileges they have. They might appreciate them more if they had to pay for them."[1031] On the same page of the local paper, a "rags to riches" story was printed concerning the perseverance and hard work of a Six Nations man who became a popular Lacrosse player and used his status to land a good-paying job at a steel mill. Working for his lifetime off the Reserve, he raised a son who became a successful lawyer in a multi-cultural firm in Toronto. The writer used this example as an object lesson to point out "how one man solved his Indian 'problem'," leaving the past behind to embrace modern Canadian life.[1032]

It was not easy to explain the choice to stay on the Reserve and live in a way that was viewed by many Canadian citizens as separate, culturally distinct and socio-economically disadvantaged. William Smith wrote an editorial to explain why many Natives disdained Canadian citizenship and rejected life off the Reserve. He argued that even though many Indians seek off-Reserve employment, "the greater part of them never desire to attain citizenship. Once they fully understand the complexities of modern civilization they are more determined to retain their Indian Nationality and identity." Bill Smith switched from support of the Elected Council to the Confederacy in a family noted

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[1030] "Shouldn't Tax Reservations," Letter to the Editor, *Brantford Expositor*, July 8, 1969.

[1031] "You Said It!" *Brantford Expositor*, July 12, 1969.

[1032] "Mohawk's Choice: Tribal Past of Son's Future," *Brantford Expositor*, July 12, 1969.

for its support of the Elected Council. He argued from his own experience that although Indians adapted to the majority culture, "it remains his inherent right to reject certain of those ways of doing and thinking," including Canadian citizenship.[1033]

For the supporters of the Confederacy there is no other option than the Ongwehònweh form of government. As explained by chiefs Joseph Logan and Emerson Hill in a seminar attended by both supporters of the hereditary system and those seeking Canadian citizenship, if Indians voted or participated in the "white man's elections," their special status encoded in the "wampum treaties" would be lost and they would have to pay taxes. If impoverished Indians could not pay, the chiefs argued that the land would be forfeited for taxes and the reserves, as well as national identity, would be lost.[1034] It is interesting that this debate foreshadowed the announcement of the government's announcement of the White Paper. The spokesman for citizenship was a lawyer, Howard Staats, originally from Six Nations, who argued for Indians to compete in the modern society and to abolish the discriminatory Indian Act.[1035]

Abolishing the Indian Act was a drastic measure and Jean Chrétien must have had some insight that the policy he was advocating was not going to go down easily with most Native people. He maintained in a House of Commons debate in late June that Indians at least "had a chance to express their opinions." Six Nations people were at first quiet about the new proposal, but then the reserve soon erupted in opposition to the White Paper on several fronts. Canadian citizenship signified loss of treaty rights, Indian status, language, the Longhouse religion and ultimately, the land and cultural sanctuary of a homeland.

Six Nations members attested to the depth of feeling associated with the proposed Federal policy: "All I can tell you is that feelings are running much higher than they were during the trouble we had in 1959."[1036] Religious freedom was a major issue, for

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[1033] William Smith, "Indians as Citizens," Letter to the Editor, Brantford Expositor, 1969. This gentleman was my Uncle's brother and became a Confederacy spokesman in his later years.

[1034] "Special Law for Indian Cited as Discriminatory," *Brantford Expositor*, May 20, 1969.

[1035] Ibid.

[1036] "Reserve Becomes Restless Over New Federal Indian Policy, *Brantford Expositor*, June 30, 1969.

residential schools such as the Mohawk Institute alienated children from the Longhouse religion and from the community, preparing the ground for assimilation, clan mothers argued. Six Nations leaders looked beyond the bounds of Canadian law to seek redress against the Canadian government arguing that if treaties were broken, international courts might rule for indigenous peoples' right to keep the land out of the hands of the Canadian government.

A rumor circulated around the Reserve that Indians would be made citizens by decree on July 2, not as part of a five-year plan as stipulated by Chrétien. This rumor was reported by a local radio station and then picked up by the press, ratcheting up the tension in Ohsweken. In addition, only one of the elected councilors, Norman Lickers, chose to attend a meeting on June 2 held on the reserve to explain the government's policy to the community. The Chief of the Council Richard Isaac came late when most people had already left.

The Confederacy Council estimated to have a base of support numbering around 1500 on the reserve met and took action. The Warriors proposed taking over the Council House as they did in the 1959 rebellion, but were rebuffed. Instead, the Confederacy Chiefs, eschewing violence, dispatched a letter to Prime Minister Trudeau, as well as to the Leader of the Opposition, John Diefenbaker, to protest the impending government changes and seek consultation. The Hereditary Chiefs also sent delegations to both the provincial and federal governments. Yet, the chiefs, too, were disheartened, for one complained: "We have no redress as Indians. Ever since the Queen and the governor-general were reduced to figureheads, we have no one to turn to. If we sent them letters, they send them to the federal government...They mean nothing."[1037] A Confederacy supporter and clan mother, Alma Greene stiffened the resolve of the crowd by vowing resistance to the government's plans: "We will never become Canadian citizens."[1038]

The threat of citizenship was equated with cultural genocide to these Confederacy supporters for it was a violation of the spirit and principle of the ancient agreements, the Covenant Chain, with the British government. As encoded in wampum belts and "read,"

[1037] "Indians Brand Ottawa Policies Genocide: "Won't Be Canadians," *Brantford Expositor*, July 2, 1969.

[1038] Ibid.

or interpreted by the Confederacy Chiefs, each belt was revered as a sacred memorial to Six Nations history. The "Two Row Wampum," created in 1664 was a sacred pledge to uphold and to honor Six Nations sovereignty as a separate and independent nation, apart from European interference. As Confederacy Chief, Joseph Logan maintained: "Its symbol was a white belt with two parallel black stripes. This meant that the white man's boat and the red man's boat were to travel side by side in peace but they must never interfere with one another. That treaty and others like it, were never revoked..." He viewed integration with Canadian society as "creeping genocide" to be resisted, not welcomed. Logan declared that most Indians on the Six Nations Reserve wanted a separate, independent Indian state.[1039] The Confederacy drafted a proclamation citing the Two Row Wampum and rejecting the Canadian government's proposed new policy that the Chiefs feared would be imposed upon the Indians.[1040]

Indians feared debt and taxes would push them beyond the brink. One mother of nine children recounted how housing officials on the reserve had given her a loan for an addition to her house, then told her she needed a bathroom, requiring yet another loan. Many people on the reserve in the 1960s still did not have indoor plumbing or electricity[1041]. Health department officials inspecting her home insisted the residence was still inadequate and far too crowded. Fearful of losing her children and her land on the reserve, this mother appealed to Richard Isaac, the Chief of the Elected Council: "Why don't you stop them?"[1042]

The elected council decided to work through the Premier of Ontario, John Roberts, to try to block the implementation of the White Paper. Norman Lickers wrote

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[1039] "Now the Indians Want a Separate State," Beatrice Smith's clipping file, September 3, 1969.

[1040] "Indians Won't Accept Policy," Beatrice Smith's clipping file, September 29, 1969.

[1041] Confederacy supporters refused to make an application to the Elected Council with whom they fundamentally disagree. Since the Elected Council has an agreement to pay hydro bills that are not paid in full by Indians on the Reserve, Confederacy supporters fear that their property might be seized by the Elected Council under the pretext of an unpaid utility bill. See article, "Ivan Thomas Is Still Without Hydro," Wayne Roper, "If I'm Canadian, Why Does Ottawa Call Me Indian?" Brantford Expositor, November 28, 1969.

[1042] Wayne Roper, "Indians Brand Ottawa Policies Genocide: "Won't Be Canadians," *Brantford Expositor*, July 2, 1969.

the official brief protesting the proposed policy for the Elected Councilors. The Councilors adopted the tactic of setting the provincial and federal levels of government against one another, writing to Ontario Premier for his help. The members of the Elected Council asked that the Province of Ontario refuse to take over responsibility for Six Nations people, the process outlined in the White Paper, until the federal government settled all outstanding grievances including all Six Nations land claims and other claims for compensation, such as funds the government invested in the Grand River Navigation Company, without permission from the Six Nations.[1043] Land claims included "two complete townships," as well as large areas of land along the Grand River.[1044] The Council sought title to any land left from the original land grant, including mineral and oil rights. The Elected Council also sought to act as the agent in determining how each Indian would hold title to an individual allotment for their family for posterity. These demands were thought to be formidable roadblocks in the way of the implementation of the federal policy, for the provincial government would not want to inherit all Six Nations claims from the federal government. The Councilors argued: "It is hypocritical to say the Indian people are entitled to an equality which preserves and enriches Indian identity and distinction and then enforce a policy which can only exterminate them."[1045]

Both the Elected and Confederacy councils were on the record as opposed to the new government policies almost immediately after they were announced. Many in the Six Nations community called for unity at local meetings on the Reserve, arguing that under threat of the White Paper everyone should work together, rather than representing the Confederacy or the Elected Council. At a gathering in Ohsweken about 300 people met to urge solidarity and action.[1046] In the interim though, the Elected Council had granted a request for an easement for electrical lines for Ontario Hydro. The

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[1043] "Six Nations Ask Robarts to Block Ottawa Policy," *Brantford Expositor*, July 4, 1969.

[1044] Wayne Roper, "Settle Our Claims -- Then We'll Talk to Ottawa: Indian," *Brantford Expositor*, January 9, 1970.

[1045] "Six Nations Ask Robarts to Block Ottawa Policy," *Brantford Expositor*, July 4, 1969.

[1046] "Indians Choice: Accept Citizenship Or Remain Under Treaty Rights," *Brantford Expositor*, July 7, 1969.

Confederacy decried this action as illegal, arguing that land treaties were under their purview and that the land would be needed in the future for homes for Six Nations people. Solidarity would not be forthcoming from these antithetical positions in regard to sale of the land on the Six Nations Reserve. Indeed, there was an alleged incident involving arson on the farm of the chief councilor, Richard Isaac, allegedly in retaliation for the hydro deal forged under his leadership.[1047] In view of the tension on the reserve, the Royal Canadian Mounted Police (RCMP) would remain on the reserve through the Council election, even though historically the relationship between the "Mounties" and the Confederacy had been contentious because of the takeovers of the Council House in 1924 and 1959.

In addition to the two primary political groups opposing one another, a third political group, the Committee for Social Action for Indians of the Americas (CSAIA), made their appearance at the traditional May gathering, "Bread and Cheese Day" on the Reserve.[1048] A classic event in the sense of an invented colonial tradition, this celebration was inaugurated to honor the birthday of Queen Victoria on Victoria Day. Funded originally by the Crown in recognition of Six Nations military service during the Revolutionary War, the ceremony has morphed into a Six Nations festival attended by thousands and funded by the community as a way to celebrate with extended family and renew connections.[1049]

Many Indians were outraged that this event was politicized as a civil rights demonstration. The CSAIA members called for a return of the Confederacy Chiefs to power. Generational divides were obvious as mostly young protesters carried placards denouncing the Canadian government for abandoning treaties that promised to be in effect "as long as the grass shall grow," as one sign read. The spokesman for CSAIA demonstrators condemned the Victorian celebration as an "Uncle Tomahawk show."[1050]

[1047] "Six Nations Official Terms Blaze Case of Political Arson." *Brantford Expositor*, November 11, 1969.

[1048] "Ongwehònweh Band Together to Get Orenda," Beatrice Smith's clipping file, May 26, 1969.

[1049] "Six Nations Gather For Ancient Rite," Beatrice Smith's clipping file, May, 26, 1969.

[1050] "Indian Activists," photograph from Beatrice Smith's clipping file, May 20, 1969.

The Social Action Committee was anxious to make its point at this event for in this particular year it was well attended by many dignitaries, including Jean Chrétien, the Minister of Indian Affairs, the Brant Member of Parliament, James Brown, Provincial Liberal leader, Robert Nixon and Ontario Health and Social and Family Services Ministers.[1051] It attracted from three to five thousand Indians to the Six Nations Reserve, so it represented a political opportunity, for it was not merely the usual, local gathering of reserve families. The occasion was used in this instance to open a water works project and the Lady Willingdon Nursing Home on the Reserve, so the event was particularly well attended by local and national politicians and the protestors had a ready-made forum.

CSAIA members had met for a year in the Brant Historical Museum and adopted the term orenda, meaning "strength in togetherness," as their theme. They were angered at government policy that they viewed as genocidal. CSAIA members also were outraged at the degrading representation of Indians in Canada, citing for example an editorial and campaign by a religious group requesting money to "uplift moral standards" of Native people. The ostensible moral degradation of Indian communities in Canada is a continual theme in media and journalism, the members argued. In a response signifying Native backlash against such paternalistic imagery and missionary zeal, one of the group retorted: "If we perish in dirt or whatever else it is they are supposed to be protecting us from, then let it be so. Don't worry about us, we'll be alright."[1052]

The Chief of the Elected Council of Six Nations, Richard Isaac, also created a separate political organization to maintain a voice in negotiations over Indian policy, the Association of Iroquois and Allied Indians. The AIAI was to represent the perspectives of several southern Ontario Indian reserves including Six Nations in both a position paper and in direct talks with Ottawa. Isaac created this group in response to the government's call for regional associations to facilitate discussion about Native affairs. This

[1051] Wayne Roper, "Protest Cites Ottawa Policy as Anti-Indian," *Brantford Expositor*, May 20, 1969.

[1052] "Ongwehònweh Band Together to Get Orenda," Beatrice Smith's clipping file, May 26, 1969.

organization supported the Indian Act as it was written, with only minor amendments, and fostered plans for development of the Reserves and their Native population.[1053]

While Councilor Isaac took this step to ease communications with the new Indian administration in Ottawa, the Confederacy Chiefs insisted on being treated with a high degree of deference from Ottawa, demanding that the protocol and diplomacy dictated by their ancient treaty process be followed. This attitude seemed designed to raise the wrath of Jean Chrétien. In response to the White Paper, the Chiefs issued a proclamation on November 10, 1969 an 'Iroquois Declaration of Independence' proclaiming Six Nations sovereignty, a claim immediately refuted by the Minister of DIAND. Chrétien argued the position of the Six Nations Confederacy was "invalid" and the sovereignty of Canada precluded any concept of a nation within a nation. "Our nation is Canada and the Indian people of Canada are Canadians." Chrétien's position was simply stated: "By definition, the sovereignty of Canada precludes the sovereignty of the Iroquois Confederacy." This statement was anathema to the Confederacy Chiefs who responded in kind: "By definition, we challenge the sovereignty of Canada. It is logical that a country under the act of a foreign nation (British North America Act) and subject still to Westminster is NOT YET [Emphasis drawn from the text] a sovereign nation in the fullest extent of the meaning." The chiefs found Chrétien to be "presumptuous and arrogant" in ascribing "...what we are, what he wants us to do and what he thinks of us to be an intolerable offense against our definition of honor, justice and human dignity."[1054]

Chrétien was only 35 years old when appointed by Trudeau to head Indian Affairs and seemed strikingly ill-suited to this post for he had no patience for the complexity of Native-Euro-Canadian relations. Impatient, abrupt and blunt, Chrétien found himself increasingly isolated from Native groups. As the chiefs threw down the gauntlet, Chrétien had little room to maneuver: " The department of Indian affairs has not the right to swallow us up -- whether Jean Chrétien likes it or not. We are here."[1055] And so were

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[1053] Position Paper of The Association of Iroquois and Allied Indians, November 27, 1971.

[1054] Wayne Roper, "If I'm Canadian, Why Does Ottawa Call Me Indian?" Brantford Expositor, November 28, 1969.

[1055] Ibid.

550 bands on over 2,000 reserves across Canada -- it would be a large mouthful, even for the Canadian provincial governments to "swallow."[1056]

On the other hand, the Confederacy also had its critics. Opposition to the Confederacy Chiefs was voiced in a critique published in the local press by a Six Nations member in a letter to the editor. He charged that the present leaders of the Confederacy were not following The Constitution of the Five Nations or The Iroquois Book of the Great Law, the book written by Arthur C. Parker, a Seneca anthropologist, who documented the oral tradition of the Great League.[1057] The writer charged the number of active Chiefs had declined to a handful, for many did not attend the monthly Council meetings. He complained about the loss of language and customary practices exhibited by the Chiefs and urged the Confederacy leaders to live by the Great Law, themselves, in order to lead Six Nations community.[1058] This writer stressed his belief in the traditions of the Confederacy, but voiced his dissatisfaction with the current Chiefs' leadership on the reserve.

The election of the Band Council was to be held in December and the Chief Councilor, Richard Isaac, who had already served in that post for three years, was standing for re-election. His opponent was Keith Martin, who sought to involve the Confederacy's base of support in "major decisions" on the reserve. Already a possible victim of arson that might have threatened his farm, Isaac was well aware of the tensions surrounding the upcoming election. Indeed, the Confederacy Council issued a warning to the community not to go to the polls, citing the constitution of the Confederacy.

The Confederacy had been shut out of the deliberations surrounding the easement across the reservation for Ontario Hydro, as well as the negotiations concerning natural gas leases. Ontario Hydro stated that all contracts on the reserve were endorsed by the Department of Indian Affairs, as no individual Indians were deemed responsible to sign for themselves. Verna Logan, the wife of Mohawk Chief Joseph Logan, who was

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[1056] "Present Indian Act Was Unnecessary," Beatrice Smith's clipping file, October 17, 1969.

[1057] A. C. Parker, The Constitution of the Five Nations or The Iroquois Book of the Great Law, (Ohsweken, Ontario: Iroqrafts, 1967)

[1058] "As One Sees the Hereditary Chiefs," Beatrice Smith's clipping file, December 8, 1969.

involved in the 1959 "rebellion," stated that she had no access to electricity and would never have it as long as she was not permitted to sign for the service herself, as a homeowner, without the imprimatur of the Elected Council.

The Elected Council had held “closed door” meetings with the firm that owned gas operations at the time, including twenty-two wells serving Six Nations customers. Band Council announced they were meeting only with representatives of Indian Affairs and "an unidentified firm."[1059] The gas operations under consideration were not extensive, for the supply of gas was dwindling to the point that the Petrol Oil and Gas wanted to "abandon the operation."[1060] The lack of transparency in the process invited questions about the dealings of the Elected Council in awarding contracts, though – to many critics of the Band Council, it appeared like a backroom deal. It was reported that Jean Chrétien's approval would be necessary to award the contract to one of four competitors, underscoring the colonial nature of Six Nations affairs with the Canadian government as conducted by the Elected Council.[1061] In addition, one of the promises Chief Councilor Isaac had made in his acceptance speech was to hold a public meeting about the twenty-year gas lease.[1062]

The results of the December election displayed Six Nations dissatisfaction and alienation from the electoral process, as only 547 out of 4,000 eligible voters on the reserve took part in the election. Three of four incumbent councilors were voted out of office. Richard Isaac won the election for Chief Councilor 315 to 202 votes -- tension surrounded his election. Confederacy supporters recorded the names of those who entered the polling place, the Council House, as it was their custom to compare their results against the Elected Council's tally.[1063] After the election, Isaac promised to hold a public meeting about gas well operations on the reserve.[1064]

[1059] "Negotiations on Reserve Closed," Beatrice Smith’s clipping file, December 5, 1969.

[1060] "Four AlterNatives For Reserve Gas Well Operations," Beatrice Smith’s clipping file, November 7, 1969.

[1061] "Four AlterNatives For Reserve Gas Well Operations," Beatrice Smith Clipping File, November 7, 1969,

[1062] "Second Look at Gas Lease," Beatrice Smith’s clipping file, January 9, 1970.

Meanwhile the bureaucratic process lurched forward considering the changes proposed by the White Paper. John MacDonald, the former Deputy Minister of Indian Affairs, testified before the Senate's committee on poverty, charging that "the very existence of a federal department" to handle Native affairs separately from other Canadians was a priori discrimination. MacDonald equated Indian administration with an apartheid system: "A group brought up in tutelage, however benevolently, is denied the opportunity for such growth, and we have impeded such growth among Indian and Eskimo people."[1065] While Mac Donald deplored the presumably benevolent "tutelage" extended by the Canadian government to Native people, the hierarchical relations implicit in his statement were infantilizing and revealing, for he clearly emphasized the continuing dependency of the Native population.

The Confederacy Chiefs rejected the basis of this analysis as self-serving and paternalistic. The Chiefs issued a Proclamation in 1970 claiming Six Nations sovereignty and independence and charging that the Canadian government was guilty of using "force of arms" to eject them, as rightful rulers of the Six Nations from their Council House in 1924 and 1959. This Proclamation would be admitted as one of the exhibits during the series of trials in Canadian Courts to adjudicate the question of Six Nations sovereignty. The Chiefs charged the Canadian government with misappropriation of their Trust Fund, borrowing money that was not repaid and finally, seeking legislative"termination of our Nations." Deeming the Canadian government "guilty" for these breeches of ethical conduct, the Chiefs maintained: "Tyranny, abuse and aggression have been familiar to us, depending on the whim of political thought." The Confederacy issued this Proclamation to reestablish their own authority over "our lands, our laws and our people."[1066]

Prime Minister Pierre Trudeau set an ambitious agenda regarding Native affairs, focusing on a clear break with the old policy of gradual assimilation under the

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[1063] "Reserve Voters Upset Councillors," *Brantford Expositor*, December 15, 1969.

[1064] "Interest Cited in Sinking Wells, *Brantford Expositor*, December 15, 1969.

[1065] "Indian System Called Apartheid," *The London Free Press*, January 21, 1970.

[1066] Public Archives of Canada, RG 125, Volume 2058, File 13805, Part 2, "Proclamation, 1970," Exhibit Number 11, in Davey, et al. v. Isaac, et al., Supreme Court of Canada, 1970, p.276.

paternalistic guidance of Indian Affairs. Instead, Trudeau urged Indians to work with the provincial governments, breaking with tradition and embracing modernity, with its attendant emphasis on individuality and self-empowerment. Responding to the Confederacy Chiefs' frequent statements of independence from Canada, Trudeau strongly urged the Chiefs not to press the issue of sovereignty, but to seek solutions within the boundaries of Canadian society. Trudeau warned the Confederacy not to "waste time...looking backward and seeking imagined protection in the past."[1067]

This statement reveals the total lack of understanding or cultural sensitivity of the Prime Minister toward the Confederacy belief system, which is predicated on carrying out age-old rituals, prayers, dances and ceremonies to safeguard and protect Six Nations people and the land. Being thankful to the Creator for the sustenance of life, being of good mind and doing one's duty is the bedrock of the Longhouse religion as expressed in the Thanksgiving Address, given throughout the year. Confederacy supporters at the precise time of Trudeau's letter were preparing for their most important cycle of Longhouse ceremonies, the Mid-winter Festival, or Ganaha'owi, translated as Stirring Ashes.[1068] According to the Longhouse religion and the Code of Handsome Lake created in the eighteenth-century, particular ceremonies to safeguard the land, crops and Ongwehònweh people were conducted at the Mid-winter Ceremony, according to Mrs. Joseph Logan, the wife of Chief Logan.[1069] The Logans were key members of the Longhouse community who would protest the Federal policies and contest the power of the Elected Council in the courts.

The possibility that Federal policies would severely impact the reserve hit home with the visit of an Ontario official to the Elected Council. He suggested that the Ontario government might "phase out the reserve" and create a township with a voice in regional

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[1067] "A Powwow with the P. M.," *Brantford Expositor*, Editorial, February 4, 1970.

[1068] Annemarie Shimony, Conservatism Among the Iroquois at the Six Nations Reserve, (Syracuse: Syracuse University Press, 1994) pp. 173-191.

[1069] "Sacrificial Burning of Dogs No Longer an Indian Festival," Beatrice Smith's clipping file, January 16, 1970. This festival was once called the White Dog Feast, but now tobacco is burned to take the prayers of the participants to the Creator, instead, for the use of the dog was opposed by the Indian Department as a cruel "pagan" festival.

government.[1070] The Elected Council was not prepared for the Provincial government's volley and immediately balked. One Councilor remarked pointedly: "When it comes to phasing out the reserve, our people will do it or it won't be done. It is us who will decide our future."[1071]

Another black mark for the Chrétien administration with the Elected Council was the lack of consultation surrounding the closing of the Mohawk Institute. The "Mohawk" had served as a "trade and boarding school for orphaned children from Six Nations." [1072] It also was an institution for children picked up by Canadian authorities. The Indian Superintendent could place youngsters in the school until they came of age, if they were judged to have inappropriate social or physical conditions on their own reserve or within their family. This was all done under the guise of paternalism for the Institute granted access to an education deemed adequate to secure menial employment. This school was a site of trauma for many people of the Six Nations and the northern reserves, for many allegations of abuse, as well as emotional, physical and cultural deprivation surrounded the administration of the school. Charges are still being voiced and the damage to many Native people can never be recompensed.[1073] Yet, there were deeply conflicted feelings on the reserve associated with the boarding school. This conflict is typically the result of colonial practices that inculcate a sense of high regard and attachment in the subjects for the very institutions that actively suppress Native culture.

[1070] "Will Reserve Be a Township?" *Brantford Expositor*, April 3, 1970.

[1071] Ibid.

[1072] "Would Shut Doors to Indian School, *Brantford Expositor*, February 27, 1970.

[1073] When I wrote my Master's thesis I interviewed Lenora Jamieson about her experiences in the Mush Hole. Sadly, the last time I visited her, I brought her one of the books that has been written about this place, just before she died. She was so excited to find her picture as a young girl, all dressed up, standing on the balcony of the Mohawk Institute. Her recollection of events dovetailed precisely with the testimony of the people interviewed, even before she opened the text, The Mush Hole: Life at Two Indian Residential Schools, by Elizabeth Graham. Lenora told me about many of the students portrayed in the text, for she remembered their names decades later. She also told me then that she was taken away from her family simply because the Indian Superintendent said her mother had too many children to take care of at home. Lenora was sent to work as a maid for a doctor in Brantford while she lived at the Mush Hole. A well-respected, competent and intelligent woman, Lenora later recalled how the experience had made her afraid to speak up for herself or to challenge authority. She recalled that it was the local doctor who convinced her that her opinions and thoughts were valuable and to articulate them forthrightly.

There was no warning given to the community that the school, both reviled and celebrated as a benchmark of Six Nations history and status, would be closed. The Elected Council sought to have the facility left open to benefit Six Nations children. After closing the facility, 260 acres reverted to Six Nations and the Elected Council sought to use the building and grounds for education.[1074] The Councilors voiced their dissatisfaction with the rapid pace of change and lack of consultation with the government. Members of the elected council worried about the potential for violence in the community, loss of land, as well as Indian status and deemed the White Paper policies the biggest problem for Indians. [1075]

One year after the presentation of the White Paper the government of Pierre Trudeau finally admitted the naiveté of its proposals, yet he continued to argue his government had tried to provide a solution to problems that were endemic in regard to Native - Canadian relations. Jean Chrétien passed the White Paper off as "merely a series of proposals" and signaled the government was ready to listen to Native groups.[1076] Land claims were surely to be on the Six Nations agenda, for the Elected Council had been occupied with research on old claims. Norman Lickers, a former lawyer, determined that from the original grant of 675,000 acres, only 44,000 acres remained.[1077] Lickers sought a meeting with the Claims Commissioner after researching Six Nations land claims, for he noted that land had been lost to the Six Nations without fair compensation. The Elected Council had sought to have these outstanding claims settled before any talks would be held on the White Paper. Of course, the Confederacy objected to any effort the Elected Council made to investigate these claims on its own, citing its authority as the treaty-making body acting for the Six Nations.[1078]

[1074] "Council Was Not Forewarned of Mohawk Institute Plans, Beatrice Smith's clipping file, March 14, 1970.

[1075] "Proposed Changes 'Too Much, Too Fast,'" *Brantford Expositor*, May 8, 1970.

[1076] Stuart Lake, "Policy on Indians Somewhat Naive," Beatrice Smith Clipping File, June 5, 1970.

[1077] Doug Ainsworth, "Payment Sought for Former Indian Land," *Brantford Expositor*, June 5, 1970.

[1078] "Iroquois Protest Land Claim Settlement," *Brantford Expositor*, June 9, 1970.

Indeed, Six Nations Confederacy Chiefs were intent to make it their practice to travel on Six Nations passports to European capitals, invoking the Confederacy as the first democratic constitutional government in North America. In 1970, a Confederacy Chief traveled to Finland, Sweden, Britain on the Iroquois passport.[1079] Citing the precedent of Deskaheh's trips to the League of Nations using the passport, the Confederacy wanted to bring attention to their cause.

Seizing the Council House:

On June 23, 1970 almost a year since the Canadian government released the White Paper, Six Nations Warriors and supporters seized control of the council house in Ohsweken. Unceremoniously, Trudeau's ill-fated policy known as the White Paper was withdrawn by the Canadian government on March 17, 1971.

[1079] Doug Ainsworth, "Iroquois Passport Is Used To Enter Several Countries," *Brantford Expositor*, June 11, 1970.

Chapter Eleven

Warriors, Women and Chiefs' Revolt Finally Turns the Tide

Triumph in Battle to Reinstate Confederacy Rule

When Deskaheh wryly remarked while in Europe that it would be easier to find a needle in the "strawstack" than a Canadian judge to rule favorably for the Six Nations, he had never met a Canadian judge like The Honourable Mr. Justice John Osler. On July 11, 1973 Judge Osler would render a decision that would confound both the Elected Council and the Attorney General of Canada, but appearing as patently obvious to the Confederacy supporters. Osler ruled in favor of the Confederacy in the Supreme Court of Ontario; the chiefs, warriors and clan mothers had finally won. Yet, a detached observer would never have suspected this outcome from the rather uneventful testimony and tedious examination of the witnesses. Osler had ruled in another case, Bedard v. Isaac, that most probably influenced his decision, for he was assessing the overall legality and equity of the Indian Act in light of the Bill of Rights and recent judicial rulings rendering sections of the Indian Act "inoperable."

Osler did not embrace or lend his imprimatur to Malcolm Montgomery's presentation of the Confederacy argument that Six Nations was sovereign. Instead, Osler's ruling was crafted with reference to the significance of landholding represented by the Simcoe Deed and within the political and legal debates rendering the entirety of the Indian Act "inoperative."[1080] One can only imagine how Deskaheh would have relished that particular phrase and Osler's signal ruling.

The Confederacy's glory would prove short-lived, however, for it was quickly reversed, but the victory against the Canadian government was clearly relished as a "dish best served cold." After such a long time in the political wilderness Alma Greene, a Mohawk clan mother, would simply rejoice, proclaiming: We're the boss now; our status is back…"[1081] The long sought judicial victory would nourish the spirits of Confederacy

[1080] National Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 2, "Reasons for Judgment of the Hon. Mr. Justice Osler," In the Supreme Court of Ontario, July 11, 1973, p. 311.

[1081] John Wright, "We're the Boss Now; Our Status is Back – Clan Mother," Brantford Expositor, July 13, 1973. Alma Greene was my cousin and the author of Forbidden Voice, a compilation of Six Nations myths

supporters and give them the strength to pursue an epic battle stemming from the ruling in this case at the provincial level, all the way to the federal tier – the Supreme Court of Canada. It is my argument that the victory in this case has sustained the Confederacy for decades as a force to be reckoned with on the reserve. It has paved the way for revitalization of Ongwhehonwe identity and a Six Nations cultural resurgence. It has ultimately fueled the desire for a rapprochement between the supporters of the Elected Council and the masses on the reserve. Six Nations people signal their support of this union by historically abstaining from voting – instead, their absence at the polls reaffirms the harmony ethic. The Six Nations populace refuses to endorse the "divide and conquer" strategy of the Dominion and continually reaffirms its commitment to consensus.

The oppressive Canadian policy toward its indigenous people was severely critiqued both at home and abroad during the latter part of the twentieth-century. As Canadian leaders strove to take their place on the world stage, liberal leaders such as Pierre Trudeau found themselves called to account by civil rights groups and the judiciary for the colonial policies under which Canada had governed. Justice Osler ruled in favor of the Native defendants in two important cases concerning Six Nations, Isaac v. Davey and Bedard v. Isaac, a case of gender bias.[1082] The restrictive nature of the Indian Act would also prove inconsistent with the philosophy of equal treatment and equal protection of all Canadian citizens in regard to the Bill of Rights, passed by Parliament under the auspices of the Diefenbaker administration in 1961. One case in particular, challenging the Indian Act's statutory legitimacy in forbidding Indians to consume alcohol, resonated across Canada. Justice Osler factored it into his ruling in the Six Nations case before him in the Ontario Court, challenging the legitimacy of the Elected Council in 1970 in the bargain.[1083] A Native lawyer from Six Nations, Howard Staats,

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and legends. She served as an authentic voice remembering the day the "Mounties" came on the Reserve in 1924. We all grew up hearing of this event, listening to our mothers and aunts recount the way the officers in their red coats thundered down the road on horseback on a beautiful fall day.

[1082] National Archives of Canada, Reasons for Judgment of the Hon. Mr. Justice Osler, In the Supreme Court of Ontario, July 11, 1973, RG 125, Vol. 2058, File 13805, Pt. 2, p. 307. See also, Isaac v. Bedard [1973] 38 DLR (3d) 481, 1973 SSC.

had also complained about the injustices of the Indian Act and the Elected Council to Cabinet Ministers, to no avail, for Indians were not allowed to be on juries, to have an alcoholic beverage in the privacy of their own homes, or even to write a will that would not conceivably be open to challenge from the Minister of Indian Affairs.[1084]

The signal case bringing inequality of aboriginal people into the public sphere as a matter of debate was The Queen v. Joseph Drybones, This case involved the 1967 prosecution of a Dene Indian from Yellowknife, Joseph Drybones, by a justice of the peace for his consumption of alcohol off-reserve. Since Indians were treated differently than other Canadians, forbidden personal consumption of alcohol under the "protective" statutes of the Indian Act, Drybones' simple act of drinking alcohol in public resulted in a ten-dollar fine and a three-day period of incarceration. It was ruled by territorial Judge William Morrow that this punishment violated Joseph Drybones' civil rights. The case was then pursued all the way to the Canadian Supreme Court where Mr. Justice Rowland Ritchie, writing for the majority agreed, arguing that arbitrary rules against Native consumption of alcohol violated the Canadian Bill of Rights. Ritchie reasoned accordingly that Section 94 of the Indian Act must be declared inoperative.[1085]

The flurry of trials during the 1970s pitting the Confederacy Council against the Elected Council at Grand River occurred in the midst of a long debate about the potential for revision, or possible revocation of the Indian Act. After holding a series of consultations and hearings with Native leaders across Canada, beginning in the 1960s, ostensibly for the purpose of gaining insight into aboriginal views on government policy and legislation, Ottawa was then charged with fashioning suitable and responsive policy initiatives.

[1083] National Archives of Canada, Reasons for Judgment of the Hon. Mr. Justice Osler, In the Supreme Court of Ontario, July 11, 1973, RG 125, Vol. 2058, File 13805, Pt. 2, p. 307.

[1084] Olive Patricia Dickason, Canada's First Nations, (Toronto: McClelland and Stewart, 1992) p. 331. See also, "Would Rather Discuss Gerda Than Injustices to Indians," *Brantford Expositor*, October 25, 1966 and "Drink Laws Deny Indian Equal Status in Law: Supreme Court," *Brantford Expositor*, November 21, 1969.

[1085] Olive Patricia Dickason, Canada's First Nations, (Toronto: McClelland and Stewart, 1992) p. 331. See also, "Drink Laws Deny Indian Equal Status in Law: Supreme Court," *Brantford Expositor*, November 21, 1969.

Anthropologist Harry B. Hawthorn was commissioned to survey the conditions and administration of Indian communities for the Indian Department in 1963. He made a substantial number of recommendations, chief among them that Natives should not be forced to acquire the values of the majority society, opposing the government's long-standing policy of assimilation. Later, he was responsible for the multi-volume Hawthorn Report, completed after his extensive consultation with Native leaders, which was well-received by Native groups.[1086] Aboriginal leaders had been encouraged during the process to state their views frankly to officials of the Indian Department in an effort to influence and shape federal policy. Yet, one of the problems in these efforts to elicit Native participation was that they tended to tap elected council officials at the regional level, rather than the grassroots level on the reserves.[1087]

The Confederacy during the 60's was not quiescent, continuing with their annual cycle of ceremonies in the Long House and continuing to press their claims to control of the Grand River lands.[1088] They also declared themselves to be the only legitimate representatives of the Six Nations community and in that capacity, hired an international lawyer from New York, Omar Ghobashy, to present their case to the International Court of Justice at The Hague. Set up under the United Nations Charter, the jurists presided over a standing court of seventeen members to decide grievances between sovereign states.[1089] The lawyer cited the failure of Canada to establish an Indian Claims Commission, on the model of the United States, to deal with land disputes. He also chided the editors of the local paper for their obvious lack of support for the Six Nations

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[1086] Ibid., p.384.

[1087] John Leslie, the former Chief of the Claims and Historical Research Centre in the Department of Indian and Northern Affairs, noted in his historical survey of Department policy that the Indian Affairs Branch established regional and national councils of aboriginal people, as well as eliciting the views of the National Indian Advisory Board, by 1965, in order to proceed cautiously in regard to revising the Indian Act. See Dr. Leslie's, "A Historical Survey of Indian-Government Relations, 1940-1970," A Paper prepared for Royal Commission Liaison Office, December 1993. p. 45.

[1088] Announcements of the mid-winter rites coupled with a resurgence of interest in Native winter sports, such as snow-snake competitions, only played at a handful of Native communities, art and crafts were cultural by-products of the Red Power Movement. Yet, Six Nations Indians still had many stereotypes to overcome as noted in the title of an article in the local paper at this time, "Sacrificial Burning of Dogs No Longer an Indian Festival," January 16, 1970.

[1089] "Long, Long Indian Trail," Editorial in the *Brantford Expositor*, June 10, 1966.

Confederacy contentions. He argued such land claims were legitimate concerns before the international court that specified in its statutes its role in disputes involving a "state," rather than a sovereign state, as the newspaper's editors had argued.[1090]

In addition, there were many issues roiling the Six Nations Reserve before the rebellion of the Warriors in the summer of 1970. The Vietnam War had impacted Six Nations men who were living and working on the United States side of the border. Despite the provisions of the Jay Treaty, acknowledging a separate status for Six Nations people, one of the Mohawk men from a neighboring reserve, Caughnawaga, Terry Diabo, who was working as a steel-worker in Buffalo had been hauled into United States federal court for resisting the draft. Born on a Canadian Reserve, he appealed to the Confederacy Chiefs to help him present his case in the American courts. One of the strengths of the Confederacy system is its appeal as the court of last resort for Six Nations people, since it presents a different national structure that is able to challenge the hegemony of the modern world system. As an indigenous government, even weakened and robbed of political power, it retains a moral authority in terms of international law. The Chiefs agreed to help, with the proviso, "we want justice, not a victory by a loophole."[1091]

Natural gas operations on the reserve were another sore point between the Confederacy Chiefs and the Elected Council. In order to survey land, gas workers were required to obtain the permission of the property owner. Yet, on reserves where property is held in common, the rules become very complex. Indians at Six Nations often warded off officials surveying from the gas companies in the years of the dispute between the Confederacy and the Elected Council. Adding to the confusion was the fact that an individual property owner would not stand to profit from oil, gas or mineral deposits found on his/her land. Natives were also angered that the Minister of Indian Affairs, Jean Chrétien would have had to consent to any arrangements made by the Elected Council to award any contracts at Six Nations.[1092]

[1090] "Indian Land Claims," by Omar Z. Ghbashy in a letter to the Editor, *Brantford Expositor*, June 21, 1966.

[1091] "Indian Fighting Draft, Trying to Help His People," *Brantford Expositor*, October 6, 1969.

[1092] "Four AlterNatives for Reserve Gas Well Operations," *Brantford Expositor*, November 7, 1969.

In addition, Confederacy adherents and/or Longhouse members would not bow to the authority of the Elected Council in order to submit an application for "hydro." The Elected Council is the sole agent the companies contact. Long counseled by the Confederacy to avoid dealings with the Elected Council, adherents of the Confederacy fear that if they miss a payment on a bill, the Council will take the opportunity to seize their property.[1093] "The band council can refuse permission of an individual to sell his right to possession, and further, has the legal right to authorize the leasing of an individual's property without his consent," according to a Six Nations lawyer, Howard Staats, commenting at the time.[1094] Confederacy adherents did not accept the oversight and ownership of the land through the Elected Council, so they were willing to do without electricity up to the late 1960s to live by their principles. If an individual tried to circumvent the process and contract individually with the utility, the Band Council would withdraw from the agreement.[1095] The Confederacy Council also objected to the granting of an easement by the Elected Council.

Much to the shock and outrage of First Nations people across Canada though, rather than finding themselves deliberating about gradual change and reform of Indian Department and Native policy, previously called “Choosing a New Path,” the new political reality appeared to place them at the brink of a chasm.[1096] Native people faced a potential loss of Indian status, similar to the failed American Indian policy of the 1950s, called Termination.[1097] Termination had sought to end federal responsibility for 109 Native tribes in the United States, removing lands from trust status to make them available for sale or lease and removing Indian health care from the Bureau of Indian Affairs to the Department of Health, Education and Welfare, as well as setting up

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[1093] Wayne Roper, "Ivan Thomas is Still Without Hydro," *Brantford Expositor*, October 20, 1969.

[1094] "Would Rather Discuss Gerda Than Injustices to Indians," *Brantford Expositor*, October 25, 1966.

[1095] Wayne Roper, "Ivan Thomas is Still Without Hydro," *Brantford Expositor*, October 20, 1969.

[1096] John Leslie, “A Historical Survey of Indian-Government Relations, 1940-1970,” A Paper prepared for Royal Commission Liaison Office, December 1993, p.47.

[1097] Termination resulted in the virtual destruction and impoverishment of tribes such as the Menominees and Klamaths before the tribes were reconstituted and somewhat stabilized.

relocation programs for Indians to facilitate acculturation.[1098] The policy was one of the worst blows dealt to Native people in the U.S. since the Dawes Act, for it alienated Indians from the land and cast them adrift into the mainstream of American capitalism.[1099]

Natives in Canada were shocked at the similarity between the White Paper and Termination, particularly because the United States policy had been "abandoned in 1958 because of the incalculable harm it did."[1100] The new Canadian initiative of the incoming Trudeau administration amounted to a similar abrogation of federal fiduciary responsibility for First Nations and the elision of aboriginal rights and treaty rights historically embodied in the Indian Act. The searing pain of the Termination policy in the United States was centered on identity, according to Robert Bennett, an Oneida who tellingly, had resigned as Commissioner of the United States Bureau of Indian Affairs and who spoke to the Union of Ontario Indians. Not only was communal land broken up, land and money lost and services no longer available, Bennett argued that the harshest blow was that it took away Indian identity. Bennett stated: "It in effect said that you are no longer an Indian tribe and you are no longer an Indian. This is what upset the Indian people more than anything because they felt that this was a way the government was using to destroy Indians as a people."[1101] The position of the Indians in the United States was closely monitored in Canada. It was reported in the Canadian press that a Joint Committee of Congress that the Native unemployment rate averages 50 %, "soaring to 70 and 80 percent on some reservations."[1102] These reports obviously frightened Native

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[1098] Hauptman, Laurence, The Iroquois Struggle for Survival: World War II to Red Power, (Syracuse: Syracuse University Press, 1986), p. 45.

[1099] Roger Nichols, American Indians in U.S. History (Norman: University of Oklahoma Press, 2003), p. 189-92.

[1100] Joe McClelland, "The Indian Problem – It's Really a White One," The *London Free Press*, January 17, 1970.

[1101] Joe McClelland, "The Indian Problem – It's Really a White One," *London Free Press*, January 17, 1970.

[1102] "U.S. Indians Said Top Poverty Victims," *London Free Press*, January 19, 1970.

people in Canada who immediately saw through the political hyperbole about progress and equality of opportunity.

It was argued by a prominent lawyer from the Six Nations Reserve, Howard Staats, an "Indian Alliance for Red Power" was on the rise in Western Canada in 1969, as a response to regional concerns and the government's new policy. He insisted that "...99 per cent of Canada's Indians are against" the abolition of the reserve system, a proposition in the White Paper, since Natives believed "it would destroy all vestiges of a separate Indian identity."[1103] Declaring that First Nations have equality on a level-playing field, with full Canadian citizenship and economic and social justice repudiated the findings of the government's own studies and did nothing to alleviate these underlying problems or mediate the historical inequality experienced by Native peoples.

The gradual, but steady progress that had been eked out through post-war initiatives such as the Hawthorn Report -- the small, but earnest attempts to identify and alleviate the worst social and economic conditions endured by aboriginal people, while tackling reform of the cumbersome administration of Native affairs -- was effectively wiped out by the rising tide of First Nations' anger over the White Paper. Alan Cairns, who developed the citizens plus concept with Harry Hawthorn, argues that initially, at least, there was a measure of support for the policy. He cited a study done by Menno Boldt at the time documenting support of a fifth of Native leaders for the principal concept encoded in the White Paper. These First Nations leaders sought the end of special status and wanted to "have Indians become as any other ethnic group."[1104] But in the end, the Indian Act and the Indian Department proved to be "the Devil we knew...," for Native leaders feared what would take its place and maintained that a flawed policy was better than the destruction of the Act that encoded hard-won treaty rights and Indian status that was the key to valuable socio-economic benefits. The White Paper was increasingly vilified, generating so much controversy and ill will that it was soon

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[1103] "Policies Needed to Halt Red Power Momentum: Lawyer," *Brantford Expositor*, October 24, 1969.

[1104] Cairns, Alan, Citizens Plus: Aboriginal People and the Canadian State, (Toronto: University of British Columbia, 2000) p. 59.

withdrawn. The damage to Native-Canadian relations, unfortunately, would last much longer.

Six Nations Chiefs Negate the White Paper

In November 1969, the Confederacy issued a proclamation once again asserting their sovereignty in a document entitled, the "Iroquois Declaration of Independence." Chief Joseph Logan, Verna Logan, Emerson Hill and Mrs. Garnett Thomas, the Secretary of the Six Nations Confederacy signed the Declaration of Independence. A public petition had been presented to the Chiefs seeking their help. This is a key point in understanding how the Confederacy works for the people must seek help from the chiefs who respond to the consensus of the people. In direct response to the petition, the chiefs passed the proclamation in Council during September.[1105] In a stinging rebuke to the Minister of Indian Affairs, the Confederacy Proclamation disputed the attempt of Indian Affairs "to swallow us up." In a direct assault on Canadian "legislation of assimilation and genocide" the Confederacy's Proclamation declared: "Whether Jean Chrétien likes it or not, we are here and we are sovereign…"[1106]

Seizing the Council House:

On June 24, 1970 almost a year after the Canadian government released the White Paper, Six Nations Warriors and supporters seized control of the council house in Ohsweken. This act encouraged the Six Nations Confederacy Chiefs to make a sustained bid for leadership in an effort to protect their land and their form of government. The Council House had been built in 1867 during the rule of the Confederacy Chiefs and the building was a symbol of power for Confederacy supporters.[1107] Known simply as the "Warriors," this group of Six Nations members included both men and women of all ages who vowed support for the old system of government.[1108]

[1105] "Six Nations Indians Proclaim Freedom From Federal Control," *Brantford Expositor*, November 12, 1969.

[1106] Public Archives of Canada, RG 125, Volume 2058, File 13805, Pt. 2, Davey v. Isaac, Supreme Court of Canada On Appeal from the Court of Appeal from Ontario, p. 267-8, Exhibit Number 20.

[1107] Public Archives of Canada, RG 125, Volume 2058, File 13805, Box 13, Pt. 1, Davey v. Isaac, Supreme Court of Canada On Appeal from the Court of Appeal from Ontario.

[1108] Doug Ainsworth, "Indian Group Seizes Council House," *Brantford Expositor*, June 24, 1970.

A group of men and women met in the Community Hall and the Sour Springs and Onondaga Longhouses on the reserve, prior to the takeover. Longhouses are places of worship for the adherents of the Longhouse religion, but their dining halls are also used periodically for family and community events, fund-raisers and function as political sites of resistance.[1109] Each Longhouse is identified as a meeting place for a particular group of the Six Nations Indians. Meetings were called by the Warriors to protest the closing of the Mohawk Institute.[1110] The sudden announcement of its closing in the House of Commons in February had caught the reserve by surprise and served as a flash-point for many long-held grievances against the colonial administration of Six Nations affairs, chiefly the removal of the Confederacy government by force in 1924, but also the proposals known as the White Paper.[1111]

The independence of the reserve was reaffirmed before the assembly by means of the Chiefs' Proclamation. Speakers denounced the policies of the federal government and the infamous White Paper.[1112] It was decided to canvass the reserve, house-by-house, to ascertain support for the Band Council or the Confederacy, since Confederacy adherents do not vote in elections. Although the members of the Band Council were invited to the meetings, they chose not to attend. Men who supported the Confederacy, such as Irving Logan and Ackland Davey, vowed to fight for their rights and signaled their desire "to lock up the council house."[1113]

On Wednesday, June 24, 1970 at midnight, about 75 Warriors and supporters converged on the Council House and posted the Confederacy Chiefs' proclamation of independence for the Six Nations, padlocking the doors and warning the Elected Council that the Confederacy of the Six Nations was once again in power: the rebellion of the

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[1109] Doug Ainsworth, "Indians Again Proclaim Reserve 'Independence.' *Brantford Expositor*, June 19, 1970.

[1110] Graham, Elizabeth, The Mush Hole: Life at Two Indian Residential Schools, (Waterloo, Ontario: Heffle Publishing, 1997) p. 7.

[1111] "Council Was Not Forewarned of Mohawk Institute Plans," Beatrice Smith's clipping file, *Brantford Expositor*, March 14, 1970.

[1112] Ibid.

[1113] Doug Ainsworth, "Indians Again Proclaim Reserve 'Independence.' *Brantford Expositor*, June 19, 1970.

Chiefs and Warriors was mounted.[1114] The three issues at stake from the perspective of the Warriors, according to a Mohawk clan mother, Alma Greene, were the closing of the Mohawk Institute, the White Paper and the Indian Act.[1115] Yet, others such as Lawrence Nanticoke, who resigned his position as Secretary for the Confederacy in the weeks leading up to the dispute because he felt so strongly that he had to take direct action, focused on the land Ontario Hydro wanted for an easement across the reserve for its power lines. Mr. Nanticoke, an ironworker, stated: "I found that my position was a hindrance to doing what I might have to do to keep the Hydro out."[1116] At first, the Chiefs appeared not to support this action by the Warriors and a few clan mothers, but indicated they were compelled to take action by an apparent consensus from the community, seeking their return to power. Certainly, their proclamation of independence eloquently defined the stakes for the community. Claiming that through the years, the lands of the Six Nations have been "eroded -- by trickery, deceit and theft..." with the remainder seemingly under assault from taxes, perhaps soon to be "dissolved into oblivion," it seemed to be time for the Confederacy to take a stand.[1117]

A consensus supporting the Chiefs rule was reported by Elwood Green, secretary of the Warriors' Independence Committee, at the Onondaga Longhouse shortly before the midnight takeover. A petition circulated on the reserve at this time supporting the Confederacy, was reportedly signed by 812 out of 878 residents who were interviewed. In addition, speakers were angry that three geologists came on the Reserve and went on individual's land without owner's permission. These men stated they were there to take soil samples, but the Confederacy supporters thought that they might be involved in zoning. The Elected Council did not inform the community that these geologists from a local university would be on Six Nations land. Chief Coleman Powless and two warriors seized the men's aerial photographs and escorted them off the Reserve. Elwood Green voiced the sentiment of the Warriors that the Elected Council conducted all its business

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[1114] Doug Ainsworth, "Indian Group Seizes Council House," *Brantford Expositor*, June 24, 1970.

[1115] John Flanders, "Indians in Political Chaos," *The Spectator*, June 24, 1970.

[1116] "Six Nations Warriors Threaten Revolt," *Brantford Expositor*, Undated Clipping from Beatrice Smith's clipping file.

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"behind closed doors," without informing anyone on the reserve. The march on the council house was taken soon after the meeting due to the imminent closing of the Mohawk Institute on Friday, June 26.[1118]

Both the Confederacy and Elected Councils vowed not to use violence in the dispute, but members of the Elected Council vowed to press charges to fight the takeover and subsequent lockout. The elected council issued a press release arguing the return to power of the Chiefs would not only be a disaster, but also highly impractical. Some of the Confederacy supporters kept a vigil at the Council House, while many planned a march on the Mohawk Institute. The Ontario Provincial Police kept a close watch outside of the reserve's boundaries, but did not interfere, except to examine the locks of the Council House. Telegrams were dispatched by the Warriors reporting the "coup" to the Governor-General, the Parliament and the Queen, seeking official recognition of the Confederacy as the legitimate government of the Reserve.[1119] The telegram stated that the Warriors of the Six Nations Confederacy had abolished the Elected Council as a result of a unanimous decision. The group also denounced the Indian Act and the White Paper, condemning the "repeated acts of tyranny, abuse, aggression and violation of treaty rights" by the Canadian government.[1120]

While the Confederacy supporters waited at the Council House for the Chiefs to claim authority, the Elected Council held an emergency meeting in Brantford at the Indian Department.[1121] The Elected Council rebutted the charge that it did not represent the majority of residents. "The government did not force the elected council on the people of the Six Nations. They demanded and forced the government to establish the elected system on the reserve. The people wanted government by elected representatives as far back as 1910."[1122] One of the Elected Councilors during the '70's Rebellion was

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[1118] Doug Ainsworth, "Indian Group Seizes Council House," *Brantford Expositor*, June 24, 1970.

[1119] John Flanders, "Confederacy Warriors Lock Out Council, Proclaim Six Nations Grand River Country," *The Spectator,* June 25, 1970.

[1120] Doug Ainsworth, "Indian Group Seizes Council House," *Brantford Expositor*, June 24, 1970.

[1121] Doug Ainsworth, "Six Nations Council Sees 'An Impossible Situation,'" *Brantford Expositor,* June 25, 1970.

Frank Montour, 82 years of age, who held a seat in the 1924 Confederacy Council.[1123] Although by 1970 many of the Confederacy Chiefs were deceased, it would seem the absence of a clear historical record available to the entire community was problematic for the reconstruction of the historical past or for plumbing the reasons for the close association of the Council with the Indian Department.[1124] Arthur Anderson, Sr., 82 years of age was the Secretary of the 1924 Council and was interviewed about his recollections: "There was no plebiscite...The overthrow came from within the Confederacy...we had a traitor in the ranks."[1125] Anderson argued that the "mace" was taken to the Indian Affairs office in Brantford.

In any case the Elected Council sought to admonish the people of Six Nations about the social safety net the government provided through the present system and which the people of the reserve depended upon, for example, welfare and old-age pensions, disability allowances, education costs, mothers' pensions and other social benefits.[1126] The Chief Councilor, Richard Isaac argued forcefully: "The time is long past when the people of the Six Nations could reassert sovereignty and survive." The Elected Council painted the crisis as a stark choice for Six Nations people--either enjoy the benefits provided under their leadership, or do without any government help under the Confederacy. Isaac warned that the Confederacy had no money to keep the reserve running and expected the coup to be over quite soon. The regional representative of Indian Affairs indicated that the Department viewed the situation as an internal problem that was up to the Council to handle.[1127] Ominously, though, an Ontario official warned that if the Band Council needed support from the Ontario Provincial Police (OPP), it

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[1122] "Time Long Past for Move Says Elected Council," *The Spectator*, June 25, 1970.

[1123] John Wright, “Elected Council In Secret Meeting,” *Brantford Expositor*, July 18, 1973.

[1124] "Time Long Past for Move Says Elected Council," *The Spectator*, June 25, 1970.

[1125] Wayne Roper, "Warriors Outline Their Demands," *Brantford Expositor*, June 29, 1970.

[1126] Ainsworth, Doug, "Six Nations Council Sees 'An Impossible Situation.'" *Brantford Expositor*, June 25, 1970.

[1127] Ainsworth, Doug "Six Nations Council Sees 'An Impossible Situation,'" *Brantford Expositor*, June 25, 1970.

would be forthcoming.[1128] Indeed, the very next day riot police from the surrounding towns were brought in and stationed in Brantford to bolster the local detachment in case of problems on the Reserve or at the Mohawk Institute.[1129] Since there was no violence, the force was withdrawn.

The Confederacy Council of Chiefs met on Friday to discuss these developments and issue a statement. Also on Friday, local Member of Parliament, James Brown, stated that he would seek a special emergency session in the House of Commons to review the handling of Indian Affairs. Brown complained that although he had asked officials if Six Nations people had been consulted about the closing of the Mohawk Institute and had been assured that there had been extensive dialogue about the closing, he received a letter from the Elected Council that they were not informed. The Confederacy alerted a Member of Parliament for the Opposition, as well as a Native member of Parliament, Frank Howard, so that representatives in the Canadian government were informed of the crisis.[1130]

The spokesman and secretary for the Warriors of the Confederacy, Elwood Green, speaking before a public meeting of 150 people on the reserve, warned of a coming diaspora, echoing Deskaheh: "If we let ourselves be scattered to the winds, your great-grandchildren may come here some day and say: 'Here's where the Indians used to live'." Green rebutted the Elected Council's statement point-by-point, in home-spun language. First, he refuted the notion that there was a referendum to set up the Elected Council in 1924. Not only was there no referendum, he stated only 27 people voted in the first election (Chief David Hill, at the time, recorded 26 votes for the "Mounties Council). The people of the reserve certainly did not force the Canadian government to create an elective system, rather, it was imposed with force (800 adults signed a resolution opposing the action of the Dominion). Further, despite the scare tactics of the Elected Council, Green pointed out, the reserve maintained social welfare plans before the

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[1128] "Time Long Past for Move Says Elected Council, *The Spectator*, June 25, 1970

[1129] "Six Nations Dispute: OPP, Brantford Police Stand By," *The Spectator*, June 26, 1970.

[1130] Ainsworth, Doug, "Brown Seeks Commons Debate on Six Nations Warriors Coup," *Brantford Expositor*, June 26, 1970.

Elected Council came to power and "would continue if they are deposed." Mr. Green argued: "We had pensions here. We had a hospital that we don't have today. We had a school for underprivileged children (the Mohawk Institute) that was closed Wednesday. The elected council didn't set these things up." The Chief Councilor of the Elected Council, Richard Isaac, was using the same tools as the Canadian government: divide and conquer, Green charged.[1131]

Green used the age of the Confederacy as a sign of the vitality of the Six Nations community, noting the League was created before Canada and the United States were even a thought. He also made the point that the police were not moving in to put down the rebellion this time, as they had in 1959, perhaps because the Canadian government knew the Elected Council did not have community support. Elwood Green argued that there were two factions on the reserve: adherents to the elected council and the confederacy. Green explained that the chiefs can only act within the Confederacy constitution -- it is the Warriors who were designated to protect the Confederacy.[1132]

Lawrence Nanticoke, a warrior who had attended a special Confederacy meeting about the take-over of the Council House, reported that the Chiefs of the Confederacy had endorsed the actions of the Warriors and were ready to govern the Six Nations Reserve. Ackland Davey, whose name was to figure prominently in the coming trials concerning the legitimate government of the Six Nations, announced: "I was raised to believe in the confederacy government. I will lay my life down for this government. It's all we've got left." Speakers for the Confederacy emphasized the importance of retaining the rights of indigenous people in the future. Silvanas General remarked that since the Confederacy rule ended in 1924, Six Nations had "become a destitute society." Comparing the Six Nations struggle to the African American political fight for civil rights, General warned: "The colored people in the United States are working as hard as they can to gather up the privileges we are throwing away."[1133] Tape-recording three conversations with local

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[1131] Ainsworth, Doug, "Brown Seeks Commons Debate On Six Nations Warriors' Coup," *Brantford Expositor*, June 26, 1970.

[1132] Ibid.

[1133] Ainsworth, Doug, "Brown Seeks Commons Debate On Six Nations Warriors' Coup," *Brantford Expositor*, June 26, 1970.

Members of Parliament and the regional director of Indian Affairs, members of the Confederacy played the tapes for their supporters at the meeting.[1134]

The Confederacy requested a meeting with federal officials, including the Prime Minister and Governor-General, but without the Minister of Indian Affairs, Jean Chrétien, with whom the Confederacy refused to negotiate. Chief Coleman Powless acted as spokesman for the Confederacy Council and emphasized the need for funds to be released to Six Nations to meet the needs of the community. He also stated the Confederacy would negotiate with "any official except Mr. Chrétien."[1135] Elwood Green, acting as spokesman for the Warriors, sought financial backing from the public to continue the fight for Confederacy rule. He complained bitterly about the way Six Nations people have been swindled and taken advantage of by "unscrupulous businessmen."[1136] This probably was a reference to the unauthorized investment of Six Nations Trust Funds by the Province of Canada in the failed Grand River Navigation Company.[1137]

The Confederacy, through its spokesman, Elwood Green, issued a Fourteen-point program. Chief among their demands was the "restoration and preservation of self-government" by the Confederacy and the safe keeping of the land according to the treaties. Other concerns of the Chiefs were the protection of culture and traditions of the Six Nations, including Native languages, along with the "return of all wampum records and ceremonial strings." One of the sore points between the Canadian government and the Confederacy was the charge that the symbols of the Confederacy Council were

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[1134] Although this example once again shows how the Confederacy embraced the tools of modernization, it points out the inequality of access to technology and information processing and data storage for Native peoples. Without the use of our own funds and the ability to determine our own priorities at Six Nations, valuable materials such as these tapes have often been lost. The Canadian government was certainly cognizant of this, for when court cases are mounted documents, tapes and references are critical and are accessed for the government through the Historical Research Office at Indian Affairs in Ottawa. Without the ability to hire researchers, historians and the so-called experts to research these archives, Native groups are often caught short, for the proof sought in Canadian courts is archival and documentary, rather than testimony gleaned through oral history. As an independent researcher the officials at Hull have been extraordinarily helpful in giving me access to records and files.

[1135] "Confederacy Issues Notice of its Goals Amid Weekend Peace," *The Spectator*, June 27, 1970.
[1136] Wayne Roper, "Confederacy Chiefs Seek Talks with Government," *Brantford Expositor*, June 27, 1960.

[1137] "Indian Claims Board, Appeal Court Could Stir Old Issues on Reserves," *Brantford Expositor*, January 16, 1969.

removed from the Council House in 1924. The goals of the Confederacy included the removal of discrimination against Six Nations people, "restoration of human rights, preservation of Native nationalities" and recognition of existing treaties. The Chiefs also sought to prevent the Canadian police forces from entering the Reserve, while guaranteeing free movement of the Six Nations population as a North American indigenous nation. They also wanted the return of Six Nations trust funds held by the government, with an objective accounting of an estimated one million dollar loss from the failed Grand River Navigation Company, alone.[1138] Due to their distrust of the Elected Council's decisions regarding land, the Chiefs sought to render any pending deals "null and void." Since the Confederacy had been long-time opponents of the Indian Act, they included in their list of goals the "removal of past and future legislation," ostensibly that of the Canadian government.[1139]

This was a fairly comprehensive list of demands, but the notion of what a Confederacy government would do for Six Nations people and how the government would be organized and run was not addressed in the demands. The question of "home-rule" or independence for the reserve was certainly not elucidated, for although the Confederacy Council had administered programs on the reserve, the funding flowed through the Indian Department, with the approval of the Superintendent of Indian Affairs. The funds available to the Six Nations were also a huge question, for according to the Canadian government, there was scarcely any money held in trust for the Six Nations. Rather than the windfall the Confederacy adherents anticipated, due in part to decades of rumor and suspicion, the government was unlikely to admit to holding any funds.

The role of the press as an intermediary between the Confederacy and the Elected Council was clearly much greater in the uprising of the 70's, than in the '59 rebellion. Welfare benefits were of great concern to an impoverished area like the reserve, so the Warriors announced that Six Nations members could pick up checks at the Council

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[1138] Ibid.

[1139] "Confederacy Issues Notice of its Goals Amid Weekend Peace," *The Spectator*, June 27, 1970.

House. The Elected Council had stated that Six Nations members "would lose all benefits" if independence was maintained.[1140]

A 65-year old Cayuga farmer, Richard Isaac took up the fight for the Elected Council and focused on the question of funding for the Confederacy Council, charging that the Confederacy would have to levy a poll tax on the people of Six Nations to run the government and pay for social services. Isaac also blamed the Confederacy Council for the loss of most of the Six Nations land, accusing the Chiefs for surrendering most of the land in 1841, without the consent of the people.[1141] Indeed, as Isaac claimed, with the steady encroachment of white settlers on Indian land, the Superintendent of Indian Affairs urged the chiefs to surrender the remainder of their land, 220,000 acres for 20,000 acres and land along the Grand River, as Six Nations people withdrew south from Brantford to the present day Reserve. The Crown then removed squatters from Indian land.[1142] Indian Affairs then administered band funds generated by those land sales, much to the dissatisfaction of many Six Nations members.

In the statement released by Isaac the Elected Council castigated the Confederacy system for selling land without the approval of the people and furthermore, not pursuing land claims against the Dominion. The statement contrasted one system with another as a choice Six Nations members must make, in terms of the elected council with all the social "services provided for them" or the "old system under which the people would have no say in the government." Isaac also charged Confederacy supporters with misleading people in regard to a petition circulating on the Reserve, claiming that the Confederacy was using the petition as indicative of support for the chiefs assuming power, when the petition was framed only as a condemnation of the Indian Act and the White Paper.[1143] The Elected Council vowed to circulate their own petition to gauge their support on the reserve among approximately 2,500 eligible voters.[1144]

[1140] Roper, Wayne, "Warriors Outline Their Demands," *Brantford Expositor*, June 29, 1970.

[1141] "Battle of Words Continues on Local Reserve," Beatrice Smith's clipping file, June 30, 1970.

[1142] Weaver, Sally, "Six Nations of the Grand River, Ontario," in Northeast, volume 15, edited by Bruce Trigger, Handbook of North American Indians, ed. by William Sturtevant, 1978.

[1143] "Battle of Words Continues on Local Reserve," Beatrice Smith's clipping file, June 30, 1970.

[1144] "Six Nations Elected Council to Determine Support," *Brantford Expositor*, July 2, 1970.

The Confederacy was also eager to make its case before the public, for the spokesman for the Warriors, Elwood Green, was interviewed by a Buffalo television station to explain what was at stake. A quiet, soft-spoken and rather shy man, by news accounts, Elwood Green appeared rather slight of build and young - not what one would imagine as a "Warrior."[1145] Green replied to the Elected Council's charge that the Chiefs had not adequately defended Six Nations' land in the mid-nineteenth century, by pointing out the "disadvantage Indians all across North America had as compared with the unscrupulous land dealers and speculators who had much to gain." Green pointed out the lack of education and sophistication of Indians with regard to land cessions, as well as the liquor trade, as responsible for much of this loss. Green also argued that the Confederacy's Constitution gave all Six Nations people a strong voice in their government. Correcting the record, Mr. Green declared that the Confederacy supporters did not circulate a petition at all, but rather a questionnaire seeking an opinion of the people.[1146]

Finally, Elwood Green addressed the core of the Elected Council's argument, the money for social welfare: "We are assured by Frank Howard, MP for Skeena, that we are fully entitled to all benefits we have been receiving and that they cannot be severed." Green pointed out that people of the Six Nations already earn their benefits from their contributions to the Canadian economy and the government, in terms of their taxes and work to enrich Canadian society, as well as the Reserve. In conclusion, Mr. Green pointed out that in 1924 and 1959, the Elected Council relied on the might of the Canadian Royal Canadian Mounted Police to take and retain power, rather than having a legitimate mandate from the people.[1147]

The Confederacy seemed fairly astute in regard to managing the media, creating positive imagery for their cause. In the middle of the tense watch at the Council House and political sparring with the Elected Council, the Chiefs managed to play host to the cast of the musical "Hair." Chief Joseph Logan and his wife Vera, together with an

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[1145] "Warrior Elwood Green Before Locked Council Chambers," Photograph, *The Spectator*, June 26, 1970, p. 10.

[1146] "Six Nations Elected Council Plans to Determine Support," *Brantford Expositor*, July 2, 1970.
[1147] "Six Nations Elected Council Plans to Determine Support," *Brantford Expositor*, July 2, 1970.

African American cast member, Rudy Brown, planted a White Pine tree brought by the troupe to signal a commitment to the environment and peace movements. Logan explained the significance of the White Pine as the symbol of the Great League of Peace marking the founding of the Confederacy. The cast helped the Six Nations community defray costs for a building to teach Native arts in the Iroquois Village on the Reserve. Chief Logan and his wife were the principal figures in the '59 Rebellion, so they were familiar with the value of media in representing the Confederacy's perspective on the political struggle. One writer from the musical quoted a line from the show to demonstrate how Indians and the actors related to one another: "The war in Vietnam, they say, is the white man sending the black man over to fight the yellow man to protect land he stole from the red man." Rather than appearing old fashioned and out of touch, the Confederacy was portrayed through this encounter as relevant and connected to popular culture.[1148]

That same day, face-to-face talks between the Chiefs and the Band Council were held in the Ohsweken Library, with an admission by Leonard Staats, one of the Councilors, that all were "fighting for the same thing." This is exactly what is missed in the historiography of this conflict, for contentious though it may seem, identity and intertwined familial relations trump political faction. Confederacy and Elected Council each sent six members to the negotiations at the Six Nations Library, with the Confederacy seeking control of the leases and land claims on the reserve. Representatives of the Confederacy Warriors, Elwood Green, Acland Davey and Cal Miller refused to identify the leader of the rebellion. The Elected Council bolstered their credibility by not only claiming the support of 600 individuals, who attended a community meeting on July 5, but the majority of the 2,000 eligible voters on the reserve.[1149] They claimed that only one-third of the voters support the Confederacy, The Councilors tried to convince the Warriors to remove the locks from the Council House,

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[1148] "Scalp-raising: Tribe Meets Tribe as Hair Cast 'Do Their Thing' for Iroquois,' *The Spectator*, July 7, 1970. The actors and crew, referred to in the article as the "Hair tribe," bathed in the Grand River with the young men of the cast stripping to the buff, "to the delight of both Native and white audience..."

[1149] "Warriors Remove Guards from Council House," *Brantford Expositor*, July 6, 1970.

and while the Warriors removed guards from the building, the locks stayed in place. Yet, both sides eschewed violence and vowed to keep talking.[1150]

As the representatives of the Confederacy reported to full Council they brought forth a new and very practical demand regarding registration at the Indian Office. The lineage of Indian families had been totally confused by the bureaucracy of the Department of Indian Affairs under the Indian Act. Lines of descent were arbitrarily changed from a matrilineal system to a patrilineal system. If that were not enough, the Indian Office bureaucrats then confused all of the nationalities and clans - the underlying template for the selection of chiefs and clan mothers in the ancient Confederacy system. Chief Coleman Powless stated: "The government has confused our family lines. In the Indian affairs office in Brantford, I'm registered as an Oneida, but I'm really an Onondaga." Since the Indian Office records lineage through the father's side of the family, not the mother's, the lines of descent have been thoroughly confused and the Confederacy wanted to have control of the registration of their followers to keep the hereditary system functioning. Powless viewed this as a "deliberate attempt" to destroy Native identity by the Department of Indian Affairs.[1151] Representatives of Indian Affairs dismissed these concerns and recommended that the Confederacy approach the Elected Council to air their views, since the Council was the federally recognized government on the reserve.

Meanwhile the Elected Council used a court injunction to open the Council House and resume its work on the reserve. As the Councilors removed the Confederacy's locks, they were watched over by a provincial policeman, but there was no violence as had occurred in previous disputes. The Secretary of the 1924 Confederacy Council, Arthur Anderson, Sr., commented on the peaceful take-over as a contrast to the prior struggles: There were no police leading the opening of the council house." Yet his son, Arthur Anderson, Jr., a supporter of the elected system, lamented the problems the closure had brought for recipients of welfare and social services, a program he administered for the

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[1150] Ainsworth, Doug, "Councillors, Chiefs Meet on Reserve, Reach No Agreement," *Brantford Expositor*, July 7, 1970.

[1151] "Locks Remain on Doors Until Demands Met: Chiefs," *Brantford Expositor*, July 8, 1970.

Elected Council. Property loans formerly approved by the Elected Council had come to an abrupt halt, too. After the Elected Council claimed support from 600 supporters who rallied on behalf of the elected system, the Confederacy Warriors offered to remove their guards.[1152]

Council finally placed its own set of locks on the doors, yet, hardly had the Councilors acted when a group of women supporting the Confederacy blocked access to the building, with the Warriors padlocking the doors once again and reasserting control, so that the adherents of both groups faced each other on the grounds and across a street. Victor Porter, an Elected Councilor, warned the crowd that they were faced with a court injunction and sought to have the building opened so staff could go to work, but he was refused entry. Chief Councilor Isaac also warned that he was seeking a permanent Supreme Court injunction to remove the Confederacy supporters from the grounds and both sets of padlocks from the Council House.[1153] As people from both sides exchanged harsh words surrounding the contested site, plans were afoot to "storm" the building for the Elected Council, for even one of the councilors brandished a pair of bolt cutters. [1154] These plans were curtailed, however, as the council's supporters were dissuaded by Isaac.[1155] Also instrumental in counseling patience was Nina Burnham, another member of the Elected Council, who urged supporters to return to their homes and wait, without taking matters into their own hands. Six Ontario Provincial Police officers watched until the moments of tension passed and the crowd, numbering between two to three hundred, dispersed.[1156] Thirteen provincial patrolmen were on the reserve, backed up a small number of Royal Canadian Mounted Police. The "Mounties" were used to end the 1959

[1152] Ainsworth, Doug, “Council House Locks Removed, Six Nations Coup Ends Quietly,” *Brantford Expositor*, July 10, 1970. See also, "'Captured' House Retaken by Council," Beatrice Smith’s clipping file, July 11, 1970 and undated article by Doug Ainsworth, “Councillors ,Chiefs Meet on Reserve, Reach No Agreement,” *Brantford Expositor*.

[1153] Harding, Jim, "Council House Locked Again," *Brantford Expositor*, July 13, 1970.

[1154] "Elected council Can Get In If..." *Brantford Expositor*, July 14, 1970.

[1155] Harding, Jim, "Council House Locked Again," *Brantford Expositor*, July 13, 1970.

[1156] "Elected council Can Get In If..." *Brantford Expositor*, July 14, 1970. See also, "Council House Locked by Iroquois Faction," in the Toronto *Globe and Mail*, July 14, 1970.

uprising, resulting in a televised skirmish that all sides seemed eager to avoid by exercising caution and patience.[1157]

As the daily confrontations continued to escalate, the provincial police usually observed the activity from their patrol car, parked across the street from the Council House, ostensibly to keep violence in abeyance and neighbors' verbal confrontations from getting out of control. Chiefs Joseph Logan and Coleman Powless of the hereditary council continued to seek a meeting with federal officials, particularly those on the Standing Committee on Indian Affairs, but the House was recessed and many of the legislators had departed from Ottawa for the summer.[1158] The local Superintendent of the Reserve, Donald Cassie, arrived on the scene intervening to arrange talks between the Confederacy and the Council, but with little success. Cassie met with about 40 Warriors at the site, speaking directly to Elwood Green, the Spokesman of the group, who informed him that the Confederacy would let the Councilors enter the Council House if the Confederacy Chiefs gained control of all Six Nations land and were promised that no further expropriation of land would be undertaken by the Canadian government.[1159]

The next day eight women, all supporters of the Confederacy, were each served by the Ontario Provincial Police with a summons charging them with public mischief for blocking the entrance to the Council House. Scheduled to appear in a provincial court in Brantford the following day, the women were undaunted and posed for a photograph with summons in hand on the steps of the Council House.[1160] Tension was building for a Brantford reporter attempting to cover the story was soon surrounded by six men who identified themselves as supporters of the Elected Council. They warned him that, "...unless you leave right now you'll be sorry." After walking back to the Council House,

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[1157] "Council House Locked by Iroquois Faction," in the Toronto *Globe and Mail*, July 14, 1970. The reserve was patrolled by the Royal Canadian Mounted Police until 1968, when the responsibility shifted to the Ontario Provincial Police (OPP). See for example, Don Mawson's article in the *Brantford Expositor*, "Police Fire Warning Shots to Escape Mob at Ohsweken Fair," September 11, 1972.

[1158] Harding, Jim, "Council House Locked Again," *Brantford Expositor*, July 13, 1970.

[1159] "Elected council Can Get In If..." *Brantford Expositor*, July 14, 1970.

[1160] "Eight Women Charged Over Reserve Dispute," Beatrice Smith's clipping file, July 15, 1970. See also, "Charged with Mischief," photograph in the *Brantford Expositor*, July 15, 1970.

both Elwood Green and Chief Coleman Powless of the Confederacy guaranteed the gentleman's safety and offered to escort newsmen onto the reserve.[1161]

When contacted the next morning, Richard Isaac told the local newspaper that he could not identify who threatened the reporter and further, that no decision had been made to remove press from the reserve. Also, Isaac reiterated that the Elected Council did not want any violence to erupt from the dispute over the Council House. The group that accosted the reporter moved toward the Council House, but despite a verbal altercation, no violence ensued.[1162]

The Confederacy began registering individuals at the Onondaga Longhouse, according to their matrilineal lineage, which was a great help to those denied Indian status, especially Native women who were denied Indian identity by the Canadian government. The Confederacy disputed the federal government's practice of registering Indians according to patrilineal lines, for it ran counter to cultural practice and disrupted the entire political appointment system of the Confederacy which was based on the matriarchal selection of chiefs through clans.

Meanwhile, the elected council hired a lawyer, Burton Kellock, to obtain an interim injunction on July 15, 1970 from a local judge, Richard Reville, against seven Warriors and two Confederacy Chiefs from obstructing access to the Council House.[1163] The Band Council obtained a continuation of that injunction on July 22 to prohibit interference with their access to the Council House until the trial in the Supreme Court of Ontario in the fall of 1972.[1164] The next day a Supreme Court injunction barred the Confederacy supporters from interfering with the Elected Council's access to the Council House. Buoyed by this legal support, the mood of the Councilors was ebullient for they believed they had won, bringing an end to the Confederacy coup. Chief Isaac and Victor

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[1161] Ainsworth, Doug, "Newsmen Told to Leave Reserve," *Brantford Expositor*, July 15, 1970.

[1162] Ibid.

[1163] Ainsworth, Doug, "Newsmen Told to Leave Reserve," *Brantford Expositor*, July 15, 1970. See also the trial transcript in the Supreme Court of Ontario, Public Archives of Canada, RG 125, Volume 2058, File 13805, Pt. 3, Isaac v. Davey, Supreme Court of Ontario, Trial Proceedings, 1972, p. l07.

[1164] Public Archives of Canada, RG 125, Volume 2058, File 13805, Pt. 2, Isaac v. Davey, Supreme Court of Ontario, p. 275, Exhibit 3.

Porter even extended an olive branch to the Brantford reporters, noting the "scribe," ostensibly Doug Ainsworth, known to be sympathetic to the Confederacy, was welcome on the Reserve.[1165]

The Confederacy received the news of the injunction with relative equanimity for Chief Coleman Powless announced the Confederacy had already decided to go to the Canadian courts in an effort to wrest control from the Elected Council. Both Chief Powless and Joseph Logan, as well as seven warriors were named in the injunction forbidding them to interfere with the conduct of business at the century-old Council House until July 22. Included in the list were Wilma Hill, Ackland Davey, Elwood Green, Charles Jamieson, Ruth Longboat, Lawrence Nanticoke and Clara Powless.[1166]

The Council House was built expressly for the Confederacy Chiefs to govern, as one can gauge from the grandeur of the old faded photographs of the interior, depicting Victorian portraits of chiefs and British officials embodying the syncretism of the Confederacy rulers. The chiefs often spoke in their Native tongue, used time-honored cultural symbols such as the strings of wampum strings to invoke their authority, but were dressed as modern Victorians.[1167] Now, once again the chiefs were not to enter the building constructed for them to govern their people, by order of the Canadian courts.

Malcolm Montgomery, the same Toronto attorney who represented Chief Logan and his wife, Verna, in the 1959 rebellion, was called upon to advice the Confederacy and contest the injunction. Montgomery, a former Native of Brantford, came to the Onondaga Longhouse to talk to the chiefs about their next move. Meeting daily at the Longhouse during the crisis, the chiefs were attempting to register adherents who sought to legitimate their clan and enroll with the Confederacy according to their matrilineal lineage. Chief Powless stressed the need to register children according to their mother's Native membership, rather than the father's, as the Canadian government sought to

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[1165] "Council House Locks Removed," *Brantford Expositor*, July 16, 1970.

[1166] "Chiefs Can Counter Injunction," *Brantford Expositor*, July 16, 1970.

[1167] See the photograph from the National Anthropological Archives, Washington, of the Chiefs in Council in The Native Americans, edited by Colin F. Taylor and William C. Sturtevant, (London: Salamander Books), p. 232.

do.[1168] The matrilineal link is a fundamental bulwark of Ongwehònwe identity and is essential to establishing Native traditional leadership and self-government under Confederacy rule for it is the basis of the clan system.

Despite the injunction to cease resistance at the Council House, about forty warriors re-occupied the grounds and once again locked the building preventing access to Elected Councilors. The rationale for the continued resistance appeared to stem from the warriors' perception that a decision might be forthcoming from Ottawa in their favor. Just before the House of Commons recess on June 26 there was a motion to hold an emergency session on the Six Nations crisis and after a brief debate, action was shifted to the Standing Committee on Indian Affairs. The warriors sought to keep the crisis in the forefront of the media until there was some clarification of the status of the government on the reserve. As Norman Jacobs stated: "We are trying to make this committee of the House of Commons start moving."[1169] Confederacy advisor Malcolm Montgomery would take this battle through the courts once more, in an effort to force Ottawa to recognize Confederacy rule.

Supporters of the Elected Council were frustrated too, for the hearing on the injunction to be held in Ontario Supreme Court in Toronto was postponed. Tensions resulted in some minor shoving matches around the Council House and publicized warnings to different groups to stay off the reserve, evidenced in letters to the editor.[1170] For example, the Confederacy sought to restrict hunters from the reserve, while the Council sought to restrict a tour operator from giving tours of the Iroquois Village set up by Chief Logan, as a recreation of Native life in North America.[1171]

During this well-publicized dispute, many people commented on the stand-off at Six Nations. William N. Fenton, the eminent anthropologist at SUNY Albany weighed in with a letter to the editor of the local paper. Fenton did much to establish his academic

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[1168] "Confederacy Chiefs Plan to Contest Injunction," *Brantford Expositor*, July 17, 1970.

[1169] Ainsworth, Doug, "Injunction Doesn't Apply to Us,' Other Warriors Lock Council House," *Brantford Expositor*, July 21, 1970.

[1170] "Locks Remain on Six Nations Council House," *Brantford Expositor*, July 22, 1970.

[1171] Morley, John, "Iroquois Tours," Letter to the Editor, *Brantford Expositor*, August 6, 1970.

reputation by interpreting the political disputes of the "Old Confederacy of the Five Nations" as stemming from factionalism. Fenton undertook research in the area since the nineteen-thirties and stated that he sought to offer his comments in order to help diffuse the situation. He interpreted the rebellion on the Reserve as a systemic breakdown of a confederacy system according to the prevailing academic literature as a natural and predictive process. Fenton stated that confederacies arise in view of specific historical crises in societies where leadership passes along hereditary lines, to the exclusion of other segments of those societies. Historically, Fenton posited that the Iroquois Confederacy arose due to circumstances surrounding a blood feud and fell apart during the American Revolution since it was "unable to control its young men." Since representation is unequal, decisions are reached by unanimity to preserve local autonomy. Confederacies by definition lack central authority with no executive branch. According to this model, if a crisis persists with no unanimity, judgment is suspended and the confederacy tends to "erode at the edges."[1172]

Fenton believed that the dispute at Six Nations called for a "prophet" and a group of wise leaders to come forth in order to reapportion power and defuse the crisis to the satisfaction of the people. He suggested that a panel be chosen to arbitrate the dispute, drawn from Six Nations and the disciplines of political science and anthropology from the local universities. The panel would act as a Royal Commission, gathering information for six months and then preparing a report, making recommendations to the community.[1173]

Fenton argued that if the Warriors wrested power from the Elected Council, they would have great difficulty governing for he listed a host of problems in the way of reconstituting the Confederacy system. He cited the loss of language, cultural knowledge, particularly erosion of the clan system, as well as the decline of the agricultural production on the reserve and the inroads of modernity. Fenton also noted that the management of the reserve, although smaller in land area and population, needed

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[1172] Fenton, Wm. N., "If Iroquois Warriors Gained their Demands," Letter to the Editor, *Brantford Expositor*, July 8, 1970.

[1173] Ibid.

the expertise of a fiscal manager he did not foresee coming from an hereditary system. He thought the best way out of the dispute was for a compromise to be worked out where the elder chiefs acted as advisors and "exercise their oratorical arts."[1174]

Fenton's analysis is notable for its progressive ideology and its reliance on the academic expert and outside authority to fix a problem attributed to a backward, local population. He gives very little agency to local solutions and attributes no blame to outsiders for creation of the problem. Instead he posits that the genesis of the dispute was rooted solely in an internal dynamic of unequal representation and other systemic flaws. Fenton does not take into account the erosion of Native cultural norms due to the assault of European ideology, religion, trade and culture. Moreover, Fenton suggested the imposition of a European form of problem solving, forged by an elite with no accountability or relation to a communal ethic or shared identity. His suggestions reflect the paternalism and gender bias of an earlier era, where anthropologists considered themselves infinitely more qualified than Indian people themselves to understand indigenous cultures and make decisions regarding capacity for self-determination. His recommendation was patronizing for even though Fenton recommended that the "outside members should be acceptable to the Indians," the academics would represent two-thirds of the committee membership, relegating Native voices to the margin.[1175] Fenton observed that the hereditary system was unlikely to provide for the appointment of an individual to handle the exigencies of modernity, yet the office of the Pine Tree Chief was created for that express purpose, as a path for extraordinary circumstances that call forth exceptional leaders. Fenton's proposal was not acceptable to the Confederacy leaders who sought to make their own decisions for the community. Meanwhile the injunction remained in place and the Elected Council got back to running the affairs of the Reserve until the trial began in Ontario Supreme Court in September 1972. The Confederacy Chiefs and their supporters would challenge the Councilors right to govern through the Canadian courts without resorting to violence – contrary to Fenton's scenario, the Confederacy deftly controlled its young men and women.

[1174] Ibid.

[1175] Ibid.

Chief Coleman Powless focused on the threat to the land represented by the Canadian government's White Paper, for without special status, Indian land could be sold to non-Indians. In early 1971 Indian Affairs announced a drastic cutback of employment, from 4,000 to less than 200 over ten years. Implementation of the White Paper, he suggested could bring the Six Nations people together, ending "46 years of cold war," between the Confederacy and the Band Council.[1176]

Negotiations proceeded with the Chrétien government regarding the future of the Mohawk Institute, one of the issues in dispute between the Canadian government and the Reserve at the beginning of the rebellion. Delegates from the Association of Allied Indians negotiated for one million dollars to convert the former residential school to a Six Nations cultural and educational center. The Elected Council set up a feasibility study under the direction of Keith Lickers to report to Minister Chrétien, the Band Council and Indian Affairs funded from a grant from Indian Affairs.[1177] Improvement in public health and sanitation for Six Nations came with the completion of the first sewer and water treatment services for the reserve in 1972. Ohsweken, envisioned as a burgeoning capital of the Six Nations by Deskaheh in the 1920's, was still a rural village of 300 in the late twentieth-century, undeveloped and devoid of much of the basic infrastructure that the modern world takes for granted. Ironically, Part II of the Indian Act had been applied to Six Nations under the guise of promoting Indian Advancement, but instead, the imposition of an elective system merely created a tense stand-off for nearly fifty years.

[1176] "Indian Affairs Cutback Could Unify Six Nations," *Brantford Expositor*, January 8, 1971.

[1177] Wright, John, "$1 Million Sought from Ottawa to Convert Mohawk Institute," *Brantford Expositor*, May 10, 1972.

Supreme Court of Ontario:

It was not until two years after the rebellion that the Confederacy got its day in Supreme Court of Ontario before Justice Osler. A hearing was finally held on September 6, 1972 to determine whether to continue the two-year old injunction against the nine Confederacy supporters. Burton Kellock a local Brantford solicitor represented the Elected Council, including Chief Councilor, Richard Isaac, as the plaintiffs. The Ministry of Indian Affairs carried the cost of the legal defense of the Band Council. John Sopinka and A. Millward, Toronto attorneys, had been hired to represent all the Confederacy defendants, with the exception of Chief Joseph Logan, who was represented by Malcolm Montgomery. The Attorney General of Canada was represented by Andre M. Garneau and James Beckett. Plaintiffs who served as members of the Elected Council included Richard Issaac, Leonard Statts, Clarence Jamieson, Rena Hill, Norman Lickers, William White, Nina Burnham, John Capton, Howarard Lickers, Clifford Lickers, Mitchell Sandy, Ronald Monture and Gordon Hill. Six of these plaintiffs did not win re-election to the Council in 1971, following the stand-off at Grand River yet still remained listed as plaintiffs, while the six new councilors were added as plaintiffs by the court.[1178] Sidney Henhawk, Victor Porter, Renson Jamieson, Ross Powless, Frank Montour and Vincent Sandy were the six new plaintiffs in the case. Warriors and Chiefs named as defendants were Ackland Davey, Elwood Green, Wilma Hill, Charles Jamieson, Joseph Logan, Ruth Longboat, Lawrence Nanticoke, Clara Powless and Coleman Powless.

Key witnesses in the hearing included several of the figures who had taken an active role in the rebellion, including the chiefs of both councils and Mohawk clan mother Alma Green, but also included the chief reporter for the local Brantford, Douglas Ainsworth. Ainsworth, a young reporter assigned to cover the reserve during the rebellion, found himself at odds with the Elected Council, during the process. The paper for which he worked, the Brantford Expositor, was even banned from covering the meetings of the Elected Council shortly after this trial.[1179] Ainsworth viewed the

[1178] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 3, Isaac v. Davey, Supreme Court of Ontario, Trial Proceedings, 1972, p. l03.

[1179] Wright, John, "Six Nations Council Bars Expositor," November 22, 1972. Reverend Gordon Hill complained that the Expositor's news coverage "cost the council a great deal of money." He argued in a

Confederacy leaders as "masters of public relations." Ainsworth found himself to be a figure in the midst of a judicial struggle and was almost cited for contempt. According to Ainsworth, Justice Lawrence Pennell was slated to decide the case before it came to Justice Osler. Ainsworth questioned Pennell's close association and friendship with Victor Porter, one of the plaintiffs in the case and a member of the Six Nations Band Council. Porter had gone to visit Pennell at his home to discuss the case and as a result the proceedings ground to a halt for "an entire sittings" [sic].[1180] Justice Pennell at first sought to go ahead with the trial, but later recused himself from the case, ostensibly after Ainsworth published a story in the Expositor.[1181]

The Confederacy had not been idle during this long wait for a ruling regarding the Six Nations. Supporters had focused on several issues –recovering the wampum belts and other sacred articles symbolizing the legitimacy of the confederacy rule and commenting on another major legal case contesting the provisions of the Indian Act that removed Native women and their children from band lists if they married a non-Indian. The first case emerged from the discussions surrounding the take-over of the Council House, since individuals such as Art Anderson, Sr. remembered the seizure of the wampum belts and was interviewed regarding the 1924 incident. Anderson accused the Royal Canadian Mounted Police with seizing documents, historical wampum belts and ceremonial materials in 1924 from the council house. Agent Morgan ordered that the padlock be broken on a chest in the council house and the documents within seized by the Canadian officials. Mr. Anderson charged that five agents of the RCMP took the documents first and then a few days later, October 10, returned to take the box of long

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telephone interview that the newspaper reporting on the revolt "encouraged supporters of the hereditary chiefs of the Six Nations to continue their efforts to physically prevent elected councilors from entering the council house."

[1180] Public Archives of Canada, Exhibit "H" referred to in an affidavit of Coleman Powless, RG 125, Volume 2058, page 5, File 13805, Pt. 5. Letter to Jean Chrétien, Minister of Indian and Northern Affairs, from John Sopinka, May 21, 1974.

[1181] Telephone Interview with Douglas Ainsworth, date when Chief Thomas died, in Brantford, date.

strings of wampum from David Skye, the "wampum keeper."[1182] This narrative of the loss of these cultural artifacts has been consistent since 1924.

The latter case surrounding section 12 (1) (b) of the Indian Act and involving Yvonne Bedard, an Onondaga from Six Nations, is described in the following chapter and was a signal case in the effort to secure Native women's rights in Canada. Justice Osler ruled in favor Ms. Bedard and against the Six Nations Band Council, who sought to evict her from Six Nations Reserve.[1183] Ms. Bedard was allowed to remain on the reserve due to the ruling by Osler. Thus both Councils and the presiding judge in the Ontario Supreme Court were immersed in two path-breaking cases regarding Native self-government and women's rights relating to Six Nations.

Arguments before the Supreme Court of Ontario:

In the preliminary motions before Judge Osler the central defense of the Confederacy was laid before the court, with a crucial distinction created for the defense of Chief Logan by Malcolm Montgomery. The status and legitimacy of the elective council was to be challenged by the defense, a long-standing position of the Confederacy, but Malcolm Montgomery went much farther in seeking to establish that the Indian Act itself was illegitimate and rendered "inoperative" by the Canadian Bill of Rights. If the Indian Act was inoperative, then a priori, the officers elected under its auspices would have no legal standing.[1184] The Attorney General of Canada requested that the court "invite" the Attorney General to be heard in the case without formerly being made a party to the proceedings. Andre Garneau would present the Canadian government's response to the constitutional issue, namely Chief Logan's challenge that the Indian Act was "irreconcilable" with the Canadian Bill of Rights. The Confederacy's contention that the Band Council had no legal status to maintain an injunction against them was also an issue that the Attorney General would address, as well as the long-standing claim to political independence voiced by the Six Nations Confederacy. Acting as an amicus curiae, Andre

[1182] Wright, John, "Records, Deeds, Contracts, Minutes 'Seized by Mounties in 1924:' Chief," Brantford Expositor, February 11, 1972. The men named by Anderson were Constables Roster, Needha, Walsh, Matthews and Bridger. The items were never recovered.

[1183] "Bedard Case Goes to Supreme Court," *Brantford Expositor*, January 26, 1972.

[1184] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 3, Isaac v. Davey, Supreme Court of Ontario, Trial Proceedings, 1972, p. l03

Garneau stressed that his presentation and arguments would be "virtually the same" as the plaintiffs, reflecting the Canadian government's support for the Elected Council.[1185]

The defense of the Warriors, apart from Chief Logan, was submitted January 11, 1971. It was virtually identical to the long-standing claim of the Confederacy to sovereignty that Deskaheh had employed before the League of Nations, employing the Haldimand Pledge and Simcoe Deed, as well as historical references to the Six Nations as "being on a different footing" than other First Nations.[1186] The Warriors' statement was replete with barely veiled outrage against the Canadian government and their "amanuensis," the Elected Council. Drafted by Toronto attorneys, the statement railed against the "unlawful actions" of the Canadian government resulting in the invasion and seizure of Six Nations territory "under force of arms" and the removal of the ancient Confederacy, dating from the "thirteenth-century." The Warriors' Statement raised the issue of fiduciary responsibility on the part of the Canadian government, as a trustee of funds not only for funds from the sale of land, but also from "mineral, oil, gas and timber rights," and sought an accounting.[1187]

The response of the Elected Council parried the attack of the Warriors of the Confederacy with familiar thrusts, citing the ruling of Judge Macauley and the old Orders-in-Council as the litany of Canadian conquest was recited as a narrative of the inevitability of progress and liberalism. Forbidding what was viewed as an impertinent characterization of the Haldimand document as a treaty by Six Nations people and rejecting claims to independence as a "hopeless project," the response of the representatives of the Dominion had changed very little since Colonel Thompson's report.

The facts of the case submitted as a Statement of Claim by the plaintiffs in the Pleadings were admitted by the defendants (with the exception of Chief Logan). This claim stated the Council House was padlocked from June 25 to July 10, 1970 and from

[1185] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 3, Isaac v. Davey, Supreme Court of Ontario, Trial Proceedings, 1972, p. 104.

[1186] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 2, Isaac v. Davey, Supreme Court of Ontario, "Fresh Statement of Defence [sic] on behalf of the Defendants," except the Def. Joseph Logan, Jan. 11, 1971, p. 10.

[1187] Ibid., p. 8-11.

July 12 to July 16, 1970 at the direction of the defendants. Admittedly (by all the defendants but Joseph Logan) this was done to block the Elected Council from using the building in Ohsweken to conduct the business involved in governing Six Nations. Throughout the trial Chief Logan denied responsibility for the actions taken by the other defendants. In Joseph Logan's Statement of Defense, he admitted advocating a different form of government for the Six Nations other that the elective system, but denied all of the other contentions of the Elected Councilors in their Statement of Claim. The Confederacy defendants stated that the purpose of their takeover of the Council House was to gain control over "all conveyances of land" of the Six Nations.[1188]

The crux of Chief Logan's defense, however, as assiduously crafted by Malcolm Montgomery, went much further then the local dispute to focus on constitutional issues. Montgomery was to argue in this case that the Indian Act was "irreconcilable with the Canadian Bill of Rights" and infringed upon the "rights of all Indians to equality before the law." [1189] By virtue of a policy of discrimination expressly repudiated by the Canadian Bill of Rights, Montgomery would argue that the Indian Act was "wrongfully maintained" by the Canadian government as the "only statute of Canada which applies to a specific racial group of Canadians." In Logan's defense, Montgomery would insist that the Indian Act was crumbling and virtually repealed by the passage of the Canadian Bill of Rights for the Indian Act racially stigmatized and discriminated against indigenous people from its inception.[1190] Malcolm Montgomery would use all of his powers of persuasion to convince Justice Osler that the Indian Act was rendered "inoperative" by its contravention of the Bill of Rights. Chief Joseph Logan's defense was elegant in its simplicity: the Indian Act simply had no "force and effect" since Parliament had done nothing to expressly exempt the legislation from the sweeping standards of the Bill of Rights. Montgomery argued that not only was the Indian Act "improperly constituted," so

[1188] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 2, Isaac v. Davey, Supreme Court of Ontario, Trial Proceedings, 1972, p. 282-3.

[1189] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 2, Davey v. Isaac, Supreme Court of Canada, Appeal from the Court of Appeal for Ontario, Statement of Defense of the Defendant Joseph Logan, December 8, 1970, p. 6.

[1190] Wright, John, "Totally – Inoperative Ruling Proposed for Indian Act," *Brantford Expositor*, September 8, 1972.

was the Elected Council, thus removing any legal right of the plaintiffs to use the Council House for any purpose. The legal assumption was that when statutes are contradictory, the latter statute would take precedence over the former.[1191]

Montgomery's argument resonated throughout the Indian nations of Canada for it appeared that the Indian Act was racially discriminatory when measured in conjunction with the Bill of Rights. The Parliament, Montgomery argued, failed to reconcile or invalidate the historical provisions of the Indian Act which were contradictory to the new statute, fueling an explosion of cases highlighting the social, political and economic inequality under which Native peoples suffered. The racist provisions of the Indian Act were almost invisible since they were "naturalized" within Canadian society. This post-colonial hegemony created a third world environment within Canada for its First Nations. Montgomery argued that: "…four cases (one as recent as Aug. 9) involving Indians have resulted in three sections of the Indian Act being declared inoperative." Three of the four were cases were moving through the judiciary appeals process, on the way to the Supreme Court of Canada, including the Bedard case involving a woman from Six Nations, in which Justice Osler was involved. Caught off guard by a liberal political and legal intervention, judges and politicians scrambled to reconcile or rationalize existing social, political, economic and cultural inequality.[1192]

Both lawyers for the defendants, Montgomery and Sopinka, argued that the government represented by the Elected Council was woefully inadequate. Montgomery spoke plainly: "It's like no other government we know here in Canada…" The elected council's power was derided as minimal and "pathetic." Sopinka went even further, stating: "If there ever has been a case of inequity, in my submission this is it."[1193]

[1191] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 2, Davey v. Isaac, Supreme Court of Canada on Appeal from the Court of Appeal for Ontario, Statement of Defense of the Defendant Joseph Logan, December 8, 1970, p. 5-7.

[1192] Wright, John, "Totally – Inoperative Ruling Proposed for Indian Act," *Brantford Expositor*, September 8, 1972.

[1193] Wright, John, "Totally – Inoperative Ruling Proposed for Indian Act," *Brantford Expositor*, September 8, 1972, p. 13-15.

Kellock countered that power and legitimacy of the Elected Council was conferred by the Indian Act and the Privy Council in 1924.[1194]

The Trial Proceedings:

After preliminary discussions had established the basic procedures for the trial, statements of fact were admitted and a series of historical documents were submitted to the court as exhibits, namely the Haldimand Deed and the Simcoe Patent establishing the Reserve itself, the lawyers began to call witnesses. Although the incident had been widely reported in the local newspaper, the recollections of Douglas Ainsworth, a young student who had a summer job working as a reporter for the Brantford paper, were elicited by the attorney for the councilors, Mr. Kellock. Ainsworth was sympathetic to the Confederacy and underscored how skillfully the Confederacy orchestrated publicity for the entire incident.[1195] Ainsworth confirmed that he was a witness to many of the Confederacy's deliberations and frequently attended meetings at the Onondaga Longhouse, press conferences for the Confederacy and was a frequent visitor at the home of Chief Joseph Logan and his wife Verna during the conflict. Ainsworth even went with the group who initially padlocked the Council House and testified that in retrospect Verna Logan had alerted him in advance that a newsworthy story was about to occur and that Ainsworth should be prepared to bring a photographer to cover the story. This was seized upon by Kellock as evidence that Chief Joseph Logan was aware and responsible for the takeover of the Council House and shared the Warriors culpability. Of course, this was challenged by Chief Logan's attorney, Mr. Montgomery.[1196]

Mr. Ainsworth testified about the events and reiterated the narrative he had published in the Brantford Expositor, giving his interpretation of the conflict on the reserve for Justice Osler. Kellock questioned Ainsworth carefully about the role played by the warriors who were the defendants in the case. After this examination the attorney

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[1194] Wright, John, "Totally – Inoperative Ruling Proposed for Indian Act," *Brantford Expositor*, September 8, 1972, p. 13-15.

[1195] Ibid.

[1196] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 3, Isaac v. Davey, Supreme Court of Ontario, pp. 118-9.

for the warriors, John Sopinka, cross-examined the reporter about the level of support for the Confederacy and the fear on the reserve that the Royal Canadian Mounted Police would use violence to stem the dispute over the Council House, as they had done in 1959.

Malcolm Montgomery used his examination of Ainsworth to establish the definition of the term warrior, seeking to locate the impetus for the take-over of the Council House with the young men who supported the Confederacy, rather than the chiefs. Ainsworth broadly defined warrior to include any Confederacy supporter, including men and women, indicating the fluidity of the gender relations within the Confederacy. Montgomery sought to establish Elwood Green as the key leader of the Warriors' Committee, but Ainsworth also mentioned the role of Chief Coleman Powless as significant in the events. Closely questioned by Montgomery about the role of Chief Logan, Ainsworth could only remember one incident Chief Logan spoke to the crowd at the Council House, urging them to obey the order set forth in the injunction. Yet, Ainsworth asserted that Logan had engaged in deliberations with Chief Powless and Elwood Green in his home and even stated that the locks on the Council House should remain until the demands of the Confederacy were met. Seeking to minimize his client's culpability, Montgomery emphasized Chief Logan's religious role in the community over his political activities and he elicited the opinion from Ainsworth that Chief Logan was not a violent man and had urged no one to take-over or block access to the Council House.[1197] Three other witnesses, both photographers and reporters who worked for the *Brantford Expositor,* were cross-examined to determine whether Chief Logan was a participant in the take-over. Malcolm Montgomery was eager to separate his client, Chief Joseph Logan, from the other defendants and also to represent Logan's interest in the reestablishment of the Confederacy Council in loftier political terms, distant and devoid of the more confrontational tactics of the Warriors.[1198]

The lack of participation and voting by the community in the election of the Six Nations Band Council was established by the defense at the trial. The population of

[1197] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 3, Isaac v. Davey, Supreme Court of Ontario, p. 127.

[1198] Ibid., pp. 118-131.

residents on the reserve was established by a witness at 5,000, yet many of the seats on the council were simply won in a recent election by acclamation and only several hundred people generally voted. The attorneys for the Confederacy Warriors, John Sopinka and Malcolm Montgomery, both emphasized the few votes cast in the most recent elections.[1199]

Kellock moved quickly to the crux of the 1970 dispute in the trial proceedings – the control and conveyance of reserve lands. Councilor Leonard Staats, sharply questioned by Sopinka, the defense attorney for the Warriors, testified that the Crown had "surrendered lands that had never been paid for." Confederacy representatives sought jurisdiction over these lands to obtain compensation from the government. Land claims were the genesis of the ongoing struggle between the Confederacy and the Elected Council, so the defense pressed hard for accountability from the Councilors in regard to recovery of assets from the Canadian government. Councilor Staats frankly admitted that "…we haven't got the money to try and do anything at the present time to get the money."[1200] The fight for land takes time and money that Native communities do not have, in addition Natives have clearly become more dependent on the Canadian government for social benefits funneled through the Band Councils, such as housing and welfare. Staats also admitted that he had no idea of what money was involved or how much land was alienated and ventured: "…I don't think the government knows either." Unfortunately, this is also fairly common as oversight, accountability and transparency are far from standard practice as land has been alienated from First Nations over long periods of time with impunity, sometimes with the aid of Native representatives without consensus of their own people.[1201]

Reviewing the enormous loss of Six Nations land from the original tract confirmed by the Haldimand and Simcoe "Deeds," Sopinka sought answers as to where the money went from Councilor Leonard Staats. Staats speculated: "I guess they have to

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[1199] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 3, Isaac v. Davey, Supreme Court of Ontario, p. 138-41.

[1200] Ibid., p. 146.

[1201] Ibid., p. 147.

open the archives in Ottawa and different other places like the provincial archives [where] there is land records…," in order to trace the land and money owed to Six Nations. Justice Osler interjected, communicating his confusion about this testimony while Kellock and Sopinka jockeyed over whether Councilor Staats was simply making a personal statement or an admission to an allegation.[1202]

Malcolm Montgomery cross-examined Councilor Staats regarding the division of labor between the Six Nations Agency in Brantford, the administrative branch of the Department of Indian Affairs where the Indian agent and his staff worked. Montgomery bluntly suggested to Staats chagrin, that the actual administration of Six Nations affairs was done in Brantford rather than on the reserve, other than the few meetings held in the community. Montgomery pointed out that all the important correspondence, records of wills, birth certificates and marriages were kept in the Indian Office in Brantford. He noted expressly that the Brantford office kept all original records including land records and a "master list" regarding band enrollment. Indeed, all correspondence with Ottawa was channeled through the agent as admitted by Councilor Staats.[1203] Montgomery also established that the Six Nations Reserve consisted of 45,000 acres and was largely situated in Tuscarora township. Malcolm Montgomery than suggested to Councilor Staats that he could "do absolutely nothing as a counsellor without the approval of the Minister…" As Kellock objected to the implication that the Elected Council was under the direct control of Ottawa, Justice Osler voice his concern concerning Staats' qualifications to respond to the question. Staats was clearly out of his depth and to deal with the implicit allegations regarding lost land and money left hanging as a result of his testimony, Kellock established that the dates of land surrenders dated back to the 1700s. Staats' testimony was equally confused as to the existence of records dealing with the land disputes. [1204] The lack of oversight and accountability for land, funding and

[1202] Ibid., p. 148.

[1203] This constituted a rebuttal of the information contained in the Statement of Claim by the Elected Council, September 21, 1970, in which they maintained all the band records were stored in the Council House. The information was used to obtain an injunction against the Confederacy as contained in Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 2, Davey v. Isaac, Supreme Court of Canada on Appeal from the Court of Appeal for Ontario.

[1204] Ibid., p. 150.

administration was glaring and pointed to the subordinate role played by the Elected Council. Disempowered by Ottawa there was clearly no independent entity guiding Six Nations affairs.

Chief Joseph Logan's examination for discovery as leader of the Confederacy was quite extensive and only portions of his testimony was read into the record. Responding as "one of the confederacy lords," Chief Logan described the hereditary system of chiefs and clan mothers.[1205] Although the reference for the titles in the Confederacy in Native languages is sometimes translated in this way, this reference is a signal departure for Six Nations Chiefs for they were not generally referred to in this way in court records. In his deposition, Logan affirmed he was a Mohawk hereditary chief for approximately eight years and that the Confederacy held meetings every month in the Onondaga Longhouse. Chief Logan was carefully questioned about his activities at the Council House. He insisted that he had only gone there twice, to warn Confederacy supporters against violence and when the first injunction was going to be served. Chief Logan also substantiated that the Confederacy Council passed a unanimous resolution supporting the Warriors in regard to keeping the locks on the Council House on July 10, 1970. Logan insisted that the Warriors had "acted on their own initiative" and minimized the degree of influence the chiefs had on the group.[1206]

Another focus in the questioning of Chief Logan that made its way into the record was the proposal broached in an informal discussion between six Confederacy representatives and six members of the Elected Council in which the Chiefs proposed to take over the control of Six Nations land claims as a Confederacy government. Chief Logan stated that the Council demanded that the locks on the Council House removed. Although this exchange was voiced, no decision was reached in the meeting, according to Logan. He stated that since this proposal proved to be unsatisfactory for the Band Council which would not accept the idea of Confederacy control over land, the talks went no further. Chief Logan acknowledged during questioning that he would have personally

[1205] Chief Logan was also examined separately in Toronto on June 2, 1972 in a law office in Toronto by Malcolm Montgomery and Mr. Harrison.

[1206] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 3, Isaac v. Davey, Supreme Court of Ontario, p. 151-156.

supported the proposal had the Six Nations Band Council supported the negotiations.[1207] After reading selections from the examination for discovery of Chief Logan, the attorney for the plaintiffs, Kellock, ended his case.

The defense of the Plaintiffs represented by Kellock denied that the Indian Act was rendered inoperative by the Canadian Bill of Rights, upheld the Macauley ruling and supported the Canadian government's view that Six Nations people were subjects, not an independent people. The plaintiffs supported the Orders-in Council repudiating special status, beginning in 1890, but including 1924 ad 1951. They objected to the use of nomenclature designating the Haldimand Pledge as a Treaty and used the 1959 ruling of Logan v. Attorney-General of Canada to bolster their argument.[1208]

The presentation of the Confederacy case by Sopinka began with his reading into the record the material gleaned in the discovery phase with Councilor Richard Isaac. When Isaac was questioned by both attorneys for the Warriors' defense, Sopinka and Millward, Isaac was asked about the ownership of the Council House, when it was built and also about the number of voters in the first election after the hereditary council was deposed. He was directed not to answer the questions by Kellock, the attorney for the Band Council. The answer was brought forth in the court proceedings as a mere 25 voters for 12 positions in the first election of 1924. Kellock also instructed Richard Isaac not to answer a series of questions regarding the amount of money held in trust for Six Nations, whether there were periodic updates and reports concerning the funds, or if the possibility of an audit was broached concerning the financial handling of the investments. Mr. Isaac affirmed that there had been a division of Six Nations assets into two accounts, one being a "capital trust account" and the other being a revenue account. Kellock clearly warned Isaac in the discovery phase to stay clear of any question regarding an audit.[1209]

[1207] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 3, Isaac v. Davey, Supreme Court of Ontario, pp. 156-8.

[1208] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 2, Davey v. Isaac, Supreme Court of Canada , on Appeal form the Court of Appeal in Ontario,

[1209] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 3, Isaac v. Davey, Supreme Court of Ontario, p. 160-4.

He then elicited the testimony of Chief Coleman Powless, of the Onondagas. Powless explained to the court the manner in which a chief is selected and condoled or confirmed. He also gave a singular twist to the definition of warrior as a term used within the Confederacy – different from the usage in the media. Sopinka inquired about the designation, stating: "It sounds like something militant?" Powless stated that it designated: "All the people of the Six Nations…It was a name put on our people by the British in the previous war where our people proved the balance in power in battle."[1210] This was quite a different interpretation than one bandied about in the media and pointed out the ideological fluidity in the terminology of a long political struggle – a warrior was a progressive in the Victorian Age, a militant in the early twentieth-century and a populist in the age of Red Power.

As far as gauging the relative strength of support for either the Elected or the Confederacy Councils the counsel for the plaintiffs, Kellock , objected to the consideration of recent election returns when it was broached by Judge Osler. "These people do not run for election, so far as I know," Kellock emphatically stated to Osler." Six Nations Confederacy supporters who did not vote were obviously an obstacle in gauging Six Nation Indians' political affiliation. The problem was wider than that, however, for Kellock voiced the difficulty of interpreting political allegiance in a community historically disaffected from the democratic elective process. To this day very few people vote in the elections at Six Nations. Many people were raised to take pride in their alienation from the electoral process, rather than their right to participatory democracy. It is a culturally significant marker to be disaffected from democracy at Six Nations, it is not a Canadian community, but one still apart. Justice Osler seemed to grasp this desire for difference at Six Nations, asking: "Mr. Sopinka, is there any theory in which the accounting of head[s] would be a termative issue?" Justice Osler sought an accounting, based on a definitive choice, one backed up with hard facts. Six Nations seeks consensus, bringing disparate parties together after innumerable sessions of deliberation and careful debates – endless rounds of debate, to the outsider. There is no termative framework – no matter how frustrating that is to a non-Indian – that, indeed is

[1210] Ibid., p. 167.

the difference between the political systems of Six Nations, particularly the Longhouse and so-called democratic systems.[1211] Everyone has a voice at the Longhouse and people debate, interminably to the Western view, without reaching a "termative" judgment.

The debate in the courtroom was soon focused on the historical record to gauge the support for either system. Yet, ironically the record would not support the Elected Council and Kellock was quick to state: "What support there is today, tomorrow or 1970 is entirely wrong." Justice Osler stated simply, "It is arguable." Osler interjected frequently in this stage of the trial and he and Sopinka took turns in asking questions of the witness. Osler clearly understood the lack of transparency and accountability in the system even as he challenged the statements of the witness for the Confederacy, Chief Powless as hearsay.[1212]

It was clear that Powless had no access to substantive documents to support his nativist allegations. Powless argued that even those who voted in the elections were not residents of the Reserve, but returned from the surrounding cities of Buffalo, Niagara Falls and Rochester, expressly for the elections. A furious backlash was in the offing as residents of Six Nations Reserve took umbrage at those who left the reserve and then returned to take advantage of social services and tax breaks not available in the majority societies, both Canadian and American. Chief Powless complained bitterly that every letter the Confederacy sent to the Queen was referred back to the Governor General, then to the Department of Indian Affairs, then finally to the Band Council – Dante's circles inscribed in bureaucratic obfuscation for Indians at Six Nations. [1213]

Factors that played into Six Nations nationalism were teased out in the close questioning of Chief Powless by Justice Osler and attorney Sopinka. Asked to delineate the differences between living under the government of the band council and the Confederacy, Powless cited the closing of the hospital on the reserve as important, for children were not born within the Six Nations territory any longer. "In 1953, Canada passed an Act which made anybody born within the boundaries of Canada a Canadian

[1211] Ibid., p. 169.

[1212] Ibid.

[1213] Ibid., p. 170.

citizen. Up to the closing of this hospital, our people could always say we were born on the Six Nations land, but now we can't." Schools were another item that threatened national sovereignty, namely the existence of the day schools on the reserve, as well as the Mohawk Institute (the boarding school in Brantford that had recently been closed.) The Mohawk Institute was located "on the Indian land," according to the testimony of Chief Powless. The tie of the hospital and the boarding school to Six Nations identity was deeper than Canadian surveyers could eradicate – it was a link to homeland. Chief Powless spoke of "our land" running along the Grand River and was challenged by Kellock, for Powless would not know firsthand historical boundaries of the reserve. Justice Osler interjected that there would must be individuals with recollections dating back fifty years to substantiate the memory of the witness with "first-hand information." Ownership of land was another issue of difference between the Councils, namely the issuance of a "location ticket" rather than a "quick claim deed." Powless also cited that if a person from Six Nations wanted to get utility service the Indian Agent had to "sign on your behalf" even though ostensibly the owner must sign. This bureaucratic procedure made Indians feel less than competent, for as Powless expressed to the court: "I am supposed to own my own land." The points streessed by Chief Powless were the treaty-making ability of the Confederacy as a national entity and its inherent enforcement capability, in contrast to the Band Council as an agent of the Six Nations under the Canadian system and the manner in which property was passed to members of the Six Nations under the Confederacy Council.[1214]

Malcolm Montgomery then began to question Chief Powless regarding the forms of the Confederacy theocracy, referring to Deganawidah as the ancient founder and Handsome Lake who revitalized the Longhouse religion. Montgomery sought to make clear to the court through his questions that it was against the religion of Six Nations people to cast ballots, as well as the Confederacy Constitution, known as the Great Law. Montgomery explained that the Smithsonian Institution had given its imprimatur to the Six Nations legal and religious codes, ostensibly as a way to legitimate these institutions to Justice Osler. The permeable boundaries between the Confederacy and the Longhouse

[1214] Ibid., pp. 171-4.

religion were at issue for Kellock; puzzled that it would be contrary to one's religion and ideology to vote as a supporter of the Confederacy which ruled through unanimity.[1215] Justice Osler sought clarification regarding the interface between clan and nation, wondering about the terminology used to designate tribes within Six Nations. Powless stated that the English term tribe "…has no meaning" within Six Nations culture for the center of the nation was the clan composed of extended families.[1216]

As a calculated aside in his brief questioning of Chief Powless, Montgomery asked if the padlocks were placed on the Council House by the Warriors, of their own volition. Powless responded that the Warriors were "[en]forcing a law passed in October the previous year. They passed a law that would be no more land done away with [sic]." Montgomery again asked Powless if it was not the Warriors' idea after a meeting of their own to padlock the Council House. Chief Powless then asserted that the Warriors acted on their own, but it is intriguing that the timeframe of the incident is much longer than initially reported in the press. In the year of the White Paper, October 1969, the Six Nations Confederacy had already vowed to part with no more land – the Confederacy had decided that Six Nations was not going to be legislated out of existence by Ottawa and cast adrift under the tender mercies of the Trudeau government which was casting a policy of legislative termination in the guise of Liberal reform.

The next witness was Alma Greene, a Mohawk clan mother and outspoken Confederacy supporter.[1217] Alma Greene was 77 years old at the time of this trial and she had lived on the reserve her entire life. Her father was a chief on the Confederacy Council and she took her responsibility as a Mohawk clan mother seriously. Upon taking

[1215] Ibid., p. 178.

[1216] Ibid., p. 186.

[1217] Alma Green and my mother were first cousins, and Alma has always been know within our family for her celebration of traditional culture and lore, as well as her flamboyance. Her father, John Charles Martin, was my grandfather's brother. He was one of several Mohawk chiefs from the Martin family and his daughter always upheld the Longhouse against the Elected Council. Many elders told the story of the RCMP, thundering onto the Reserve on horseback; she was reciting commonly known oral history in her testimony. We all grew up with this account. She published a book, entitled, Forbidden Voice, her Indian name, Ga-wonh-nos-doh. Her text i1s a compilation of Iroquoian legends, family stories and tales from the Six Nations Reserve. These were the scary stories we all begged our aunts to hear before we went to bed at night and the older ladies were all gossiping in Mohawk after dinner.

the stand she began a recitation, giving the oral history regarding the origin and duties of her office and the importance of this role in selecting and overseeing a chief in council. In a Canadian court of law her manner, however, her pace of recitation and her cultural mentalite was ill-suited. Courts try to elicit facts delivered succinctly with little embellishment, rather than oral history. Alma Greene had become a minor celebrity during the course of this conflict, celebrated as a Native author and for her spirited defense of the Confederacy.[1218] Mrs. Greene attempted to explain to the court the history of the Confederacy dating from 1390, while the defense lawyer attempted to draw her attention to specific points relevant to the case. Yet, her testimony was filled with anecdotal asides. For example, she recounted the police shooting at her uncle about the time of the first Six Nations election, conflating this event with the removal of the Confederacy Chiefs.[1219] Without access to the written records of Six Nations history, the Six Nations families were dependent on Native elders to remember these events and given human frailty, the collective memory suffered under the yoke of colonial policy and prejudice. The oral history was not reinforced by written accounts.

Directing Mrs.Greene to her memories of the 1924 incident, Mr. Millward, the Warriors' attorney, asked her about the Mounted Police she saw and why she thought they were on the reserve. Millward also asked her about the origin of "Bread and Cheese Day" for this day originated in the Victorian Era as a celebration of the Queen's Birthday. It has developed into a traditional day of homecoming at Six Nations, a day of celebration where people catch up on family news while standing in line for the ceremonial pound of cheese and quarter loaf of bread distributed in honor of the Queen's birthday. Millward asked if members of the Six Nations Confederacy visited the Queen as her subjects when they visited England when this celebration was first established. The prosecuting attorney, Kellock, as well as Justice Osler intervened at this point, however, arguing that Greene was not an expert witness in this area. The legal and historical debate regarding

[1218] Wright, John, "Unsinkable Ma Greene Spins a Tale," *Brantford Expositor*, June 27, 1973.

[1219] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 3, Isaac v. Davey, Supreme Court of Ontario, p. 190. Since she is my cousin, this is the same family story of our Uncle, Pat Martin, who was chased and allegedly shot by the local police for making home-made liquor on the Reserve, before the Hereditary Chiefs were displaced, well before the election.

the precise status of the Six Nations as subjects or independent, sovereign people could not be decided by a clan mother, but only by the courts' own certified expert.[1220]

Alma Greene seemed totally unprepared by the defense attorneys for the way her testimony might be interpreted by the court. As she recited wrongs done to the Confederacy and the warriors' actions in the defense of the hereditary council in 1924, for example, storming the encampment of the Mounted Police at the local fairgrounds in 1924, Justice Osler interrupted. He notified Millward that Alma Greene's testimony removed the "cleanhands [sic] doctrine;" commenting that he didn't know how Greene's testimony helped the defense. Greene recounted how the Indian agent, Colonel Morgan, took a gun out of his pocket and aimed it at a Six Nations woman, threatening her in the fairground's incident. Although she stated a closed court hearing was held in regard to Morgan's threatening action nothing was ever made public.[1221]

When narrowly questioned by Malcolm Montgomery, Mrs. Green began to be more forthcoming and direct. She asserted that the main complaint of the people of Six Nations against the Canadian government was the Indian Act. Montgomery cited Confederacy Chiefs who journeyed to Europe in 1924 to protest the imposition of the elective system in Canada and to the United Nations in 1945 to "protest the Indian Act." He also prompted her to remember the continual delegations to petition the Queen and Parliament to restore the traditional government, seeking to establish the unbroken resistance to the Indian Act.[1222]

Kellock tried to ascertain from Mrs. Green why the defendants in the case pursued different legal strategies in the case, for only Chief Logan took up the wider argument invalidating the Indian Act based upon its incompatibility with the Canadian Bill of Rights. The Warriors argued that the sovereignty of the Six Nations was impugned due to the Indian Act. Mrs. Green associated herself with the Warriors' point of view, noting that free speech and sovereignty had been curtailed due to the Indian Act. When pressed to give an example of the lack of free speech by Justice Osler, she cited the current

[1220] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 3, Isaac v. Davey, Supreme Court of Ontario, pp. 191-5.

[1221] Ibid., p. 196.

[1222] Ibid., pp. 196-7.

proceedings when Osler himself was impatient with her testimony about the way the Six Nations was treated after 1924. Green argued: "It happened just a few minutes ago. I am sorry, your Lordship, you did not want to care to listen about the sovereignty of my people of which I would like to talk. You didn't think it was no availance [sic] in this case. That is the main thing of this case. That is the main trouble on our reservation and with the Indian Act we lose that sovereignty." Alma Green made her point, after all.[1223]

The next witness was Thomas Hill, an employee of the Department of Indian Affairs and Northern Development, in Brantford. He was questioned about the minutes of the first meeting of the Elected Council on October 23, 1924, for they were retained by Indian Affairs in the Brantford office. John Sopinka asked Mr. Hill about Hilton Hill, the first chief councilor of the first council, elected under Part II of the Indian Act I 1924. The point of Sopinka's questions was to find out if Hilton Hill was employed by the Indian Office in Brantford just prior to, or just after his election to the position of chief councilor at Six Nations in 1924. Thomas Hill was not able to directly establish the connection, but the evidence of the election was introduced into the record.

The final testimony was scheduled by Malcolm Montgomery on the morning of September 7, 1972, who called his client, Joseph Logan as a witness. "Chief Logan, dressed in fringed buckskin, asked to be, and was, sworn in on wampum."[1224] Using Six Nations wampum in lieu of a Christian bible symbolized Chief Logan's belief in the Creator and signified Confederacy custom, but Justice Osler asked him to confirm that his oath was completely binding with regard to his conscience.

As Montgomery began to question Logan, he made reference to the Six Nations Band, which Logan immediately corrected by referring to "confederacy lords." Logan was a "confederacy lord" since 1964 and he testified that he was 67 years of age. Montgomery asked Chief Logan about the dates of Confederacy meetings before the takeover of the Council House, as well as his role in the meetings held in June, before the incident. Chief Logan denied having any role in encouraging the takeover. Yet, he did admit going to the grounds in Ohsweken twice, in order to establish order and prevent

[1223] Ibid., p. 199.

[1224] Wright, John, "Totally – Inoperative Ruling Proposed for Indian Act," *Brantford Expositor*, September 8, 1972.

any violence. Chief Logan described how he spoke to the crowd that was exchanging angry words across the street by the Council House and told them not to argue and not to start any violent activities.[1225]

Joseph Logan set the scene for the court describing how he and other Six Nations Confederacy supporters were served injunctions while standing on the Council House grounds during the 1970 incident. He asserted that he simply told the crowd: "…now we can go home. We can be taken to Court now. We can settle this. We had passed a resolution, you know, it would remain locked. That was on the 25th of June." The Chief explained that the Confederacy Council had passed a resolution to keep the chamber locked in order to force a meeting with government officials. Montgomery inquired if the Warriors would obey the order. Chief Logan noted that "…it is up to them whether they do it or not. We haven't got the right to force them." This leadership style was clearly not hierarchical and Chief Logan clearly noted that he did not know who put the locks on the Council House and did not even discover the chamber was locked until he attended a Council meeting on June 25.[1226]

John Sopinka asked Chief Logan about the wampum strings missing since 1924 from the home of David Sky, a neighbor of the Logans. Since Joseph Logan was young at that time he noted that he would not have been permitted to see the string of blue beads, denoting the power of the Confederacy Chiefs. His father had been a chief and had told him about the seizure, of course, but he had no firsthand knowledge of where the wampum had been taken.

Finally, Chief Logan was cross-examined by Mr. Kellock who tried to discern the reasoning behind the creation and publication of the Declaration of Independence issued by the Confederacy. Logan asserted he was in favor of the Declaration and Kellock pressed him further about the reasons why it was passed. Chief Logan based his response on the distinction between the Six Nations government and the Canadian government. He used as an example the word "Indian" and noted that although he spoke several of the

[1225] Public Archives of Canada, Indian Affairs, RG 125, Volume 2058, File 13805, Pt. 3, Isaac v. Davey, Supreme Court of Ontario, pp. 206-8

[1226] Ibid.. pp. 209-10.

Six Nations languages and understood all six, there was no such word as "Indian" in these Native languages. Instead he self-identified as a member of the North American people, precisely to establish a sovereign distinction: "That way we have no border. We own the country. This constitution of the confederacy was – existed long before the European ever came here."[sic] Kellock then sought to confirm Logan's support for the Declaration as indicating that the Confederacy Council would not recognize the laws of Canada, which Chief Logan confirmed.[1227]

Chief Logan had been a Confederacy Lord since 1954, so Kellock also sought to draw him out on the 1959 Rebellion. Kellock wondered why the rebellion by the Warriors had been authorized by the Confederacy Chiefs beforehand in the 1959 struggle, but not in the 1970s incident, but Logan had no clear answer. Malcolm Montgomery represented Logan and his wife in that trial, as well, and Chief Logan referred questions he could not answer to his attorney. Kellock raised the old trumped up "kidnapping" charge which Logan quickly deflected as not substantive. Finally, Kellock sought to establish exactly when Chief Logan went to the Council House in the recent fracas and also if the Warriors would listen and obey the Chiefs in Council. Chief Logan noted carefully that while the Warriors often obeyed, they were not compelled to obey according to the Confederacy constitution. Judge Osler established that the Confederacy's constitution was a written document, with codified rules.[1228] Following the arguments of the respective attorneys, the trial ended on September 7, 1972, with Osler deliberating until the following summer.

On July 11, 1973, Osler handed the Confederacy a stunning victory. Justice Osler accepted the Confederacy's argument that Six Nations lands were held in fee simple, a claim reiterated by the chiefs since Joseph Brant. Rather than privileging the Haldimand Pledge to buttress the claim, however, Osler cited the Simcoe Grant of 1793 as the document vesting title for the Grand River lands in the Six Nations people. Stating simply that the Simcoe Grant "was effective to pass title to all members of the Six Nations Band in fee simple," Osler reasoned that the Crown, as noted by Lord

[1227] Ibid., p. 212.

[1228] Ibid., p. 217.

Haldimand, had used exactly the same mechanism to obtain the land from the "Mississagues Indian Nation," which was treated as a legal entity capable of conveying land to the Crown. Osler deemed Haldimand's handling of the tract "probably closer to a license" at the time, but argued that Simcoe handled the conveyance of land to the Six Nations as an "outright grant."[1229] The "legal fiction" that had persisted since the passage of the Indian Act encompassing seventeen townships was shattered; his decision would have been heralded by Chief Joseph Brant.[1230]

Justice Osler upheld the ruling of Justice King in the Six Nations "Assertion of Sovereignty" case, Logan v. Styres, agreeing with King that Six Nations residents are not a sovereign people, but are bound by Canadian law and "subjects of the Crown. Yet, Osler had grave questions regarding an Order-in-Council, P.C. 6015 of 1951, establishing the Elective Council replacing P.C. 1629 issued in 1924. Osler argued that both of these Orders-in-Council were rendered *ultra vires,* or beyond the power of legal authority, if one accepted that Six Nations land was held in fee simple. Both Privy Council orders were concerned with dividing a tract of land into six electoral districts, as envisioned by Part II of the Indian Act. There was no discussion of the legal fine-points of Indian land title in the orders themselves; for the power of the Canadian government was simply assumed. Yet, Osler the crux of the case was attempting to examine the exact nature of control and legitimacy involved in the ownership of the land either by fee simple in the Crown, usufructuary right of occupation for Indians, or a fee simple conveyance for the Indian nation. In examining the language of the original order implementing the elective system in 1924, Osler reasoned that if the legal title was not vested in the Crown, but instead, "contrary to almost all other lands in Eastern Canada resided upon by Indians," Six Nations title to the Grand River tract was vested directly among the Indians of the community. Reviewing the sections of the Indian Act defining a band as a body of Indians whose title to land is vested in the Crown and a Reserve as a tract granted to a Band of Indians "of which the legal title is in the Crown," Osler found that the legal

[1229] "Reasons for Judgment," Isaac v. Davey, in the Supreme Court of Ontario, Historical Research Center, Department of Indian and Northern Development, p. 12.

[1230] "Six Nations," editorial from the Kitchener-Waterloo Record, reprinted in the *Brantford Expositor*, July 20, 1973.

definitions did not fit the Six Nations case. He stated that he "cannot agree that P.C. 1629 represented a valid exercise of power."[1231]

The wording of the Privy Council Order passed in 1951, P.C. 6015, was worded differently, for it stressed the authority of the Governor-in Council to act in implementing the statutes of the revised Indian Act. Definition of a band expanded to include not only the section regarding the vesting of title to Indian land in the Crown, but also those Indians whose funds are held by the Queen for their use or those who have been "declared by the Governor in Council to be a band," for purposes of administration of the Indian Act. Osler ruled that none of these circumstances applied to the Six Nations case. Justice Osler interpreted P. C. 6015 as an attempt to apply the Indian Act to Six Nations as an existing band, without a declaration by the Governor-in-Council, or title vested in the Crown, so that the exercise of power under the statute was of "no effect." In this case Osler firmly disagreed with Justice King's ruling in Logan v. Styres and the Attorney General of Canada.[1232]

The two orders in Council at the crux of this decision arose in very different historical circumstances, but Justice Osler interpreted them both in light of the legal parlance of the statutes of the Indian Act. P.C. 1629 was based on the Thompson Commission and the recommendation of the Superintendent General of Indian Affairs to apply the Indian Advancement Act to Six Nations by fiat. The document quoted extensively from the report and offered an extremely negative appraisal of the Confederacy Council. On the Minister's recommendation the Privy Council simply used a blueprint of the Reserve, roughly divided it into six sections for six districts and set a date for an election.[1233] The second order in Council, P.C. 6015, revoked the prior order and set a different date for elections, ordered that the Chief Councilor must receive a majority of votes, and included a residency provision for the councilors. It removed the

[1231] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Part 2, Reasons for Judgement, Isaac v. Davey, Supreme Court of Ontario, p. 304.

[1232] Ibid., pp. 303-5.

[1233] Public Archives of Canada, Indian Affairs, RG 2, Vol. 1361, File 990 F, Volume 1109, Report to the Governor General of a Committee of the Privy Council, P.C. 1629, September 17, 1924.

pejorative language and was quite brief, resting on the authority and legitimacy of the prior order. It was approved and signed by the Governor General as one of nearly one hundred items representing the proceedings of the Privy Council.[1234]

In addition to his refusal to countenance the imposition of the statutes of the Indian Act, Osler found other irregularities in the application of the revised statues. For example, under the Revised Statutes of 1970 of the Indian Act, band councils were supposed to draw up by-laws for the repair, modification, use and construction of buildings on the Reserve, no matter if owned by individuals or a group.. This practice "has not been followed," according to Osler and this was the legal way to control use and access to the Council House.[1235]

Representation was also an issue that troubled Justice Osler, for he seemed struck during the trial that the councilors at Six Nations were often elected by acclamation by very few voters in relation to the total population. He honed in on that point in his judgment, observing that contrary to the claims of the Elected Council for legitimacy, "…such evidence as there is indicates conclusively not only that the system imposed by the Indian Act is not supported by more than a small fraction of the population of the lands in question, but that at least certain of the plaintiffs were elected by a very small fraction of those eligible." After citing pertinent statistics showing that only forty votes elected some councilors in a few districts and roughly 550 votes were cast for chief councilor out of a population of 10, 000, with 5,000 in residence, the Justice commented dryly: "Their representative character is therefore seriously in doubt."[1236]

The words that would have thrilled Deskaheh and the Mohawk Workers who fought so hard at the League of Nations to retain the integrity and cultural continuity of the Confederacy system were a logical extension of the evidence presented at the trial, according to Justice Osler: "In my view, the defendants as representing the Council of Hereditary Chiefs have by far the better claim to the management of the premises in

[1234] Public Archives of Canada, Indian Affairs, RG 2, Volume 2123, File 4445 G, Vol. 1861, Report to the Governor General from the Privy Council, P.C. 6015, November 12, 1951.

[1235] Public Archives of Canada, Indian Affairs, RG 125, Vol.2058, File13805, Pt. 2, Reasons for Judgment of the Hon. Mr. Justice Osler, July 11, 1973, pp. 305-6.

[1236] Ibid., p. 306.

question and the action of the plaintiffs should be dismissed and the interlocutory injunction dissolved."[1237] Who would have expected an Ontario Supreme Court Justice to ever render such a decision? And yet, Osler was deciding this case in a politically charged atmosphere in which the Canadian government was on the defensive regarding its handling of Indian Affairs. No longer was Duncan Scott pulling the strings behind the scenes, offering his paternalistic homilies about the need for Indians to embrace civilization and a progressive democratic policy. Indian affairs was no longer a government backwater, thanks to the Red Power movement and the government's own failed policy initiative, the White Paper, as well as its antiquated, repressive and discriminatory policy against Native women.

These long-standing grievances were part of Malcolm Montgomery's case for Chief Joseph Logan. Montgomery had long envisioned a test case in which he might be able to invalidate the entirety of the Indian Act. At a seminar at the University of Waterloo, he made the connection between the irreconcilability of the Indian Act and the Canadian Bill of Rights. Montgomery and Chief Logan saw the opening, as did Justice Osler, with the The Queen v. Joseph Drybones case, over government regulation of Indians consuming alcohol. Montgomery had argued: "This is not just a dispute over a council house – it is a matter of discrimination. We are striving to obtain for all the Indians of Canada Equality before the law."[1238] Historically, when the Hudson Bay Company's charter expired in Western Canada, a period ensued in which there was free trade in alcohol, with devastating consequences in terms of destructive behavior. Ironically, the segments of the Indian Act regarded as most discriminatory were once actively sought by Native Chiefs trying to prevent the scourge of alcohol from consuming their communities, according to Douglas Sanders, a legal specialist at the University of Windsor.[1239] After the consciousness-raising of the Red Power Movement, however, the

[1237] Public Archives of Canada, RG 125, Vol.2058, File13805, Pt. 2, Reasons for Judgment of the Hon. Mr. Justice Osler, July 11, 1973. p. 306.

[1238] Platiel, Rudy, "Lawyer for Iroquois Confederacy hopes to have Indian Act proclaimed illegal," *Toronto Globe and Mail*, Brantford Library Clipping File, Undated.

[1239] Ibid.

political momentum was on the side of the protest against inequality, rather than the old maxims preventing the sale and use of alcohol on reserves.

In regard to Joseph Logan's case Justice Osler was treading on politically sensitive turf. Already on record for his decision to declare the Indian act inoperative in Bedard v. Isaac et al., Justice Osler cited the language of the Canadian Bill of Rights forbidding discrimination on the basis of race and gender.[1240] Osler elaborated on his Bedard decision, for he had found that: "…within the Indian Act itself females were treated differently than males with respect to certain property rights and hence were discriminated against on grounds of sex."[1241] Bolding moving from this redoubt Osler cited the ruling of Justice Dickson in the Manitoba Court of Appeal in the hotly contested area of estate law. Indian Rights advocates, some from Six Nations, had seen an egregious inequality in the ability of an Indian to administer an estate, a civil right enjoyed by other Canadian citizens. In Canard v. The Attorney General of Canada and William Barbar Rees, Justice Dickson affirmed that merely because a widow was Indian she was forbidden to administer her husband's estate. Dickson argued that this case went beyond the irreconcilability of Federal and provincial statutory law, arguing that: "the Parliament of Canada has said in effect 'because you are an Indian you shall not administer the estate of your late husband." Dickson argued that this ruling put a "road-block in the way of one particular racial group…" After reflecting on these decisions rendered by his colleagues, Justice Osler concluded: "…for all practical purposes the entire Act must now be held to be inoperative."[1242] In regard to the Indian Act, Justice Osler was ready to jettison the politically and ethically flawed framework, for he argued, whether it was the legislation or rulings that were flawed, the end-result was to treat

[1240] Public Archives of Canada, RG 125, Vol.2058, File13805, Pt. 2, Reasons for Judgment of the Hon. Mr. Justice Osler, July 11, 1973. p. 307. See discourse in The Queen v. Joseph Drybones, (1970) S.C.R. 282, particularly Justice Ritchie's decision, with the majority concurring, considering that if a Canadian law cannot be applied in common-sense fashion, without abrogating or impinging on the Rights and Freedoms specified in the Bill, it shall be rendered "inoperative," unless it is specifically declared by Parliament to continue.

[1241] Public Archives of Canada, RG 125, Vol.2058, File13805, Pt. 2, Reasons for Judgment of the Hon. Mr. Justice Osler, July 11, 1973. p. 307.

[1242] Ibid., pp. 308-10.

Indians differently. This was the essence of inequality, he concluded. As obvious as this was to Indians, it was encouraging that it could finally be recognized by an Ontario judge. Aftermath of the Verdict:

Directly above the banner headline proclaiming Osler's ruling in the Six Nations case were pictures of Alma Greene and Richard Isaac replete with captions describing their diverse reactions to the news. Greene touted the verdict as a triumph, stating: "We're the boss now; our status is back!" While, Isaac, speaking for the Elected Council, decried Osler's decision: "We're in a mess!" Neither the clan mother, nor the councilor seemed prepared for this realignment of power at Six Nations. The attorney for the Elected Council, Burton Kellock was shocked at the ruling. Brantford Mayor Charles Bowen wondered if title to land bought from Six Nations would be in doubt. Alone, among the leaders interviewed, Chief Logan seemed nonplussed at the outcome: "It was illegal in the first place and has been until now."[1243]

The impact of Osler's ruling was to render the Elected Council inoperative, so there was no legal basis for their continued rule. If the Grand Rivers lands were simply owned outright by the Six Nations Indians, then title to land sold to non-Indians by the Crown was suddenly in doubt. Osler's decision left a void in the legal landscape for both the conduct of business on the reserve, as well as for property owners in the nearby city of Brantford. If the title to the land was not legally vested in the Crown when it was sold, major property transactions were suddenly brought into question. A great deal of Six Nations land had been deeded to non-Indians – ownership of this land was now in doubt, if Osler's reasoning was upheld. The Chiefs might petition for its return.

Osler's ruling came at a complicated moment in Native-Canadian political affairs. In some quarters the repudiation of the Indian Act was interpreted as a loss of special status and protection for Indian people. The Ontario Court's condemnation of the Act was viewed in light of the White Paper debacle – what would happen to the Native population if the colonial constructs were torn away? What policy would take the place of the Indian Act? The Confederacy Chiefs regarded the Indian Act as a signal artifact of Canadian colonial repression, especially after it was used to sweep them from power in

[1243] Wright, John, "We're the boss now; our status is back – Clan mother." *Brantford Expositor*, July 13, 1973. See also Adrian Jackson's article, "Startling: Bowen," in the same edition of the *Brantford Expositor*.

1924, but not all Natives felt that way.[1244] Jean Chrétien argued that the decision affirmed his view that the Indian Act had to be substantively revised.[1245] Yet, some Native spokesmen vociferously defended the document as encoding rights and privileges that were hard-won and vital to Native communities. Until an appeal was decided, the Indian Act would continue to govern Native affairs.

The Grand Council of the Six Nations would also weigh in regarding this dramatic turn of events. The Grand Council of 53 chiefs met in the Onondaga Longhouse on July 12 to consider the court decision. They represented all the Reserves with Six Nations people on both sides of the border and since Grand River was the "seat of the traditional and ancient Iroquois Confederacy created in 1390…," after the Six Nations moved from their home in the Mohawk valley, affairs at Brantford were closely monitored.[1246]

Reaction from the neighboring town of Brantford was swift, as well. "Of course the matter cannot rest…An appeal direct to the Supreme Court of Canada instead of via the Ontario Appeal [sic] is to be attempted…" There was a great deal of property and power hanging in the balance. This ruling, as well as the Bedard case, also involving Justice Osler, was a bellwether; it brought attention to the legal ramifications surrounding the Canadian Bill of Rights. Osler vindicated the Confederacy struggle against the unfair imposition of a foreign government on indigenous land. The Elected Council was a government of occupation, just as the Chiefs had long contended, but the federal government that had put it in place would not accept Osler's ruling. Almost immediately, the battle was joined: Osler's interpretation of the historical grants of the settlement was questioned and the Elected Council, backed by the Canadian government, vowed to appeal to the Supreme Court of Canada.[1247]

[1244] "Ontario Supreme Court Judge Declares Indian Act Inoperative," Brantford Public Library Clipping File, September 1973.

[1245] "Council to Appeal Ruling," *Brantford Expositor*, July 14, 1973.

[1246] "Grand Council Meeting Today," *Brantford Expositor*, July 13, 1973. See also John Wright's article, "Court Rules Six Nations Elected Council Has No Legal Basis," *Brantford Expositor*, July 13, 1973

[1247] "Drama at Ohsweken," editorial in the *Brantford Expositor*, July 14, 1973.

Rumors swirled on the reserve in the interim, with allegations of files being taken out of the old Council House "under cover of darkness," pictures taken of a "secret meeting" of the Elected Council in Brantford, all pointing to the stress and uncertainty of an inter-regnum. The Grand Council of the Iroquois Confederacy, representing reserves from Quebec, Ontario, New York and Ohio, allowed the Ontario Provincial Police to keep watch over the Grand River Territory. The Confederacy Chiefs were focused on religious ceremonies, namely the reciting of the Great Law of the Great League of Peace and would not deal with secular matters until ceremonies were observed. Reminding the Confederacy supporters, "…our minds must be free to observe the teachings completely," the Chiefs insisted on the observance of the religious ceremonies. The ceremonies were held on a cycle independent of political developments and "no white man was allowed on the grounds." Chief Emerson Hill stated: "We're trying to do the right thing for our people…We don't want to be dictated to by the Indian affairs department."[1248]

The Councils sought to reach an agreement on the day-to-day business of running the reserve, for example, Alma Greene argued that Richard Isaac be included in the reconstituted Confederacy Council since: "His father was a wonderful Confederacy Chief."[1249] The Grand Council of Confederacy Chiefs met with Allan Millward, lawyer for the Elected Council to work out a plan for conducting day-to-day business on the reserve until the appeal of Justice Osler's decision was heard in the Canadian court. The Association of Iroquois and Allied Indians vowed to support the appeal process even though its director was from Tyendinaga, a Mohawk reserve with land acquired in similar fashion to Six Nations. The AIAI represented approximately 20,000 Indians in Ontario and Quebec so many of their bands had elective band councils. Losing a designation of a reserve, as well as the colonial construct of the Indian Act on which social welfare was ostensibly based frightened many Native communities.[1250]

[1248] "No Ohsweken Meeting for Elected Council," *Brantford Expositor*, July 16, 1973 and John Wright's article, "Elected Council in Secret Meeting," *Brantford Expositor*, August 18, 1973, as well as "Newsmen and TV Crews Can't Stay Around Longhouse," *Brantford Expositor*, July 14, 1973.

[1249] Barnett, Jim, "Conciliation for the Indians," ," July 17, 1973.

[1250] Wright, John, "Lawyer and Chiefs Discuss Possibility of Working with the Elected Council, *Brantford Expositor*, July 19, 1973.

Confusion seemed to underscore the need for better communication between the Department of Indian Affairs, the Band Council and the community in regard to resources and funding. In a meeting with the local Indian Superintendent, Don Borton, at the request of Confederacy representatives the Chiefs were told that money was funneled from the provinces and the Federal government through the Elected Council to fund the maintenance of roads and the health and welfare system. Funds were requested by the Band each year and expenditures budgeted according to allocations. Band Funds were not used to meet all of these expenses, nor were they used to pay councilors salaries, the Chiefs were told. Perhaps, much of the resentment between the two councils might have been dissipated if the funding process was more transparent. For example, eighty percent of health and welfare for Native residents was subsidized through the province, it was revealed. Pay for the councilors came from federal subsidies, not from trust funds.[1251] One letter to the editor voiced the concern that if the Indian Act was repudiated residents of the Reserve might have to pay for all of these services through taxation.[1252]

Malcolm Montgomery met with the Confederacy Council to advise them regarding their transition to power and counseling them not to work with the Elected Council since it was "an illegal body." He celebrated the Osler verdict, stating that: "You're in a position never before seen in Canada." Montgomery viewed this decision as establishing a new indigenous territory within Canada, emerging in a unique set of circumstances. He argued that the province, nor the Federal government could legislate over the territory in light of the Osler ruling. Montgomery also urged the Chiefs to pursue their case up to the Supreme Court of Canada: "The faster it can go to the Supreme Court, the faster we can get it done and over with."[1253]

A transition to power was envisioned by Montgomery as taking several weeks, but by August the Six Nations Elected Council was still constituted and meeting, despite

[1251] Wright, John, "Chiefs Promised Help in Bid to Enter Six Nations Council House," *Brantford Expositor*, July 21, 1973.

[1252] "Indian Act Advantages," *Brantford Expositor*, July 24, 1973.

[1253] Wright, John, "Hereditary Chiefs Rulers of 'Unique New Territory.'" *Brantford Expositor*, July 25, 1973.

Montgomery's warning that this was "in clear breach of the law."[1254] The Confederacy Council was also meeting and conducting business, scheduling meetings with Jean Chrétien and the Ontario Provincial Police. The Confederacy sought to prevent the Elected Council from supervising land transfers, yet the Elected Council continued to approve these routinely.[1255]

Finally, in September the lawyer for the Elected Council registered its appeal of the Osler decision in the Ontario Supreme Court. Burton Kellock argued that since it was in session at the time, rather than wait for the Supreme Court of Canada to begin in October, he appealed to the provincial court. More importantly a ruling in the Lavelle-Bedard judgment in the Supreme Court of Canada, considering the discriminatory statute in the Indian Act denying Indian status to women 12 (1)(b), had denied that the Indian Act was inoperative.[1256] This seemed to Kellock to have removed one of the issues in the Osler judgment, so the only matter to be appealed would be the legal construction of the Simcoe Deed. Of course, subsequent rulings at the international level would come to negate the ruling of the Supreme Court of Canada regarding the Lavelle-Bedard judgment, revealing the discriminatory policies of Canada toward its indigenous population to a critical international audience. Political and legal timing was not working in favor of the Confederacy cause. Kellock viewed the Osler decsion as having no real impact on the status quo at Six Nations.[1257] It would take much longer for the courts to render a judgment as to which of the competing councils was to govern the Six Nations Reserve. The question remained, would anyone accept the court's ruling, or would the "Cold War" continue?

[1254] Wright, John, "Hereditary Chiefs Rulers of 'Unique New Territory.'" *Brantford Expositor*, July 25, 1973.

[1255] Ainsworth, Doug, "Ohsweken Business as Usual," *Brantford Expositor,* August 22, 1973.

[1256] Indian Act, RSC 1970, c. I-6, s. 2.12(b). "The following persons are not entitled to be registered, namely, (b) a woman who married a person who is not an Indian, unless that woman is subsequently the wife or widow of a person described I section 11." Women's status became tied to their father's, or their husbands in Sections 11, 12, and 14 of the Indian Act. This remained until the situation was partially remedied in 1985, for a limited number of individuals affected, by Bill C-31. For the text of the Bill C-31, see An Act to Amend the Indian Act, 33d Parliament, 1st sess., 1985.

[1257] "Indians Appeal Osler DecisionThrough Ontario Appeal Court," *Brantford Expositor*, September 5, 1973.

Chapter Twelve

The Elected Council and Canada Fight Back: The Appeal in Ontario

The Elected Council and the Attorney General of Canada, Otto Lang, quickly challenged Justice Osler's 1973 ruling in the Supreme Court of Ontario. Subsequently, a motion was filed to appeal Osler's ruling before the Court of Appeal. The case was finally argued on June 11, 12 and 13 in 1974. Since there had been an election resulting in a change of representatives to the Band Council, four names were added to the list of plaintiffs: Kenneth Moses, Elmo Powless, Morrison Smith and Ervin Harris. In the next move in this complicated appeals process three Canadian judges, Walter F. Schroeder, Arthur R. Jessup and John Arnup, ruled in favor of the Plaintiffs, the thirteen-member Band Council, on October 4, 1974. An order was issued setting aside the ruling of Justice Osler and instituting a permanent order of injunction barring the defendants from interfering with the Band Council's conduct of Six Nations affairs at the Council House.[1258] The court required the defendants to pay court costs – a considerable expense for the Confederacy, since it was explicitly denied government support to mount its case. How was Osler's ruling so quickly refuted, despite his thoughtful scholarship and willingness to legitimate oral history in an era disposed to give credence to Native voices and rights?

From the outset, the power of the Departments of Indian Affairs and Justice to control funds dispensed for legal counsel was central to the Canadian-Six Nations legal struggle. While the Band Council had the full financial backing of the Canadian government to pay attorneys, in contrast the Confederacy Council was denied access to both government and Six Nations funds. The Confederacy Council always had to solicit donations for its legal defense fund, or to work with lawyers who would act for them on a

[1258] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, Box 13, File 13805, Pt. 1, Isaac v. Davey, Supreme Court of Ontario, Court of Appeal, October 4, 1974.

pro bono basis. The Department of Indian Affairs began to haggle with the representatives of the Confederacy over the cost of appealing Osler's ruling almost at once. Despite their initial promise to fund the costs associated with an appeal of Osler's ruling, the Department delayed payment to the Confederacy attorneys.[1259] John Sopinka and A. C. Millward, lawyers for the firm representing the Confederacy (with the exception of Chief Logan) had received written assurances that Indian Affairs had approved funds for their clients to go forward with the legal process involved in the appeal to the Ontario Supreme Court.[1260] The firm also wrote to the Attorney General to obtain funds, for they had undertaken the initial case without fee and had won the decision before Justice Osler. By March 1974, Jean Chrétien disavowed his subordinate's approval of payment, informing both firms representing Confederacy interests that he was obligated to financially support the Band Council.[1261]

The timing and the political context of the appeal was not as fortuitous for the Confederacy in the appeal process as it had been when the Six Nations struggle initially came to the attention of the Ontario court of Justice Osler. Critical to the deliberations of the three justices on the Ontario Court of Appeal was a Canadian Supreme Court decision rendering judgment on two combined cases Attorney General of Canada v. Lavell-Bedard involving Native women, upholding the legitimacy of the Indian Act.[1262] Prime Minister Trudeau was discussing changes to the British North America Act and there was public discussion of an independent Canada.[1263] Trudeau's goal would be to eventually repatriate the Canadian Constitution and put forth a Charter of Rights and Freedoms for

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[1259] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Part 5, Letter from John Sopinka to Howard Rodine, Department of Indian Affairs, September 4, 1973.

[1260] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 5, Letter from Howard Rodine, Regional Director, Indian-Eskimo Affairs, Ontario, to John Sopinka on September 19, 1973.

[1261] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 5, Letters from Jean Chrétien, Minister, Indian and Northern Affairs, to Malcolm Montgomery, January 22, 1974 and March 14, 1974. See also, letter to A. C. Millward from Jean Chrétien, April 22, 1974.

[1262] See Attorney General of Canada v. Lavell and Isaac v. Bedard [1973] 38 D.L.R. (3d) 481, 1973 SSC. Copy of transcript obtained from Indian and Northern Affairs, Canada, Office of Claims and Historical Research, Ottawa. These two cases were heard by the Supreme Court jointly, for they concerned the same statute of the Indian Act, 12 (1) (b).

[1263] Morton, Desmond, A Short History of Canada, (Toronto: McClelland and Stewart, 2001), p. 303.

Canada, but this would not come to fruition for almost a decade. Meanwhile, the justices of the Supreme Court of Canada overruled lower courts that had questioned the Indian Act and discriminatory practices toward Native people, arguing that the Indian Act was exempt from the Bill of Rights.

Osler's ruling was a judicial casualty of a backlash in the culture wars of the '70s. Canadian Supreme Court rulings held the line against Native pressure to throw out the entire Indian Act because of discriminatory sections. Instead, Canadian officials supported a comprehensive, on-going effort to revise the entire Indian Act in concert with Native leaders. There had been a steady drumbeat of criticism in some quarters of Canadian society regarding the inequality with which First Nations people were treated in the wake of the Canadian Red Power Movement. For example, Native critics such as Howard Cardinal wrote derisively about the buck-skin curtain and satirized the Chrétien administration for its infamous White Paper policy, writing that Indian Affairs doctrine advocated: "The only good Indian is a non-Indian."[1264]

During a window of heightened consciousness regarding Canadian injustice toward First Nations, Justice Osler had upheld a statutory challenge to the Indian Act, in the midst of a rising tide of condemnation regarding a particular statute, 12 (1) (b), widely seen as discriminatory toward Native peoples, particularly Indian women. Osler had ruled in a case involving Yvonne Bedard, a Six Nations woman, arguing that in light of the tenets included in Canadian Bill of Rights, statute 12 (1) (b) of the Indian Act was inoperative, since it was discriminatory.[1265] The Canadian government, however, quickly appealed this ruling, creating a cause celebre, with the media focused on the denial of rights to women.[1266] The Canadian Supreme Court had defended the statute in question,

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[1264] Nichols, Roger, Indians in the United States and Canada: A Comparative History," (Lincoln, Nebraska: University of Nebraska Press, 1998) p. 298

[1265] Osler ruled in the Bedard case, "Section 12 (1) (b) of the Act is…inoperative and all acts of the Council Band and of the District Supervisor purporting to be based on the provisions of that section can be of no effect, "as quoted in "The Federal Appeal before the Supreme Court of Canada," Attorney General of Canada v. Lavell and Isaac v. Bedard [1973] 38 DLR (3d) 481, 1973 SSC. Copy of transcript obtained from Indian and Northern Affairs, Canada, Office of Claims and Historical Research, Ottawa.

[1266] Weaver, Sally, "First Nations, Women and Government Policy 1970-1992: Discrimination and Conflict," in Changing Patterns: Women in Canada, eds., Sandra Burt, et al., (Toronto: McClelland and Stewart, 1993).

despite the strictures of international law, gender conventions and international standards of human rights. (See Chapter Fourteen on 12 (1) (b).) This key ruling came after Justice Osler had ruled for the Confederacy. The entire judicial and political context had shifted in the courts in Ontario and at the Supreme Court of Canada by the time the appeal was heard in 1974.

Canada would later have to revoke the statute in question under international pressure. In 1974, though, Canadian judges and officials at the time of the Six Nations appeal were adamant that their treatment of the Native population was above reproach. For example, in a widely read decision, Justice Ritchie of the Supreme Court argued for the majority in the Lavell-Bedard case that the Indian Act had evolved as paternalistic legislation and was therefore was not intended to provide equality for Natives. Ritchie argued that in contrast to the idea of equality embodied in the Fourteenth Amendment of the United States Constitution, the concept of equality in Canadian legislation was centered on "equality in the administration of the law." Since the Indian Act was created as a uniform policy to administer Indian affairs and lands, as long as it was applied across the board, it was equitable.[1267] This was a signal ruling for it shifted the ground of the intense debate in Canadian society concerning Indian affairs from gender and human and cultural rights to strict interpretation of statutory law. In 1981, however, Canada was found to have violated the rights of a Native woman in a similar case involving 12 (1) (b), Sandra Lovelace, by a United Nations Human Rights Committee. Lovelace had filed her complaint only in December 1977, several years following the appeal of, Isaac v. Davey in the Ontario court, so it did not enter in the deliberations regarding the Six Nations appeal in Ontario.

In addition to the impact of other recent court cases and legislation on Six Nations legal struggle, the Canadian government under the leadership of Prime Minister Pierre Trudeau sought to gain control over the constitution through changing the British North America Act. An elusive goal since the time of Mackenzie King in the 1920s, the repatriation of the Canadian constitution would loom large in Native – Canadian relations in the waning decades of the twentieth-century.[1268] The Canadian constitutional debate

[1267] Attorney General of Canada v. Lavell and Isaac v. Bedard [1973] 38 D.L.R. (3d) 481, 1973 SSC.

crystallized the meaning of citizenship for Canadians, but also underscored inequalities that had been historically naturalized in the Dominion and taken for granted in the public sphere.

The four central issues at stake in the appeals case according to the justices involved were the administration and governance of Indian Bands, land and property statutes, civil rights and finally, the battle over the initial injunction that provoked the case. The justices were not only reviewing the reasoning of Justice Osler, but other case law in relation to indigenous peoples that they considered relevant. New statements of fact were provided to the court by the principals in the case, including the legal advisors, for both Councils, as well input from the Attorney General of Canada. The justices focused on the legitimacy of the historic Orders-in-Council and definitions of the terms "band" and "reserve" within the meaning of the Indian Act and in light of current case law.

The wording and significance of the 1784 Haldimand Deed and the 1793 Simcoe Grant were both under the microscope for the court deliberated about how to understand and interpret these documents. For example, the justices sought to compare the wording of the Simcoe document to other land grants written at the same time. The latter point went directly to the understanding of holding Indian reserve lands "in fee by the Crown," or as a "grant-in-fee" by the Six Nations. Briefly, if Simcoe's Grant was interpreted to mean that the Grand River lands were held by Six Nations absolutely and without limitation to any heirs, it would be then be held in "fee simple." The question centered on the way the title to the land was conveyed – was it held by the British government, preventing its direct sale by the Indians without the approval of the Crown, or could the land be sold directly by the Indians, to whom it was granted by Haldimand?

This was the same question that concerned Chief Joseph Brant, who never had received a definitive answer even at the time the documents were written. As Michael Simon contended: "The crux of the problem was that Brant contended the Haldimand agreement not only constituted the creation of an estate in fee simple for the Indians, but recognized the Confederacy as a distinct national community, a sovereign entity

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[1268] "PM Promises to Seek Changes in BNA Act," Brantford Expositor, October 3, 1974.

competent to arrange its own relations with other independent states such as Great Britain and the United States."[1269] The newly appointed British representative in Upper Canada, Lt. Governor John Graves Simcoe argued that the Indians needed the approval of the Crown to sell or "alienate" land and had no sovereign status. Simcoe's Patent, according to Simon, "incorporated the idea that any disposal of Indian lands would be conditional upon an offer first being made to the crown." Thus, Simcoe sought to set aside the Six Nations notion that the Grand River land was held in fee simple according to Haldimand's Proclamation. Brant and the other Six Nations Chiefs, as a body, refused to recognize the Simcoe Patent as legitimate. Brant simply ignored Simcoe's directive, obtained power of attorney from a group of the chiefs and sold the land to whomever he wanted, anyway. The British did nothing to counter Brant's maneuver, even though Brant received a great deal of criticism from his own people for these sales. Simcoe soon left Canada and his superior, Lord Dorchester, was apparently was more "sympathetic" to Brant's argument. All the land transactions undertaken by Brant after 1784 were legitimated by Simcoe's successor, Peter Russell. The British not only approved Brant's land sales, they even paid the fees for the issuance of land patents to those white settlers who had purchased Six Nations land. Noon pointed out in his study of the Confederacy Council that Six Nations chiefs in the council always "claimed that this deed [Simcoe's] is in no manner binding upon them."[1270]

Interpreting these documents in light of this contested historical and political context would not prove easy for the justices. Civil rights concerns were another focus of the Canadian justices in the Appeals Court for the case centered on equality before the law, the scope of the Canadian Bill of Rights and whether the Indian Act was to be deemed as "inoperative." Surrounding the significance of the injunction was the question of the status of the Band Council as Crown agents, perhaps "tainted" by inequitable acts alleged to have been committed by the Crown.[1271] This case grew ever more complex

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[1269] Simon, Michael, "The Haldimand Agreement: A Continuing Covenant," American Indian Culture and Research Journal, 7:2 (1983), p. 43.

[1270] Ibid., pp. 43-8.

[1271] *Ontario Reports*, Isaac v. Davey, Court of Appeal, (1974) Volume 5, 2nd Series, (Agincourt, Ontario: Law Society of Upper Canada, 1975) p. 610.

and multi-layered as these issues were debated in the public sphere and as the justices brought to bear select legal tenets and philosophies, historical perspectives, and their differing social and political beliefs.

Historical evidence cited in the decision began with the Royal Proclamation following the Treaty of Paris, October 7, 1763, encompassed the Haldimand and Simcoe Deeds, but rested firmly on case law involving aboriginal title, cited specifically by the justices in their decision.[1272] These legal decisions were rooted in early to mid-twentieth-century jurisprudence concerning African peoples, but were reviewed and used by the Canadian judges with little regard for the historical context or the waning power of the British Empire. The judicial decision rendered by Justices Arnup, Schroeder and Jessup rested on several old twentieth-century decisions involving the construct of indigenous title in English colonial possessions in Africa, augmented by outdated academic review articles concerning the conditions of Native title.[1273] British rule over Africans was essentially over by 1973, although Canada's judges seem oblivious to the import of current events and were still acting as imperial minions. Although it appeared straightforward, the case law cited was enmeshed in the colonial relations of Britain with subjugated peoples in Africa – it had nothing to do with Six Nations. The Canadian justices used decisions that came straight out of the British colonial playbook, but even more astounding, these decisions were decades old. Thus, ironically the Canadian justices acted as direct surrogates for British imperial power even after the agents of the British Empire had abandoned this legal stance themselves, with regard to former colonies.

The text of judgment of the Ontario Appeals Court delivered by Justice Arnup began with a simple statement framing the case as a dispute between two groups of

[1272] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, Box 13, File 13805, Pt. 1, Isaac v. Davey, Supreme Court of Ontario, Court of Appeal. Articles specifically referred to in the decision involved contemporary Canadian legal cases regarding Native title. See "The Indian Title Question in Canada," by Lysyk in the Canadian Bar Review and "The Concept of Native Title," in the University of Toronto Legal Journal.

[1273] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, Box 13, File 13805, Pt. 1, Isaac v. Davey, Supreme Court of Ontario, Court of Appeal. Specific references included two cases in the 1920s; Amodu Tijani v. The Secretary, Southern Nigeria, [1921] and Sunmonu v. Disu Raphael, [1927], one in 1930; Sakariyawo Oshodi V. Moriano Dakolo, [1930], and one in 1957; Oyekan v. Adele, [1957].

Indians contesting their right to govern the Reserve. The justices also stated their perception that the complicated issues in dispute had to be "broken down" and understood in light of the historical conditions surrounding the Six Nations settlement at Grand River. After a quick outline explaining the 1970 conflict over the Council House, Justice Arnup delved right into the historical record.[1274]

Beginning with the Proclamation of 1763, Arnup pointed out the historical origin of the lands reserved by the British for the Indians, as well as the legal conditions for the exclusive purchase of reserved land by the Crown. Arnup described the history of the Six Nations before the American Revolution, subsequent alliance of some of the nations with the British, and the aftermath of warfare when no provision had been made for the territorial rights of Six Nations. Arnup interpreted Joseph Brant's perceptions as indicative of the view that Six Nations land was held in fee simple, described by the Haldimand Proclamation, and to be recognized as an "independent national community." The justices took note that many Six Nations members still believed in the substance of these assertions, but had not pursued them at the recent trial, while the British government has always rejected this interpretation.[1275]

The decision also took note of the derision with which Brant regarded the Simcoe Patent, even refusing to recognize the declaration. Justice Arnup noted that it was ironic that the Osler ruling relied on the Simcoe Deed to uphold the Confederacy position in the Canadian court. "It may be thought ironical that after 180 years, the hereditary chiefs take the position in this action that the very "deed" Brant and his successors repudiated is now said to have given the fee simple to the Six Nations. (It has long ago been authoritatively decided by the Courts that the Haldimand Proclamation did not do so.)"[1276] How smug and insular was the Canadian judicial perspective. Can one

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[1274] *Ontario Reports*, Isaac v. Davey, Court of Appeal, (1974) Volume 5, 2nd Series, (Agincourt, Ontario: Law Society of Upper Canada, 1975) p. 612.

[1275] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, Box 13, File 13805, Part 1. Quoted also in *Ontario Reports*, Isaac v. Davey, Court of Appeal, (1974) Volume 5, 2nd Series, (Agincourt, Ontario: Law Society of Upper Canada, 1975) p. 614.

[1275] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, Box 13, File 13805, Part 1, Justice Arnup's decision in the Supreme Court of Ontario, Court of Appeal, Isaac v Davey, p. 76-81.

point to any unchanging ideological principal in any nations' political or diplomatic history? Native political perspectives evolved, as well as the majority cultures' political viewpoints. Brant certainly did not care for Simcoe, but as a political pragmatist he clearly would have overcome any sense of irony underscored in the justices' decision, when faced with the outrage of Canadian usurpation of Six Nations rights and sovereignty, just as he had once upbraided the British.[1277] Six Nations supporters of the Confederacy certainly did not always agree with Brant, particularly his decision to sell and lease much of the Six Nations land. Despite Joseph Brant's acumen for international relations, leadership, personal bravery and his friendship with the Loyalists who moved with him to the Grand River, he learned that their promises to their British allies were not always kept. The Justices were reading a complicated history without a nuanced understanding of Six Nations identity, cultural or diplomatic relations. Unfortunately, the justices were rendering a decision with limited cross-cultural understanding and their consciousness was colored by their own colonial mentalite.[1278]

The justices noted in the 1974 decision that it was "long ago …authoritatively decided by the courts that that the Haldimand Proclamation…" did not grant rights in fee simple to Six Nations. Yet, the greater irony is that no impartial, international tribunal ever had the opportunity to decide the issue of Six Nations sovereignty and indigenous rights. The Canadian neo-colonial enterprise represented by the Indian Act was founded on the paternalistic concept of Crown sovereignty over reserve lands, denying indigenous people rights to own their own land in fee simple, a vestige of British paternalism often employed to enrich Canadian elites at the expense of Native peoples. The Proclamation of 1763 was used to legitimate the practice of "reserving fee in Indian Reserve lands in Crown…"[1279] Canadian officials and justices employing the statutory power of the

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[1276] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, Box 13, File 13805, Pt. 1, Isaac v. Davey, Supreme Court of Ontario, Court of Appeal, 1974.
[1277] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, Box 13, File 13805, Pt. 1, Isaac v. Davey, Supreme Court of Ontario, Court of Appeal, 1974, p. 7.

[1278] *Ontario Reports*, Isaac v. Davey, Court of Appeal, (1974) Volume 5, 2nd Series, (Agincourt, Ontario: Law Society of Upper Canada, 1975) p. 614-15.

[1279] *Ontario Reports*, Court of Appeal, Isaac et al. v. Davey et al., Volume 5, (2d Series), (Agincourt, Ontario: Law Society of Upper Canada, 1975), p. 610.

Indian Act had constructed an edifice consisting of a hall of mirrors, reflecting a plethora of court decisions upholding the wisdom of Canadian paternalism and the dominant ideology of Native subordination even importing these principles form Africa to reaffirm Canadian power.

The decision of the justices in the Ontario Court of Appeal glossed over the coercive use of power by the Thompson Commission to establish an elective system. The colonial context, rendering Thompson's negative conclusions in regard to the Confederacy almost a certainty, was not discussed in the review of the legal history of Six Nations. No deconstruction of the colonial assumptions leading to an Indian Advancement Act emerged from this court. Even half a century later, there was no expression of regret or sense that perhaps a mistake had been made in imposing a progressive "democracy" at gunpoint at Grand River. Contrary to expectations, the decision stymied advancement by instituting a divided government, with the Confederacy Council and the Longhouse religion reified by its supporters. It became part of the ethos of the Confederacy Chiefs-in-Council to embrace an essentialist perspective after their displacement as the rulers of the Grand River. Their progressive inclinations faded away as their identity and power as an authentic voice of the reserve became vested in stasis and opposition to change.

The justices of the Ontario Appeals Court quickly dispensed with the Confederacy's objections to Band Council as a legitimate government stemming from the 1959 case, Logan v. Styres, et al. The justices stated simply that the attempt of the Confederacy Chiefs to assert that Six Nations was a sovereign state simply failed. They repeated Justice King's ruling to uphold the Privy Council's decision as not "ultra vires."[1280]

Moving to the present dispute the justices summarized the range of issues raised by the defendants and grouped them as eight separate points. In a separate paragraph, the justices distinguished several different legal points raised by Chief Logan and his counsel, Malcolm Montgomery, during argument. The main argument centered on the inviolability and continuing binding nature of the Simcoe Deed, conveying the lands in

[1280] *Ontario Reports*, Court of Appeal, Isaac et al. v. Davey et al., Volume 5, (2d Series), (Agincourt, Ontario: Law Society of Upper Canada, 1975), p. 616.

fee simple and "never disclaimed in law by the Six Nations." Confederacy counsel for the defendants also repudiated the terms "band" and "reserve" as legally inapplicable to Six Nations. Members of the Band Council had no "interest" that would have entitled them to an injunction, the Confederacy supporters argued, even if they were duly elected. Further, they asserted that the judgment in the 1959 Logan case "does not create estoppel by record."[1281] Finally, the defendants argued that the unfair and inequitable treatment meted out to Six Nations by the Crown, merited the legal designation "unclean hands," which likewise "tainted" their agent, the Band Council, in seeking "equitable relief."[1282]

The justices' summary of Logan's defense statement was an addendum to the prior list and pointed to inconsistencies regarding his initial assertion that the entire Indian Act was inoperative when viewed in relation to the Canadian Bill of Rights. The justices pointed out that he later pleaded that all but three sections of the Indian Act were inoperative. They also pointed out that Montgomery expanded the pleading, adding that a Minister had never authorized the Band Council's use of the Council House through approval of a by-law. More importantly Montgomery inserted a new argument by using the principle that "he who seeks equity must do equity," he asserted the government had ignored the Confederacy Chiefs' role as religious leaders, applying the Privy Council's ruling and removing them from power – an "inequitable" use of the Dominion's power. Montgomery was a passionate defender of the Six Nations assertion of sovereignty and it was not surprising that he continued to refine his legal arguments as the case unfolded based on over a decade of his legal advocacy.[1283]

Kellock's submission on behalf of the Band Council was reduced to five main points in the justices' narrative. The submission on behalf of the Band Council refuted that notion that Six Nations Reserve was any different from any other Canadian reserve – the terms "reserve" and "band" were legally applicable within the meaning of the Indian

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[1281] The legal term estoppel means that the ruling in the Logan case did not create a legal impediment to a party (in this case, the defendants who were supporters of the Confederacy) claiming or asserting a position inconsistent with one previously taken. Verna Logan, Chief Logan's wife was the plaintiff in the 1959 case who asserted the sovereignty of the Six Nations as a state, not the Confederacy Council of Chiefs.

[1282] *Ontario Reports*, Court of Appeal, Isaac et al. v. Davey et al., Volume 5, (2d Series), (Agincourt, Ontario: Law Society of Upper Canada, 1975), p. 616.

[1283] Ibid., pp. 616-17.

Act. Indeed, Kellock argued that the "Crown held trust funds" for the Six Nations Band within the meaning of the Indian Act, according to the statutory definition of a band. This would be a key point for the ruling for the money had been gained from Brant's sale of land, but later taken and "lost" in the canal bankruptcy. In addition, the Band Council protested that neither the Simcoe Deed, nor the Haldimand Proclamation conveyed title in fee simple. Further, even if the Simcoe Deed conveyed legal title, it had been "disclaimed" by Six Nations. Finally, Kellock argued that the Indian Act had not been rendered inoperative by the Canadian Bill of Rights.[1284]

The legal advisors for the Attorney-General of Canada also weighed in, supporting the assertions of the plaintiffs that Six Nations was indeed a "band" and that the Crown held a trust fund for them, as well as legal title to the land, vested in the Crown. Counsel for the Attorney-General also supported Kellock's interpretation of the Simcoe Deed and the legitimacy of the Indian Act as fully operational, refuting the notion that it had been rendered inoperative by the enactment of the Canadian Bill of Rights.[1285]

The justices then summarized Justice Osler's ruling: the Simcoe Deed gave Six Nations their lands in fee simple; the Privy Council rulings were both "ultra vires," or beyond the power of legal authority; the Band Council was not representative of the Six Nations population; and the Indian Act was inoperative due to the Bill of Rights. The justices began with the last point, noting that in 1973, Justice Osler properly relied upon his own judgment in the Bedard case, in which he concluded statute 12 (1) (b) of the Indian Act was inoperative. They noted that subsequently, both his ruling in the Bedard case and a similar ruling in the Lavell case were overturned on appeal by the Supreme Court, both in 5-4 decisions.[1286] The justices reasoned that if the Supreme Court upheld the legitimacy of such a contested statute, the Indian Act as a whole would not be ruled inoperative. The justices stated in their ruling that they searched a key dissent written by Justice Laskin, for support for the defendants' argument, but found no support to render

[1284] *Ontario Reports*, Court of Appeal, Isaac et al. v. Davey et al., Volume 5, (2d Series), (Agincourt, Ontario: Law Society of Upper Canada, 1975), p. 617.

[1285] Ibid.

[1286] See Attorney-General of Canada v. Lavell and Isaac et al., v. Bedard, 38 Dominion Law Review, (3d) 481, 23 C.R.N.S, 197, 11 R.F.L., p. 333.

the Indian Act inoperative. The power of Parliament to control First Nations land and people the justices wrote came directly from the British North America Act.[1287]

Yet, it would appear that this was not an easy ruling – Laskin's dissent was extremely well written and this cluster of cases was heard in an atmosphere increasingly sensitive to charges of racism against First Nations people, particularly women, both within Canada and in international groups concerned with human rights. Regina v. Drybones, the key case in which discrimination against First Nations people was upheld, had opened Pandora's box.[1288] Canadian judges were clearly aware that their rulings in cases involving Natives were under a great deal of scrutiny. Even so, in this case the Ontario Court of Appeal would uphold the Indian Act, as Justice Arnup stated: "I find no provision in the Indian Act relevant to this case that is rendered inoperative by the kind of discrimination to which the Canadian Bill of Rights relates."[1289]

Not surprisingly, by removing that keystone, the Ontario Court of Appeal easily deconstructed the other tenets composing Osler's ruling. They backed the legitimacy of the elective process and the Band Council's rule at Grand River. Piece by piece they dismantled Osler's ruling, turning their attention next to the Simcoe Deed, on which they concentrated much of their attention in the narrative of the decision. They argued that Osler's interpretation had applied a "common law effect of the extracted words" of the patent, rather than interpreting the document in an historical context to "determine what it was meant to do."[1290] There would be no discussion of the Native understanding of either the Haldimand Proclamation or the Simcoe Deed, other than the early reference to Brant's perspective that the land was to be held in fee simple for Six Nations. Arnup noted in his decision that he sought cases where the memory of "events of the last 15 years of the eighteenth-century were still present in the minds of living persons in the

[1287] The justices literally cited "head 24 of s. 91" of the British North America Act, 1867 in their ruling as the source of legislative power of the Indian Act. *Ontario Reports*, Court of Appeal, Isaac et al. v. Davey et al., Volume 5, (2d Series), (Agincourt, Ontario: Law Society of Upper Canada, 1975), p. 619.

[1288] Regina v. Drybones [1970] S.C.R., 282, 9 D.L.R. (3d) 473.

[1289] *Ontario Reports*, Court of Appeal, Isaac et al. v. Davey et al., Volume 5, (2d Series), (Agincourt, Ontario: Law Society of Upper Canada, 1975), p. 619.

[1290] *Ontario Reports*, Court of Appeal, Isaac et al. v. Davey et al., Volume 5, (2d Series), (Agincourt, Ontario: Law Society of Upper Canada, 1975), p. 620.

middle of the nineteenth-century, which were recorded in documents available to the Judges of that time."[1291] This was extremely problematic, for it excludes Native voices in the legal record. Documents recorded at the time reflected a colonized environment where Native people would have been afraid to speak up, due to the possibility of retribution from the agents of Indian Affairs or the local police. The Canadian justices did not comment upon this silence in the record. An indigenous intervention in the legal sphere would have been fraught with peril, given the hierarchy of power in existence in Canada. Even in a postcolonial society in the late twentieth-century, Indians were still legally disempowered and subjected to a colonial yoke, clearly manifested in the statutes of the Indian Act. Six Nations land claims cases could not be fairly assessed when the government continued to rely upon legal precedents grounded in the colonial era.

A bibliography of articles, pertinent cases and books was appended to the ruling and referenced in the justices' decision. Reading some of the same primary documents and judicial decisions referred to by Osler, the justices came to exactly the opposite conclusion. Their ruling stated that Indian title was a "usufructuary right" which was "dependent upon the good will of the sovereign," rather than a "conveyance of land," as argued in Osler's ruling. The language of the ruling was not out of the ordinary for the time in which the justices wrote and were simply giving Six Nations Indians the same rights that the justices believed other Indians enjoyed under the Crown. The literal interpretation of the wording was wrong-headed, though. Arnhup wrote about the "Deeds" to the Reserve, for example – for they were "not intended to create, and did not create a unique interest in the Six Nations which no other Indians in Canada enjoyed." The case law backing up this interpretation referenced rulings applying to indigenous title in Africa, involving "Natives and their rights", throughout the early to mid-twentieth-century. This was exactly the problem: the Canadian judges were gazing through the lens of colonial possession which was at its apotheosis during the early twentieth-century – of course, it reified colonial aims to appropriate and hold indigenous land. As Arnup concluded: "The finding further destroys the basis upon which Osler, J., found that the

[1291] Ibid.

two Orders-in-Council were invalid."[1292] It would almost appear that viewed through colonial ideology, virtually no confiscation of Native land designated as a reserve could be "ultra vires," or beyond the power of legal authority. Once one accepted the notion of the royal and imperial prerogatives to vest all indigenous land in the Crown the rest was easy.

The two orders-in-council were upheld, for the assertion of Six Nations sovereignty was rendered an impossibility within this interpretation of history and the law. One minor point remained to be cleared up, namely, the principle raised by Sopinka, the lawyer for the Confederacy supporters, regarding the "taint" of inequitable treatment surrounding the actions of the Band Council. The ruling brushed aside this point as having no merit, for the Band Councilors were deemed not to be agents of the Crown.[1293]

The unanimous ruling allowing the appeal effectively re-instituted the injunction against the supporters of the Confederacy from accessing the Council House for their own use.[1294] After another year of tension on the reserve, the court system upheld the status quo – the elected council was enshrined once again, along with the Indian Act, by three Ontario judges. Justices Schroeder, Arnup and Jessup set aside the judgment at trial rendered by Justice Osler.

A few days following the judgment rendered in the provincial court, Prime Minister Trudeau scheduled a meeting with Native groups, such as the National Indian Brotherhood, following demonstrations and occupation of a vacant federal building in Ottawa, near Parliament. A "Native People's Caravan" had taken part in violent demonstrations focusing national attention on social problems of the Native population such as poor housing, education and health care, coupled with high unemployment.[1295] During the same period, an Indian study group headed by Harold Cardinal, a Native activist from Alberta, and funded by the federal government suggested hundreds of changes in clauses related to the Indian Act. One notable change was proposed – to "seal

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[1293] *Ontario Reports*, Court of Appeal, Isaac et al. v. Davey et al., Volume 5, (2d Series), (Agincourt, Ontario: Law Society of Upper Canada, 1975), p. 623.

[1294] "Court Overturns Judge's Ruling on Six Nations," *Brantford Expositor*, October 5, 1974.

[1295] "Trudeau Agrees to Meet with Indians," *Brantford Expositor*, October 9, 1974.

off the new Indian Act from court attacks based on the Canadian Bill of Rights."[1296] If that change was passed, it would insulate the Canadian government against legal cases such as the one brought by the Confederacy charging inequality and violation of Native rights. First Nations affairs figured prominently in the media during this period.

Reaction on the reserve to these issues and to the provincial court ruling was at first silence as the Chiefs waited for the Council to meet and deliberate. The Band Council also did not comment to the press.[1297] Costs of the appeal to the provincial court were assessed against the defendants and would not be forthcoming from the Department of Indian Affairs.[1298] Moving the appeal to the Supreme Court of Canada was a step that would be expensive, difficult and possibly futile.

Yet, the Justices left a door open as well, for they noted that most Ongwehònwe steadfastly refused to take part in elections on the reserve – expressly ignoring the political process, for voting was forbidden as an article of faith.[1299] Even before the decision was published in the *Dominion Law Review*, a motion to appeal this ruling to the Supreme Court of Ontario was filed on behalf of the Confederacy supporters citing four specific errors in judgment. The grounds for further appeal stated that there was doubt concerning the "correctness" of the ruling and that substantive questions of law were involved in the case. The first contested point was that Simcoe Patent was "not intended to be a conveyance of land in the English sense and the English form using the English conveyancing language…" Second, the argument over the role of the members of the Band Council as agents of the Crown, as well as the notion that the Crown's inequitable treatment might prohibit the Band Council from seeking an equitable remedy, was raised once again. The third and fourth grounds for appeal dealt with the status of those who claimed to represent the Six Nations, both contesting the Band Councilors legitimacy and seeking to elevate the claims of the Confederacy. In addition, two central questions were

[1296] "Amendments to Indian Act Proposed by Study Team," *Brantford Expositor*, October 11, 1974.

[1297] "Hereditary Chiefs to Consider Action on Appeal Decision," *Brantford Expositor*, October 8, 1974.

[1298] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 1, Box 13, Letter to J. Judd Buchanan, Minister of Indian Affairs and Northern Development, from A. C. Millward, Fasken and Calvin, Barristers and Solicitors, November 15, 1974.

[1299] "Indians Back to Square One," Editorial, *Brantford Expositor*," October 7, 1974.

directly posed in the statement of the grounds for appeal. First, who owned Six Nations land and who was to govern, the Band Council of the Confederacy?[1300] The fight would go on in the Supreme Court of Canada as the justices not only agreed to hear the appeal from the Six Nations Confederacy, but also granted the request of the Attorney General to intervene in the case. The stakes were high for both sides, for the Confederacy was gambling that justice might be found in the highest court in the land and the Supreme Court would render a judgment regarding their decades-long protest against Canadian usurpation of their authority and assertion of sovereignty. The government sought to ensure that the Band Council was legitimated as the political voice of the Six Nations people.[1301]

Chapter Thirteen

[1300] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Box 13, Pt. 1, "Memorandum for the Court," January 28, 1975 and "Motion for Leave to Appeal and Extension of Time," January 23, 1975.

[1301] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 2, p. 16, 17, "Order of the Supreme Court of Canada," January 29, 1975.

Supreme Court Decision

The formal notice of appeal of the Ontario Court's decision to the Supreme Court of Canada was not until February 4, 1975 and the case was not heard until the fall of 1976, an interval long enough to allow myriad tensions within the supporters of both the Confederacy and Band Council on the reserve at Grand River to mount.[1302] For generations Six Nations had debated the "Indian question" in their homes and in the village of Ohsweken, but never taken their dispute over the Six Nations assertion of sovereignty to Canada's highest court. Members of the nations from both councils had testified in Parliamentary hearings, used the media and frequently tested the merits of their case in the lower courts, but shied away from this high tribunal, perhaps fearing the finality of a legal ruling in Canada's highest court, but also questioning whether a just decision could be rendered.[1303] The Confederacy Chiefs were not of one mind with regard to the appeal to Canadian judicial authority and the appeal was not made with the support of the Council.[1304] Bruce Clark points out that as a result of the ruling in this case, Isaac v. Davey (1974) the rights of Six Nations Indians "it has been settled, are the same as those of other Indians in Canada, as defined under the Royal Proclamation of 1763."[1305] This was exactly the outcome the Confederacy supporters had feared. The decision settled the question, at least from the Canadian perspective, about the separate

[1302] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 2, Notice of Appeal, Davey et al. v. Isaac, et al., Supreme Court of Canada, February 4, 1975, p. 18. A motion was filed to get an extension of time to appeal was filed on January 28, 1975 by the registrar, Francois des Rivieres. See Public Archives of Canada, RG 125, Vol. 2058, File 13805, Pt. 1, Motion for Leave to Appeal and Extension of Time and Application for Leave to Appeal, p. 1-5.

[1303] The chiefs who questioned the possibility of obtaining justice in Canada may have had a point. For example, of four North American judges who have ruled against the existence of aboriginal title due to ideological beliefs, three are Canadian, according to the analysis of Bruce Clark in his text, Indian Title in Canada, (Toronto: Carswell, 1987) p. 113.

[1304] "Court upholds Elected-Council System Imposed on Six Nations by Ottawa," Clipping File, Brantford Public Library.

[1305] Clark, Bruce, Native Liberty, Crown Sovereignty: The Existing Aboriginal Right of Self-Government in Canada, (Montreal: McGill-Queen's University Press, 1990) p. 23.

nature of Six Nations rights vs. other Native groups. In the same year, other court cases struck down the notion of Native territorial enclaves, further undermining Six Nations notion of distinct and separate existence. [1306]

It is important to recognize the dramatic difference between Canadian domestic law for Natives and American law regarding Native American rights, for the American courts clearly distinguished a political basis for aboriginal rights. Clark argues that once the United States courts recognized this key difference, it triggered designation of "territorial limits," or enclaves within which Native Americans might exercise political power.[1307] Indian country was defined as specific territory where American Indians could exercise political power, for the courts distinguished enclaves as the basis of these rights, rather than the individual. As Strickland noted, two cases in 1973 laid out this reasoning in the United States courts: McClanahan v. Arizona State Tax Comm'n and Mescalero Apache Tribe v. Jones. In both cases authorities futilely attempted to apply the collection of taxes to Native Americans. In the McClanahan case, Arizona attempted to tax individuals on the reservation and in the Apache case, the taxes were levied off the reservation. According to Strickland: "The Court effectively found that Indian law is mostly territorially based, that it is not personal law."[1308] Outside of the reservations, American Indians are usually subject to state laws, but within Indian country in the United States there is an area of distinct political power and legal rights that are different from other citizens. Canada's high court denied these distinctions and refused to grant First Nations the status of "citizens plus," the concept originally advanced during the 1970s in a legal brief by the Chiefs of Alberta.[1309] The Canadian government remained focused upon extinguishing aboriginal rights, rather than legitimating Native societies as having inherent political and legal authority, as happened in the United States. Therefore,

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[1306] Clark points out, however, that the notion of an ethnic enclave in which Natives might be governed under their own laws, despite being rejected by Canadian courts in Cardinal v. AG Alta (1974), for it does not "rule out or preclude legislative recognition of enclaves under constitutional legislation." Ibid., p. 23.

[1307] Clark, Bruce, Native Liberty, Crown Sovereignty: The Existing Aboriginal Right of Self-Government in Canada, (Montreal: McGill-Queen's University Press, 1990) p. 24.

[1308] Ibid.

[1309] Cairns, Alan C., Citizens Plus: Aboriginal People and the Canadian State, (Vancouver: UBC Press, 2000), p. 247.

there was a radically different outcome for indigenous people as they sought to affirm their rights to self-government, political autonomy and limited sovereignty within the two neighboring nations, at just about the same period. As Clark concludes through his analysis of the case AG Canada v. Canard (1976) the Supreme Court of Canada confirmed that there was no "common law aboriginal right of self-government constituted at domestic common law."[1310] Of course, the obvious difference in the response of the two nations was Canada's fear of Quebec separatism.

The cast of characters in the 1974 Supreme Court case was very similar to the prior appeal, with one notable exception. Malcolm Montgomery was conspicuous by his absence and his client, Chief Joseph Logan, Jr. was no longer represented separately in the appeal, but added to the roster of appellants in support of the Confederacy. Logan had kept his case separate from the other Confederacy supporters from the first trial on the advice of his counsel, Malcolm Montgomery, but in this last appeal he had added his voice to the warriors in the case before the Supreme Court. Montgomery was still listed as the attorney of record for Chief Logan when the appeal began, but was not listed as the attorney of record when the ruling was finally pronounced May 31, 1977. There had been great controversy over Chief Logan taking part in this appeal for his father, Joseph Logan, Sr. held the title of Thadodaho at Six Nations from 1904 to 1961, his participation signaled the Confederacy's imprimatur on the proceedings.[1311]

Not all members of the Confederacy supported this strategy, in fact many disavowed and condemned the notion of seeking justice from the Canadian tribunal as foolish. They particularly singled out Chief Coleman Powless for their ire, for he had taken the lead in pressing for the appeal. Powless had filed an affidavit on December 19, 1974, shortly after the decision had been handed down in the Ontario Court of Appeal in October 4, 1974, ruling against the Confederacy supporters. As one Confederacy member had explained his opposition to Chief Powless: "For those of us who really

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[1310] Clark, Bruce, Native Liberty, Crown Sovereignty: The Existing Aboriginal Right of Self-Government in Canada, (Montreal: McGill-Queen's University Press, 1990) p.216.

[1311] Shimony, Annemarie, Conservatism Among the Iroquois at the Six Nations Reserve, (Syracuse: Syracuse University Press, 1994) p. xliii.

believe in the spiritual ways, it's not right to go to a man-made government to decide whether we are to exist or not."[1312]

A few more names had been added to the list of plaintiffs, for six new Band Council members had been elected during the course of the appeal to the Supreme Court, namely, Sydney Henhawk, Victor Porter, Renson Jamieson, Ross Powless, Frank Montour and Vincent Sandy.[1313] Many of the legal proceedings were stipulated as a given, since the original pleadings stemming from the 1970 revolt, as well as the supplementary arguments of the issues in the appeal to the provincial court, was familiar legal ground for all concerned.[1314] Transcripts and exhibits were again readied and assembled, to be certified as authentic by the counsel for the appellants in order for the justices to review the evidence and the prior rulings.[1315] The intervention of the Attorney General for Canada was stipulated from the outset for as representative of the Canadian Department of Justice, officials were aware of the importance of the case in upholding the power of Canadian rule through the band council system.[1316] A motion and reasons for the argument had been submitted to the Supreme Court to appear as amicus curiae in the case by the counsel for the Attorney General.[1317] Movement on the case slowed for all parties concerned made a motion in June 1976 to move the case on the "remanet" list of

[1312] Peterson, Lynne, "Confederacy Vows to Continue Fight 'Right into Grave,'" *Brantford Expositor*, June 1, 1977.

[1313] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 3, Factum of the Respondents, Davey et al. v. Isaac, et al., Supreme Court of Canada.

[1314] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 2, Agreement as to Contents of Case, Davey et al. v. Isaac, et al., Supreme Court of Canada, March 26, April 2, 3, 21, 1975.

[1315] Public Archives of Canada, Indian Affairs, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 2, Registrar's and Solicitor's Certificates, Davey et al. v. Isaac, et al., Supreme Court of Canada, August 7, 1975, p. 336-8.

[1316] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, Box 13, File 13805, Pt. 1, Affidavit by Leslie Holland, Solicitor, Davey et al. v. Isaac, et al., Department of Justice, January 20, 1975.

[1317] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, Box 13, File 13805, Pt. 1, Application by the Attorney General to the Supreme Court of Canada to Intervene in Davey et al. v. Isaac, et al., January 21, 1975, Supreme Court of Canada.

cases on the docket of the Supreme Court.[1318] Lawyers for the Confederacy were still appealing in vain for financial support to Indian Affairs for funding to pursue the case.[1319]

This case aroused interest in other Native nations in Canada for the Temagami Indian Band, Algonquian Natives also from Ontario filed a memorandum of argument in support of the Confederacy appeal. The Teme-agama Anishnaibay, as they were known, sought to make it known that they, too, had not surrendered their rights to ancestral land.[1320] This band disputed judicial assumptions regarding Natives' land-use patterns, rights and obligations, as well as title to land, for they argued that these practices were not similar throughout North America.[1321]

In addition, the Union of Ontario Indians also intervened in the case arguing that the Ontario Court of Appeal had failed to analyze the historical relationship between Six Nations and the Crown. The Union sought to preserve the "rights to land and internal sovereignty of other Indian nations or tribes in Canada."[1322] The Union presented a well-documented, closely argued and logical brief in an effort to bolster the Six Nations case. By enriching the historical context for the case from a Native perspective using legal cases, oral history, and extensive historical documentation regarding the relations between Indians and the French, Dutch and English from the colonial period to the present, the Union challenged the Canadian justices ruling. The Union countered the Ontario court's perception of Native land-holding patterns and role within Canada,

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[1318] The case was number 40 on the April 1976 list, for it was moved to the "foot of the regular Western list." Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 5, Davey et al., v. Isaac, et al., Motion Paper, Supreme Court of Canada.

[1319] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 5, Davey et al., v. Isaac, et al., Letter from Judd Buchanan, Ministry of Indian and Northern Affairs, to A. C. Millward, Fasken and Calvin, Barristers, August 11, 1976, Supreme Court of Canada.

[1320] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 4, Factum of Gary Potts, et al., members of the Teme-Agama Anishnabay and the Temagami Band of Indians, Davey et al. v. Isaac, et al., Supreme Court of Canada.

[1321] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 4, Points in Issue, Factum of Gary Potts, et al., members of the Teme-Agama Anishnabay and the Temagami Band of Indians, Davey et al. v. Isaac, et al., Supreme Court of Canada.

[1322] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2085, File 13805, Pt. 5, Factum of the Union of Ontario Indians Intervenant, Davey et al. v. Isaac, et al., Supreme Court of Canada.

rejecting the status of dependency under which the Six Nations labored in the Canadian court system. Instead, the Union argued that Six Nations Indians had not surrendered their land to the Crown, were not colonial subjects, but were more correctly viewed as free and independent peoples within a protectorate, a legal identity enshrined in international law. "The concept of the 'protectorate' is one that is at best vague and undefined in international law, and the relationship between the Crown and the Six Nations is unique in history and is not analogous, and should not be likened to the relationship between the colonizing powers of Africa and Australia and the Natives they found there."[1323] The Union came upon this flaw in the Canadian ruling, but did not make the further point that even the British had moved beyond this outdated colonial policy.

The two key issues in the case, the Union pointed out, were land and status, inextricably bound together. The brief maintained Six Nations people understood their tenure on the land and their status quite differently from the Canadian courts, because they were led to believe their title to the land and status were unique in Ontario by the very British officials with whom they negotiated. Tracing back through the record, the Ontario Union argued that the historical context from the Six Nations' perspective had been ignored by Canadian courts and officials. "The title of the Six Nations to their land is a unique situation, born out a unique historical relations, without precedent in European laws of real estate and real property." The Union argued that rather than accepting these unique historical circumstances, the Canadian courts insisted on "artificially adapting such a form to fit them."[1324]

As Colin Scott clearly points out in his contribution to an excellent text focusing on Canadian public policy toward Native peoples, Canadian judges had ruled on the Six Nations from within the closed ideological framework of a European "settler state." By only according legitimacy to the law as formulated by the Canadian state and ignoring the proposition that there are "multiple systems of legal obligation," stemming from the

[1323] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2085, File 13805, Pt. 5, Factum of the Union of Ontario Indians, Intervenant, Davey et al. v. Isaac, et al., Supreme Court of Canada, p. 72.

[1324] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2085, File 13805, Pt. 5, Factum of the Union of Ontario Indians, Intervenant, Davey et al. v. Isaac, et al., Supreme Court of Canada, p. 60.

encounter of European and indigenous societies during colonization, they had elided Native authority, custom and law. Scott argues there are multiple systems of authority within the state. For example, treaties are "sources of law" that obviate the principle of absolute state sovereignty. Canada had followed a common and predictable course for a settler state, adapting legislation that had defined Native people as "inferior and dependent on central state institutions." As we have seen in the Six Nations case, by imposing rigid, general laws on the indigenous population, Canada had sown instability and unwittingly enhanced conflict and resistance.[1325]

As far as identity and status were concerned, the Union argued there was no such legal entity as a "Six Nations Band," for various groups had historically sought refuge on the reserve. People had arrived from various places under different leadership, at different times and had been identified, accordingly. As the Union correctly argued: "The Band called 'Six Nations of the Grand River' has no Band List. It has no members."[1326] There were fourteen groups of Natives recorded in the Brantford office of Indian Affairs, among them four different bands of Mohawks, two bands of Cayugas, two Seneca bands, two bands of Onondagas and one band each of Tuscarora, Delaware and Oneida Natives.

These groupings are still presently in use by Indian Affairs to identify Natives and form the basis of one's identity as a "status Indian." For example, one might belong to the "upper" or "lower" Mohawk or Cayuga bands, depending upon how far up or down the river the historic village was in the original homeland in central New York. "Walker Mohawks" literally walked to the settlement and arrived first, when the land was granted to them. "Clear Sky Onondagas" or "Bear Foot Onondagas" derive their names from their leaders at the time they migrated to the settlement.[1327] The Delaware, an old Six Nations joke maintains, arrived for a visit and never went home. In addition, the

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[1325] Scott, Colin, "Custom, Tradition and the Politics of Culture," in Anthropology, Public Policy and Native Peoples in Canada, Noel Dyck and James Waldram, eds., (Montreal: McGill-Queen's University Press, 1993), p. 320-321.

[1326] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2085, File 13805, Pt. 5, Factum of the Union of Ontario Indians, Davey et al. v. Isaac, et al., Supreme Court of Canada, p. 76.

[1327] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2085, File 13805, Pt. 5, Factum of the Union of Ontario Indians, Davey et al. v. Isaac, et al., Supreme Court of Canada, p. 73.

Mississaguas of New Credit, an Ojibway group, reside on land that the Six Nations set apart for them and are included on the Indian Affairs band list. These bands even have separate financial resources, for example, the Cayuga's claim money from an international arbitration panel that settled a land claim with the United States. The Union's brief clearly pointed out that the "Six Nations Band" is a legal fiction and exhibited the band affiliation of all the plaintiffs in the case– none was identified as 'Six Nations,' but instead under the historic names they had identified. If this matter was pursued at the Supreme Court level it might have resonated, but it is highly doubtful, given the court's tendency to completely overlook the Native perspective. When the final decision was rendered, it was clear that the justices viewed the Indian Act as the overarching template within which Native claims must fit, as opposed to a nuanced historical analysis of an evolving relationship between national entities. Canadian courts interpreted and imposed the statutes of the Indian Act as if it was an ahistorical document, while at the same time holding Natives to a strict historical framework reflected within the Canadian interpretation of the Act.

Objections to the statement of the Union of Ontario Indians were quickly raised, however, by the Temagami Indians, for the Union of Ontario Indians had referred to Native groups in Ontario as "nomadic," a perpetual sore point with many Indian nations, including the Temegami and Six Nations. The Temagami argued that they were in possession of their land due to the Royal Proclamation of 1763, in which their ancestral lands were specifically reserved for them.[1328]

All the "Factums" presented in the case all followed the same format, for each contained five sections including brief statements concerning the facts of the case, ostensible errors in the ruling under appeal, an argument and a proposal for relief, as well as supporting documents, from each groups' perspective. Similar documents had been submitted from the supporters of the Confederacy, as well as present and former band council members for Six Nations. The objective of the Confederacy supporters sought to

[1328] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2085, File 13805, Pt. 5, Affidavit from Gary Potts, Chief of the Temagami Band of Indians, September 1, 1976 in Davey et al. v. Isaac, et al., Supreme Court of Canada.

overturn the 1974 ruling of the appeals court for Ontario.[1329] The Attorney General submitted an argument to bolster the case of the Band Council and seek the dismissal of the appeal.[1330]

The case dragged on for it had been originally scheduled to be heard in June of 1976, but was adjourned due to the request of the Band Council. In October, the counsel for the Confederacy, John Sopinka, wrote to the court asking for a delay due to a scheduling conflict. The appeal was finally heard on October 25 and 26, in 1976. Coleman Powless, an Onondaga chief, had filed an affidavit on December 19, 1974, stating the factors prompting the appeal from the Confederacy supporters and explaining the Confederacy's difficulties in finding funds to continue the legal struggle. The fact that all legal expenses came from the poorest part of the Six Nations community speaks volumes about the commitment of the Confederacy's supporters to their cause.

Powless's language and tone in his affidavit were somewhat different from papers filed in the previous case. His style was simple and direct, noting that the removal of the Confederacy in 1924 had provoked much "ill-will" and "led to numerous unfortunate incidents." Powless noted that Six Nations history had been transmitted to him orally and that he had always understood that the land of his people had been given to Six Nations "as our own," due to their special relationship with the British. Chief Powless specifically mentioned that the elective system imposed by the Canadian government was contrary to the Six Nations "traditional religion." The eradication of Six Nations ancestral form of government, Powless argued, had resulted in such a state of "bitter divisiveness." He argued that there was no hope of restoring "peace and harmony" until two crucial questions were decided by the Supreme Court. The crux of the case revolved around the ownership of Six Nations lands and the system of government established on Grand River territory. He noted that there were financial problems in hiring counsel for

[1329] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2085, File 13805, Pt. 3, Factums of the Plaintiffs and Respondents in Davey et al. v. Isaac, et al., Supreme Court of Canada on Appeal from the Court of Appeal from Ontario.

[1330] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2085, File 13805, Pt. 4, Factum of the Attorney General of Canada, Davey et al. v. Isaac, et al., Supreme Court of Canada.

the appeal and stated that it had always been the intent of the Confederacy to appeal the lower court's ruling.[1331]

The Confederacy submitted a new statement reiterating their argument to the Supreme Court and recapitulating the facts of their case, outlined in thirty-two points and specifically citing passages and pages from the "Appeal Book" of the Ontario court. The "defence of 'sovereign status' had been expressly withdrawn" during the Ontario case – Montgomery's waning influence was telling. The assertion was made that: "The Crown has consistently refused to given an accounting to the Six nations Indians with respect to Indian moneys thought to be administered by the Crown." This point was contradicted by the finding of Justice Osler that: "…there was no evidence that at the time of enactment of P.C. 6015 in 1951 moneys were held by Her Majesty for the use and benefit of the Six Nations Indians." The justices of the Supreme Court would use this data to serve other purposes as they reached their decision in the case.[1332]

The next part of the brief filed by the Confederacy supporters was the "Points for Argument," essentially a reiteration of the grounds to contest the ruling of the Appeals Court of Ontario. Seven points were to be contested, with the first stating simply that the Appeals Court was wrong in denying that the Simcoe Deed was meant to be interpreted as a legal conveyance of land. The supporters of the Confederacy also took umbrage in regard to the justices' conclusion that the members of the Band Council were not agents of the Crown and thus, could seek an "equitable remedy" from an injunction. They, of course, disputed the status of the elected councilors, as well as to their exclusive use of the Council House. In conclusion, the Confederacy supporters argued that these questions were significant matters of law and "raise matters of public concern."[1333]

[1331] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, Box 13, File 13805, Pt. 1, Affidavit of Coleman Powless, December 19, 1974, in Davey, et al. v. Isaac, et al., in the Supreme Court of Canada.

[1332] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 1, Memorandum of Argument to be Submitted on Behalf of the Applicants: Pt. 1 – Facts, Davey, et al., v. Isaac, et al., Supreme Court of Canada.

[1333] Ibid.

Following this introductory section was the argument, itself, which was surprisingly brief – amounting to eight pages in total. After positing the public importance of the legal issues to be decided, the argument's framework followed the outline of the court ruling. The first ruling of the Appeals Court attacked concerned the nature of the conveyance of territory to the Six Nations and the language used in the Simcoe Deed. The argument of the Confederacy was that the land was properly conveyed directly to the Six Nations using language "in the English sense and the English form," with the express intent of shoring up the Haldimand Proclamation, which had reportedly given the Indians great misgivings with regard to their unequivocal title to their lands.[1334]

Six Nations leader Joseph Brant met repeatedly with Lieutenant Governor John Graves Simcoe to gain formal legal title to Grand River lands for Six Nations. Brant was frustrated in his dealings with Simcoe and agitated for an iron-clad agreement to forestall exactly what eventually occurred – the English later denied Six Nations title, instead, vesting it in the Crown.[1335] Six Nations diplomats must have been extremely wary of the English settlers' hunger for land and the relative ease with which territorial agreements were breached, even before the ink was dry, for they kept up their demands to codify the land grant in terms that were clear and unassailable. Joseph Brant apparently did not trust Simcoe and put great pressure on him to grant the land outright, so Six Nations people could hold their land in British Canada just as they had held their former territory.[1336] Brant particularly resented the paternalism of the Canadian authorities and sought the counsel and influence of his former comrades in arms, such as Sir John Johnson, to reinforce the claim of Six Nations independence. Indeed, Brant gained power of attorney from the chiefs of the Grand River settlement and eventually sold a huge tract of land to establish that vaunted independence and to gain an annuity for his people.

[1334] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Box 13, Pt. 1, Memorandum of Argument to be Submitted on Behalf of the Applicants, Pt. 2I – Argument, Davey, et al., v. Isaac, et al., Supreme Court of Canada.

[1335] Kelsay, Isabel Thompson, Joseph Brant, 1743 – 1807: Man of Two Worlds, (Syracuse: Syracuse University Press, 1984) pp. 573-4.

[1336] Ibid., p. 561.

Brant complained bitterly about Simcoe's interference in this sale and blamed him for instigating trouble against the Six Nations in England.[1337]

The justices in the Ontario Court of Appeal had noted with some irony that the Confederacy in the twentieth-century case was arguing their case on the basis of the Simcoe Deed, which Brant himself had repudiated.[1338] They noted with some asperity that the British and Canadian governments historically had resisted the land claims and sovereignty of Six Nations. Yet, the Canadian justices failed mightily to perceive their own function as quite similar to Simcoe's as Lieutenant Governor of Canada – for the justices, too, were power brokers in Canada, opposed to Six Nations claims to Native title. Canadian courts, with the signal exception of Justice Osler, were intent on reinforcing a retro-colonial status upon Six Nations. The thinly veiled attitude of paternalism and ethnocentric focus in judicial rulings were coins of imperial exchange, marking Canadian officials understanding of their own settler culture.

The distinction between Canadian and British policies regarding Six Nations has been obscured in the legal record, for it had been sadly lacking a historical context. Not all of the British officials were of the same mind as the colonial administrators in Canada, who clearly sought to better their own fortunes and advance their own careers at Native expense. Brant's contempt for Simcoe had allegedly been based upon his knowledge that Simcoe himself sought Six Nations land at a cheaper price than Brant would countenance. This, despite the rumors circulated about Brant's perfidy and egregious profiteering at his people's expense.

Six Nations diplomats were certainly capable of playing off the British against the Canadians, as well as other European powers in this period.[1339] For example, the justices

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[1337] Kelsay, Isabel Thompson, Joseph Brant, 1743 – 1807: Man of Two Worlds, (Syracuse: Syracuse University Press, 1984) p. 570-72, 592-95

[1338] Ontario Reports, 5 O.R. (2d), Isaac et al., v. Davey, et al., Ontario Court of Appeal, October 4, 1974., p. 615.

[1339] See the central thesis of Richard White's text, The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815, (New York: Cambridge University Press, 1991), p. 52. White argued, convincingly, that Indians and Europeans of the Great Lakes region had to understand the world view and reasoning of one another in order to operate successfully in diplomacy, constantly inventing, negotiating and redefining their initiatives based upon mutual understanding, for no party could advance their goals solely through force.

wrote in the Ontario Court of Appeals' decision: "Brant interpreted the Haldimand Proclamation as having two effects: (i) – as being full national recognition of the Six Nations as an independent national community; (ii) – as a grant of the Grand River lands to the Six Nations in fee simple. The British Government firmly resisted both propositions, and the Crown's position has never changed."[1340]

Historical forces do not operate through legal precedents and the justices used positions that rose in particular circumstances to signify unchanging, static positions over centuries. The statement above from the Court of Appeal simply ignores the real politik of the period, for Brant was a player in the geopolitical chess game of empire and a proven ally; not all of the British officials were so obtuse, so as not to recognize his usefulness. Even Simcoe was keen to establish an Indian buffer state between Canada and the United States; this entailed keeping Brant reasonably satisfied.[1341] Simcoe's successor gave in to Brant's demands for the same reason. Simon argues that in 1797 the British feared a "Franco-Spanish assault on British North America," following the "rapprochement" following the signing of Jay's Treaty in 1794. Simon argues that Peter Russell, Simcoe's replacement in Upper Canada, agreed to Brant's demands regarding the sale of Six Nations land because Brant threatened to use his power against the British "if his demands were not met."[1342]

The uniqueness of Six Nations historical circumstance was underscored in the next section of the Confederacy Warriors' argument:

> To the extent if any that this court might find the question of the status of the Simcoe Deed or Patent and the historical context in which it was given, difficult of resolution by an application of rigid common law principles, it is submitted that different considerations should apply to questions arising out of the grant to the Six Nations

[1340] Ontario Reports, 5 O.R. (2d), Isaac et al., v. Davey et al., Ontario Court of Appeal , October 1974, p. 614.

[1341] Kelsay, Isabel Thompson, Joseph Brant, 1743 – 1807: Man of Two Worlds, (Syracuse: Syracuse University Press, 1984) p. 587.

[1342] Simon, Michael P., "The Haldimand Agreement: A Continuing Covenant," American Indian Culture and Research Journal, 7:2 (1983) p. 46.

> Indians than have applied in determining the rights in land of other Native peoples.[1343]

This statement referred to the citation of legal precedents stemming from four cases emerging from colonial situations in Africa and Australia in the decision of the Ontario Court of Appeal. There was no review of these cases, however, a missed opportunity to counter the decision-making process and the conclusions of the appeals court. The misapplication of colonial precedents drawn from generic cases involving disparate indigenous populations by the justices was indicative of the warriors' argument.

The legal argument submitted to the Supreme Court on behalf of the Confederacy position was simply written and not steeped in case law, but precedent and specific cases were cited extensively concerning the Band Council's status. Charging that the members of the Band Council were not only "agents" and "representatives," but served as the "amanuensis of the Crown," the charge of "unclean hands" was leveled by the Confederacy.[1344] The outrages cited in the Confederacy's argument were the intrusion of the Royal Canadian Mounted Police onto Six Nations territory and the mistreatment, threats and abuse of Six Nations people in 1924. The charges included the failure of the Dominion to render a financial accounting of "Indian moneys administered by the Crown."[1345]

Central to the struggle of the Confederacy was their charge that the elective system was illegitimate, foisted upon the Six Nations through force of arms and clearly not representative of the Six Nations. The Confederacy supporters challenged the status of the Band Council to represent anyone at Six Nations. Citing a series of six cases, the counsel for the Confederacy placed the onus upon the Supreme Court justices to address the matter of the injunction issued by the courts. Confederacy stalwarts maintained that denying the representatives of a significant portion of a community of 10,000 people

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[1343] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Box 13, Pt. 1, Memorandum of Argument to be Submitted on Behalf of the Applicants, Pt. 2I – Argument, Davey, et al., v. Isaac, et al., Supreme Court of Canada.

[1344] Ibid.

[1345] Ibid.

access to the historic Council House was patently wrong. The elected council had also failed to pass a critical by-law, enabling the council to constitute themselves legitimately as the central power on the reserve. Essentially, this failure to act, the Confederacy adherents argued, rendered the members of the Elected Band Council as simply another group in a cacophony of voices representing various segments of the Six Nations community, rather than the legitimate voice of Six Nations.

Band Council Response and the Intervention of the Attorney General

The argument to uphold the judgment of the Ontario Court of Appeal contained a position paper countering the points brought up by the attorneys for the Confederacy. The factum of the Band Council members included five sections of documentary evidence appended to the case and a bibliography.[1346] The lawyers for the Band Council sought to reaffirm the ruling of the Ontario Appeals Court. They asserted that the Grand River territory was a reserve, held just like any other in Canada, and that its members constituted the lawful government of the Six Nations. They argued that the members of the Elected Council were not agents of the Crown, but were duly elected representatives of the people as a result of legitimate Orders-in-Council.[1347]

Supporting legal arguments included the submission that the Simcoe Deed could not be used to create a title in fee simple, awarded to an "unincorporated group." Band Council members argued that the "Six Nations disclaimed the Simcoe Deed," rendering it void. They argued that the Confederacy adherents had not countered the evidence that a Six Nations trust fund existed, a point reinforcing the legal construct denoting the Six Nations as a band according to the Indian Act. It was also submitted that the trial judge, Justice Osler, had ruled on points of law not under consideration in the case. Osler, the Band Council argued, had no legal right to rule on the legitimacy of the Orders-in-Council for those points were not raised in the initial pleadings of the case. Further, their counsel concluded that the validity of the Privy Council Order was already decided in

[1346] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 3, Respondents' Factum, Davey, et al., v. Isaac, et al., Supreme Court of Canada.

[1347] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 3, Respondents' Position with Respect to the Points Put in Issue in the Appellants' Factum, Davey, et al., v. Isaac, et al., Supreme Court of Canada.

Logan v. Styres, the case from 1959, and thus, the courts were "estopped" from legally challenging the Order-in-Council. Thus the entire question of sovereign status could not be an issue in the appeal to the Supreme Court, not only because it was withdrawn from the Ontario appeal, but from their perspective "such a claim is without foundation in law or in fact."[1348] The fallout from legal challenges stemming from other pending cases related to the validity of the Indian Act was still resonating within the Canadian legal system, an unfortunate bit of timing for the Confederacy case.

The legal argument framed by the attorney for the Band Council revolved around six issues – legal title to the reserve, validity of the Orders-in-Council, status of the Six Nations as a Band, the charge of inequity, the right of the Band Council to seek an injunction and finally, sovereign status of the Six Nations. Briefly argued in nine pages, their contentions were supported with evidence from case law and historical documentation. Six cases were cited to bolster the Canadian government's contention that Six Nations merely held a "personal and usufructuary right" in the Grand River territory. The same cases cited by the Court of Appeal in Ontario, involving colonial land claims culled largely from African courts, were referenced to compare the Simcoe Deed to land holding patterns in other parts of the British Empire. Attorneys for the Band Council argued that the use of British Common law was inappropriate as a context for Six Nations claims to hold land in fee simple. Six Nations was a reserve when Order-in-Council 6015 was enacted in November 1951 whether or not title was vested in the Crown.[1349]

Band Council used a historical text and several legal cases to bolster its assertion that the Six Nations had steadfastly repudiated the Simcoe Deed. Thus, as an instrument of title, the Simcoe Deed was ostensibly, void. The wording of two Land Patents, both written by John Simcoe, confirming Indians' possession of the Tyendenaga Reserve and Grand River was compared to draw attention to subtle differences in phrasing in the two documents for the two different tracts of land. Case law was used to support the

[1348] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 3, Respondents' Position with Respect to the Points Put in Issue in the Appellants' Factum, Davey, et al., v. Isaac, et al., Supreme Court of Canada.

[1349] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 3, Respondents' Factum, Argument, Davey, et al., v. Isaac, et al., Supreme Court of Canada.

contention of the Band Council that one could simply not create a fee simple property arrangement for Indians as an unincorporated group.[1350]

The Privy Council's Orders authorizing the application of the Indian Advancement Act to Six Nations were at stake in the Supreme Court case. For the Court to rule that the Privy Council Orders were invalid, three legal points had to be met, according to the Band Council brief. Firstly, for the order to be ruled "ultra vires," or, beyond the power of the government, title for Grand River would have had to be held by Six Nations, not the Crown. Secondly, no money could be held by the Crown for Six Nations. If those two conditions were met, then the third point would follow, namely, the definition of "reserve" and 'band" in the Indian Act would not be met. The legal definitions for administration of Indians and Indians' land in the Indian Act would simply not exist. Lawyers for the Band Council noted that none of these three points had been argued in the Confederacy's brief.[1351]

The question of the existence of an entity called a "band" is a contentious one, for the entire nomenclature of the Indian Act has been invented. The words band or tribe, as well as nation, are part of colonial rule. These Euro-American concepts do not reflect Native languages or identity. Defense of the terminology reflects back to the genesis of the Indian Act in Canada. The term "band" rests on the Indian Act's definition, namely, "a body of Indians for whose use and benefit in common moneys are held by Her Majesty…"[1352] Therefore, the attorney for the Band Council wisely noted that Confederacy supporters sought an accounting of a Trust Fund held by the Elected Council. The trust fund came from the sale of Six Nations land to the British.[1353] Legitimacy of the Elected Band Council therefore, followed directly from the fact that "common moneys" were held for Six Nations by the Crown, by definition. Likewise, there is no separate registration for Six Nations Natives, other than the existing Band

[1350] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 3, Respondents' Factum, Argument, Davey, et al., v. Isaac, et al., Supreme Court of Canada.

[1351] Ibid.

[1352] Ibid.

[1353] Ibid.

List.[1354] The Elected Council's brief unabashedly made clear it was a creature of the Indian Act.

Questions raised in the Ontario appeals process, pertaining to the validity of the two Orders-in-Council establishing the elective system, were harshly rebuffed by the attorneys for Band Council in the Supreme Court case. They viewed the matter as closed, for it had been dispensed with by the Logan v. Styres case.[1355] Lawyers also noted that since the legitimacy of the Orders-in-Council was not raised in the pleadings before the Supreme Court in Ontario, the justices were foresworn from deliberating upon them.[1356]

The charge that the Band Council was "tainted" as the Crown's agent, due to the inequitable treatment meted out to the Six Nations in the past, was patently false, according to the Band Council members. They protested the entire basis of the plea of inequity submitted to the Court. In a bit of a twist on the interpretation of the 1970 "Warriors' Revolt," the Band Council now argued that all members of Six Nations had a right to common use of the Council House and further, it was the right of any Band member to sue for access to the premises. This strategy moved the argument past the questions concerning the legitimacy, representative nature or status of either Council, as well as the nature of legal title to the reserve. Band Council members were hedging their bets by asserting a "usufructuary right" over the Council House, whether or not the Crown's underlying title was vindicated.[1357]

Since the most salient difference separating the two Councils – the sovereign status of the Six Nations – was withdrawn from consideration at the prior trial, it was viewed as "off the table" in the submission to the Supreme Court. Nevertheless, two cases were cited by Burton Kellock, their leading attorney, for their relevance to the issue of Six Nations' sovereign status for the justices to peruse. In conclusion, the order the

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[1354] Ibid.

[1355] Dominion Law Review, Logan v. Styres, (1960) 20, (2d) 416.

[1356] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 3, Respondents' Factum, Argument, Davey, et al., v. Isaac, et al., Supreme Court of Canada. The relevant rules of practice for the Supreme Court of Ontario, Rules 145 and 154 were cited specifically in the Factum, as well as relevant case law. Only the issues raised in the pleadings could be deliberated upon by the Court, according to this line of reasoning..

[1357] Ibid.

Band Council members sought, of course, was for the appeal to be dismissed with costs.[1358]

Attorney General's Statement of Facts Supporting the Elected Council:

Since the Attorney General represented the interests of the Crown at the initial trial following the Warriors' Revolt, as well as intervening in the subsequent appeal in provincial court, it was no surprise that he sought to participate in the Supreme Court case. Since the case dealt with the interpretation of the Indian Act, the legal title to Six Nations land and the Crown's alleged mistreatment of Six Nations, the representative of the government was obliged to respond.[1359] The Attorney General was granted leave to intervene in the case.[1360]

After summarizing the points contested in the initial trial, the Attorney General set forth the government's reasons for supporting the ruling issued in the Appeals Court. Dropping the veil of paternalism that historically had been used to shield the power of Canadian rule over Six Nations, the government's stark assertion of power was shockingly obvious. By simply invoking the clauses of the Indian Act pertaining to "Special Reserves," the section that countless Ministers had insisted would never be used against Six Nations, the Governor-in-Council had absolute power. The entire question of the title to the land was immaterial, for the "…question as to whether the Six Nations Indians have an estate in fee simple to the lands comprising the Six Nations Reserve is *immaterial to the question as to the authority of the Governor in Council* [emphasis mine] to enact Order-in-Council P. C. 6015 I 1951 (and P.C. 1629 in 1924)…" Instead of focusing on the definition of reserves in the Indian Act, linking the title to the land as

[1358] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 3, Respondents' Factum, Argument and Order Desired, Davey, et al., v. Isaac, et al., Supreme Court of Canada.

[1359] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 1, Memorandum of Points of Argument to be submitted on behalf of the Attorney General of Canada in the Application for Leave to Intervene in the Within Appeal," Davey, et al. v. Isaac, et al., January 21, 1975.

[1360] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 1, Notice of Motion, Filed by the Counsel for the Attorney General of Canada, in Supreme Court, Davey, et al. v. Isaac, et al., January 21, 1975. See, also hand written note on file, mentioning that the leave for the Attorney General to intervene in the case was granted, January 29, 1975.

vested in the Crown, the Attorney General underscored the inherent power of Canada over Native people and the title was legally irrelevant:

> …if the title to the lands was vested in the Chiefs, Warriors, Women and People of the Six Nations Indians, the lands nevertheless remain as lands which have been set apart from the use and benefit of a band of Indians and by virtue of sec. 36 of the Indian Act, the provisions of the Act including the authority under sec. 73 to provide for the election of Chiefs and councilors applies as though the lands were a reserve within the meaning of the Act.[1361]

Under the bureaucratic double-speak was a clause that covered all exigencies, exposing the raw use of Canadian power. The Confederacy Chiefs had been correct in their suspicions and fears about the encroachment of the Canadian state apparatus. This clause of the Indian Act made a mockery of principles of democracy and decades of political promises to Six Nations, for it deftly removed the consent of the governed and boldly stated that even if the government had acknowledged we had title to our own lands, it simply did not matter. Native people had no rights to self-government, quasi-independence, or even home-rule under this system.

Augmenting the case for the Band Council in the Supreme Court, the Attorney General's "Points in Issue" began with an assertion that the Simcoe Patent was insignificant, only meant to confer a usufructory right to the Six Nations, rather than a land grant in fee simple. The Attorney General maintained that the Indian Act was binding on the Six Nations as a legally constituted Band, on an Indian Reserve under the governance of a properly constituted government put in place by legitimate Orders-in-Council. Everything was properly executed under the Indian Act and the Attorney General firmly backed the position of the Elected Council. Accordingly, the Band Council was not an agent of the Crown and had the legal status to obtain an injunction against the Confederacy supporters.[1362]

The argument of the AG brought together evidence from the Court of Appeal, historical documents, the Indian Act and case law to buttress the legal points laid before

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[1361] Public Archives of Canada, Indian Affairs, Vol. 2085, File 13805, Part 4, "Factum of the Attorney General, Davey et al., v. Isaac, et al., Points in Issue, Supreme Court of Canada.

[1362] Ibid.

the High Court by the Band Council. Issues under consideration were the Simcoe Patent, Special Reserves, and possession of the Council House, among other legal items such as judicial notice and the agency of the Band Council. The order sought by the Attorney General was the dismissal of the appeal with costs.[1363]

Sorting through the evidence, the Attorney General's brief underscored the data introduced by the justices in the appeal, such as the colonial cases that were brought up as if they were parallel to Six Nations. For example, in arguing about land patents for example, the justices used a case from the colony of Lagos, Oyekan v. Adele, to point out the transitory nature of land-holding by a "chief or headman" of the Royal Palace. Settler societies such as Canada combed the world for cases that would legitimate their power over Native people. They even parsed the language as if it meant the same thing from cultures that were worlds away from one another. In Lagos, for example, the standard phrase "and their Heirs," the Canadian Attorney General submitted, was not given the "technical effect under Common Law" in either African of Native society, for these cultures not only did not "recognize private ownership," but did not emerge from a feudal civilization replete with land-holding patterns similar to Western European cultures.[1364]

Did these officials ever read the legal briefs they wrote? Was there no recognition in Canada of the impact of colonialism on Native people, even in the late twentieth-century? Indian Affairs and the Supreme Court justices seemed mired in the same colonial backwater, viewing relations with "Natives" whether in Africa, Australia or Canada in hierarchical terms. In the Canadian case Natives were viewed as somewhat inferior beings, to be managed with paternalism and led to assimilation, if possible. If judged capable of assimilation, depending upon their degree of "advancement" the indigenous people might be inherently incapable of making their own decisions at some point in the future. Settler societies such as Canada apparently felt it necessary to adhere to the colonial imperatives of a by-gone age, without breaking new ground, despite their own

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[1363] Public Archives of Canada, Indian Affairs, Vol. 2085, File 13805, Part 4, "Factum of the Attorney General, Davey et al., v. Isaac, et. al., Argument and Order Sought, Supreme Court of Canada.

[1364] Public Archives of Canada, Indian Affairs, Vol. 2085, File 13805, Part 4, "Factum of the Attorney General, Davey et al., v. Isaac, et. al., Argument and Order Sought, Supreme Court of Canada. See both Oyekan v. Adele, [1957], ALL E. R. 785, and Amodu Tijani v. The Secretary, Southern Nigeria, [19231 2 A.C. 299, and Sakariyawo Oshodi v. Morian Dakolo [1930] A. C. 667

experience as colonies under the British Empire. Canadian officials had learned their lessons well from their own British colonial masters.

Challenge of the Anishinaabe: The Temagami Band

The brief submitted on behalf of the Temagami Band would creatively challenge several of the assumptions of the Canadian government and judiciary. The Supreme Court briefs submitted by the Six Nations Band Council and the Attorney General followed the lead of the Appeals Court justices for they treated all indigenous peoples as homogeneous, with similar rights and land-holding patterns, objectified within a colonial system.[1365] Representatives of the Anishinaabe disputed the ahistorical nature of the data. They argued that differences between Native groups made it highly irresponsible for the government to generalize regarding the conditions and culture of First Nations. The Anishinaabe argued: "All Canadians of Native North American ancestry do not exercise the same bundle of rights and obligations with respect to the land."[1366]

One of their many astute arguments in the brief they presented to the Supreme Court case was their analysis of the historical background of the St. Catherine's Milling Case of 1887, referred to repeatedly in the evidence. Bruce Clark argues in his text, Native Liberty, Crown Sovereignty, that this case was crucial in Canadian legal history. For a brief moment, it appeared as if "a Canadian domestic common law upon the subject of aboriginal rights was in the offing." Justice Strong, a Canadian Supreme Court Judge, argued, this case "…gives legislative expression to what I have heretofore treated as depending on a regulation of policy or at most on *rules of unwritten law* [Emphasis Clark's] and official practice, namely the right of the Indians to enjoy, by virtue of a recognized title, their lands not surrendered or ceded to the crown."[1367]

[1365] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 4, Factum of Gary Potts, William Twain and Laura McKenzie on behalf of the Teme-agama Anishnabay Indians, Davey et al., v. Isaac, et al., Intervenant, Supreme Court of Canada.

[1366] Ibid.

[1367] Clark, Bruce, Native Liberty, Crown Sovereignty: The Existing Aboriginal Right of Self-Government in Canada, (Montreal: McGill–Queen's University Press, 1990), pp. 12, 13. Clark notes: "Although Strong J. was dissenting in the result, upon his essential point that the Indian right was strictly speaking a legally recognized one, he was upheld on appeal to the Privy Council."

Chief Justice Marshall's decision in the United States Supreme Court case, Worcester v. the State of Georgia, resonated in Canada and figured prominently in an 1867 Quebec case, Connolly v. Woolrich, over the legality of a marriage conducted according to Native custom. The Connolly case held that Native laws concerning local customs were legitimate. Canadian courts ultimately recognized aboriginal custom and rights only in personal relations and private circumstances, though, rather than in the public sphere.[1368] The political autonomy of Native people in Canada was therefore subordinate to the Crown. Clark's review of key court cases during the nineteenth and twentieth-centuries indicates that for Native people in Canada there was no "larger and inherent power of self-government…affirmed as a common law right in Canada."[1369] This stood in sharp contrast to the way case law evolved in the United States.

The Anishinaabe brief presented to the Supreme Court cited well-known experts such as anthropologist, F. G. Speck. Their critique of the Ontario Court of Appeal's ruling on the Six Nations case was complex. First, it faulted the Ontario Appeals Court for holding that the "nature of Native title elsewhere in Canada was relevant." Secondly, the critique noted Canadian misapprehensions concerning the St. Catherines Milling case, as well as their erroneous assumption that "Native title could not amount to a fee simple absolute in any case."[1370]

Justice Arnup had only paraphrased a key part of the St.Catherines Milling decision in his ruling on the Six Nations case. Arnup cited Lord Watson of the Judicial Committee of the Privy Council: "It appears to them sufficient for the purposes of this case that there has been all along vested in the Crown a substantial and paramount estate, underlying the Indian title, which became a plenum dominium whenever that title was surrendered or otherwise extinguished."[1371] The equation was therefore simple,

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[1368] Ibid., pp. 13-19.

[1369] Ibid., p. 19.

[1370] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 4, Factum of Gary Potts, William Twain and Laura McKenzie on behalf of the Teme-agama Anishnabay Indians, Points in Issue, Davey et al., v. Isaac, et al., Intervenant, Supreme Court of Canada.

[1371] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 4, Factum of Gary Potts, William Twain and Laura McKenzie on behalf of the Teme-agama Anishnabay Indians, Argument, Davey

according to the case cited: "sovereignty plus property equals a fee simple," for the colonial power.[1372] Yet, plenum dominium was not so simple, the brief argued. The circumstances and custom of Native title mattered greatly, as well as the degree of political organization of the Native group, according to other aspects of the St. Catherines Milling decision. The brief argued that international and historical perspectives on the legal process affecting Native inhabitants had been ignored by the Canadian courts.

Since the Canadian justices were accustomed to relying on Canadian legal precedent with very little critique, they simply "upstreamed" information that evolved in unique historical circumstances as relevant to a late-twentieth-century case of Native sovereignty, land tenure and self-government. This is one of the reasons the government was so blind-sided in the Lavalle and Bedard decisions pertaining to the gender discrimination so integral to the Indian Act, discussed in the following chapter.

The central premise of the Anishinaabe contribution to the Supreme Court case was that the legal precedents used as research to adjudicate the case were not historicized – either with regard to Native history in Canada, nor in the wider international context of evolving British colonial law. The brief argued that the "…concept of Native title was not placed in issue by the pleadings at the trial."[1373] The Anishinaabe reinforced Chief Joseph Brant's point about Six Nations customary land tenure: "Before the Colonizing State came upon the scene the Indian had sovereignty and property. After colonization the King acquired sovereignty leaving the Indian with the property."[1374] Brant had simply sought to hold the land at Grand River in the same way Six Nations had held their ancestral lands, resisting this evolving relationship. Brant contested the British assumption that fee (sovereignty) was held by the British, against a loosely defined Native claim to property. While the recognition of the legitimacy of this stand in relation

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et al., v. Isaac, et al., Intervenant, Supreme Court of Canada. See the St Catherines Milling and Lumber Company v. The Queen, (1888), 14 Appeals Case, 46, p. 55.

[1372] Public Archives of Canada, RG 125, Vol. 2058, File 13805, Pt. 4, Factum of Gary Potts, William Twain and Laura McKenzie on behalf of the Teme-agama Anishnabay Indians, Argument, Davey et al., v. Isaac, et al., Intervenant, Supreme Court of Canada.

[1373] Ibid.

[1374] Ibid.

to tribal peoples was slowly coming into the courts on an international level, it had still not yet impacted Canada in the latter part of the twentieth-century. Canada remained insensitive to Native voices – for it was a settler society with little incentive to change.

The Anishinaabe brief contained excellent research, along with numerous legal citations. The brief pointedly made note of Canada's failure to recognize "Native title" in the Appeals Court in Ontario. The authors sagely reasoned, still more time must pass before these "legal concepts" were translated into forms "more easily recognizable by the colonizing Sovereign's system of laws…"[1375] By working through significant cases at the Supreme Court level in Europe, the United States, as well as Canada the briefs compared the way international justice systems deliberated about the circumstances surrounding their assertion of national power over indigenous peoples, the question of the "right of the soil," and the so-called right of conquest. They noted the conditions under which international courts dealt with the abrogation of Native claims through occupation, accretion, abandonment, forfeiture or cession, for example. Yet, the political nature of extinguishing Native land claims meant that land cession was a "bilateral act," requiring consent on both sides, according to the historical research presented in this brief, citing international legal theorists.[1376]

The report argued that it was only in the recent colonial period that theorists chose not to recognize the sovereignty of tribal peoples, noting that: "the general attitude adopted in England…" may be traced from this analysis. Yet, even within the British colonial framework there were exceptions. In a ruling drawn from Southern Rhodesia the question of Native sovereignty was discussed as an issue separate from property, particularly in the case of a protectorate: "Sovereignty and property being distinct and different entities…," the justice affirmed. Any issues involving property had to be considered in relation to local authority.[1377]

[1375] Ibid.

[1376] Ibid. See Lindley, Treatise on the Law and Practice Rrelating to Colonial Expansion.

[1377] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 4, Factum of Gary Potts, William Twain and Laura McKenzie on behalf of the Teme-agama Anishnabay Indians, Argument, Davey et al., v. Isaac, et al., Intervenant, Supreme Court of Canada.

This brief was remarkable in the number and range of examples included, notably, the expected citations from Roman law, Vattel, and Blackstone, but also a wide range of cases in the colonial context. The compelling nature of the narrative argument accompanying these citations was arresting in its incisive focus on Native rights as an unfolding area within international law and jurisprudence. The ultimate question raised by the brief concerned the international principles and colonial practices that had evolved and their impact on the practice of Canadian law. The short answer from the Temagami Band's brief, was that each case was to be resolved on its own merits for there was no single definition of Native title in Canada. The legal principle the Temagami Band sought to protect was the future of indigenous land claims and Indian rights. They noted: "In fact, it appears form the reported decisions that no Indian or group has ever made an application to our courts for a fee simple derived from Native title on the basis of de facto user entitling him to a de jure definition of his title consistent with fee simple. Most Indians have elected to treat with the Crown and have surrendered their somewhat undefined 'Native rights' for various rights or privileges from their government."[1378] This case was so important for the Anishinaabe because they sought to protect the right for Indian Bands, such as themselves, to "apply for fee simple absolute title to unceded [sic] aboriginal lands on the basis of customs and usages."[1379]

The brief parsed the ownership and title to land as follows: "…the existence of sovereignty in the Crown, with the resulting dominium directum is not inconsistent with an underlying title, a dominium utile. It is only when the two are united in the hands of the Crown that the dominium plenum is formed, which is total ownership."[1380] The Anishinaabe brief affirmed the indigenous title and refused to let it be subsumed beneath the political forces seeking to establish total control over indigenous experience, identity and sovereignty.

Supreme Court Hearing

[1378] Ibid.

[1379] Ibid.

[1380] Ibid.

Eagerly awaited by both Councils' members, the hearing for the Six Nations came before the highest court in Canada on October 25 and 26, 1976. There were eight justices who heard the case, among them the Chief Justice, Laskin, along with Justices Martland, Ritchie, Spence, Pigeon Dickson, Beetz and de Granpre. Members of the Band Council faced off against the supporters of the Confederacy Council in the Ottawa Supreme Court, nearby Parliament.

Lawyers for the Confederacy, John Sopinka and Allan Millward, appeared first for the appellants. From the handwritten record of the hearing it appears that Sopinka presented the case to the justices in a brief thirty minutes the morning of October 25, then spent two hours that same afternoon and a short interval the next morning making his argument for appeal. His colleague Allan Millward finished the presentation from the Confederacy in one-half hour on the morning of the twenty-sixth. The Supreme Court wasted no time and the schedule was formal and precise.

Next to come before the court were lawyers for the intervenants, who were allotted brief periods to present their remarks. Paul Williams, appeared for the Union of Ontario Indians to present their comments on the case. Similarly, Bruce Clark represented Gary Potts and others, for the Temagami Band. After the short presentations of these interested parties, Burton Kellock marshaled his argument for the respondents, the Six Nations Band Council. G. W. Ainslie presented brief remarks of the Attorney General of Canada. Finally, Allan Millward responded to all of these arguments for the Confederacy supporters seeking to overturn the order of the Ontario Court of Appeal in short summary.

The judgment of the high court was not rendered until the following spring, on May 31, 1977. Four of the Confederacy Chiefs traveled to Ottawa to hear the decision in person, flying to Ottawa, despite the expense. Chief Coleman Powless, one of the appellants; along with Peter Skye, Harvey Longboat and Elwood Green, a warrior long-active in the Confederacy protests, also attended to hear the outcome. After years of tense legal maneuvering, the judgment was rendered – it was not unexpected. The Canadian Supreme Court justices announced a unanimous verdict rejecting the Confederacy appeal and giving the government's imprimatur to the Six Nations Band Council. Rage and bitter recriminations would greet the news of the Band Council's

victory in Confederacy circles on the Reserve. Blame for the loss was directed mainly at Coleman Powless for pursuing the case in the first place.[1381]

The 8-to-0 Supreme Court decision was not accepted by the Confederacy with leaders vowing immediately to continue the fight. Chief Arthur Anderson was aghast that Canada ignored the history of Six Nations contributions to Canada in its infancy, emphasizing: "If it wasn't for the Six nations, there would not be a Canada…How can the Supreme Court legislate over us after that? We are an independent nation and allies – not a subject people." [1382]

The decision was not unexpected in all quarters, however, for some chiefs had always been reluctant to allow the Canadian legal system to intrude and issue rulings concerning their non-Western, theocratic system. As on supporter claimed: "For those of us who really believe in the spiritual ways, it's not right to go to a man-made government to decide whether we are to exist or not."[1383] These chiefs and their supporters even denounced the ruling before it was issued, arguing that it was insignificant to the Confederacy for it existed outside of the Canadian political structure. Chief Powless had broken ranks to appeal to the Canadian courts, for many chiefs and their adherents interpret the constitution as strictly forbidding submission of Confederacy matters to outside tribunals, for both political and religious reasons.[1384] It was reported that Powless was considered as "dehorned," the phrase used to denote the loss of power of a Confederacy Chief by the removal of his title by his clan mother. "Powless had no authority to take this on to the Supreme Court of Canada, one Confederacy member said."[1385]

In contrast, the reaction of Richard Isaac of the Band Council to this extremely long and draining battle was quiet and restrained. He looked ahead to still yet another

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[1381] Peterson, Lynne, "Confederacy Vows to Continue Fight 'Right Into Grave,'" *Brantford Expositor*, June 1, 1977.

[1382] Ibid.

[1383] Ibid

[1384] Ibid.

[1385] "Court Upholds Elected-Council System Imposed on Six Nations by Ottawa," Brantford Public Library, Clipping File, Six Nations, Brantford, Ontario, Canada.

court fight over Six Nations lands.[1386] The problems of the Six Nations were ongoing from his perspective as leader of the Band Council for the Supreme Court decision solved nothing in regard Six Nations land. Did Six Nations people own their own land, or not? The Supreme Court ruling did not address the issue, in fact, the local newspaper complained that the high court only ruled on "one-third of the issues."[1387]

So, what did the judges decide about the many issues before the court? The final decision was written by Martland in a scant ten pages devoted largely to upholding the Elected Council's victory in the court of Ontario. In dismissing the appeal, the justices upheld the legitimacy of the orders-in-council, relying on the authority of the Indian Act and citing the power given to the Governor in Council to institute elections for any band. As far as the Confederacy contention that the Six Nations were not a legally constituted "band" the justices, ruled that since money was held in trust for the Six Nations by the Canadian government this one fact alone satisfied the requirements for band status in terms of the Indian Act. The court determined that these funds might have been held by the Crown even before Confederation, "in the absence of evidence to the contrary," citing historical research in two particular texts, which will be closely examined.[1388]

After summarizing the reasons for Justice Osler's initial favorable ruling for the Confederacy, then the reversal in Ontario's Court of Appeal, Chief Justice Martland noted that several of the points argued in the lower courts had been abandoned. Martland stated in the Supreme Court decision that the essential point of the case remaining from the Confederacy perspective, was to secure a ruling invalidating the Orders-in-Council establishing the elective system. The Chief Justice simply reviewed and expressly cited the text of the latter order in Council, together with the revised Indian Act of 1951, granting the Governor-in-Council executive authority to declare and order the change in

[1386] Peterson, Lynne, "Confederacy Vows to Continue Fight 'Right Into Grave,'" *Brantford Expositor*, June 1, 1977.

[1387] "53 Years of Feuding Blights Six Nations, editorial, *Branford Expositor*, June 2, 1977.

[1388] Ackland Davey et al, v. Richard Isaac, el al., Supreme Court Report, [1977] 2 R.C.S., 897, p. 897 and 898. Fax from Supreme Court, February 9, 2007.

Six Nations political system. Marland then cited the definition of a band and reserve directly from the statutes with no discussion.[1389]

Martland then defltly skirted the main issue at trial and on appeal to the lower court, namely, who held legal title to the lands. He proceeded to argue that the court did not have to make a final decision on the title to Six Nations land. From the perspective of the Chief Justice, the key to the case appeared to be rooted in the government's handling of Six Nations money over the years. Martland cited the Indian Act to the effect that the definition of a band rests on Indians for whom "moneys are held by His Majesty."[1390] In the arguments before the Ontario Court of Appeal in the "Fresh Statement of Defense before the Supreme Court of Ontario," the defendants (with exception of Joseph Logan) who supported the Confederacy, argued in point eleven that: "By virtue of the sale of certain lands belonging to the Six Nations Indians to the British Government and by virtue of the sale of certain mineral, oil, gas and timber rights on Indian Reserves, a trust fund was set up for the benefit of the Six Nations…"[1391] Martland also noted that during the original trial, John Sopinka, the attorney for the Confederacy Warriors asked Richard Isaac directly, whether "certain funds are held in trust for the Six Nations…by the Federal Government." Isaac answered in the affirmative.[1392]

Therefore, in Justice Martland's view, both sets of litigants admitted in court that funds were held by the Canadian government. Money held been held in trust for Six Nations by the Crown and this fact proved to be the crux of the case for Martland. His rather circular reasoning was as follows: if the money was held in trust, then Six Nations was legally a band under the Indian Act. All else then neatly follows under the terms of the Indian Act. Grand River lands would be deemed reserve lands, just as any other Native reserve – it would literally go without saying, so that the Supreme Court did not

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[1389] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 5, Davey et al., v. Isaac, et al., Reasons of the Court, Chief Justice Martland, Supreme Court of Canada.

[1390] Ibid.

[1391] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 1, Isaac, et al. v. Davey et al., Fresh Statement of Defense, Defendants, except the Defendant, Joseph Logan, Supreme Court of Canada.

[1392] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 3, Issac, et al., v. Davey, et al., Testimony in the Supreme Court of Ontario.

have to rule upon the title. Six Nations was exactly the same as any other Native group in Canada, according to the reasoning of the Supreme Court. Of course, this ignores all the historical particulars, notably that the Indian Act was passed long after Grand River was established under Haldimand's Grant.

In the data used by the Confederacy to overturn both Orders-in-Council in the Supreme Court case, however, Six Nations' lawyers disputed the notion that funds had been held in trust by the Canadian government at this time. The statement in direct rebuttal to point eleven was that: "…there was no evidence before the Court that moneys were held by Her Majesty for the use and benefit in common of the Six Nations Indians *at the time of the enactment* of Orders in Council P. C. 1629 and P. C. 6015.[1393] The Confederacy was boldly arguing that the Canadian government had already lost all the money that the Six Nations had by the time of the Orders in Council were issued. There had never been any accounting of the money invested and lost, according the government's own archivist, A. E. St. Louis, who wrote a confidential report on the matter that savaged Canadian officials' handling of the entire matter. The Canadian government had reportedly lost the entire amount of the Six Nations capital, amounting to $180,000.00, for it had invested in a canal project without Six Nations permission, namely, the Grand River Navigation Project.[1394] Even Thompson had recognized in 1924 that this was a point that was worth investigating. No mention of these findings was in the Supreme Court's reasons for judgment issued in 1976, more than fifty years later.

Instead, Justice Martland cited a single piece of historical evidence to bolster Canada's case. Specifically, he focused on a surrender of a portion of land from Grand

[1393] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 3, Isaac, et al. v. Davey et al., Appellants' Factum, Supreme Court of Canada.

[1394] Department of Indian and Northern Affairs, Historical Claims and Research, Office Files, "Confidential Report: Grand River Navigation Company, Investment 1834-1844. Purchase of G.R.N.C. Stock with Six Nations Band Moneys Without the Indians' Consent. G.R.N.Co. Litigation 1943-1952," Ottawa Canada. The archivist's report describes how many critical documents were either misplaced or deemed "missing," even when he had once examined them himself in the archives of Indian Affairs. St. Louis posits this loss of evidence resulted in a grave injustice to Six Nations that deeply troubled him. He reported that none of the lawyers for Six Nations, such as A. G. Chisholm, had been informed of these problems in accounting for the evidence. Since so many documents in the Canal case were unavailable, critical links in the case were unable to be substantiated by Six Nations counsel. Therefore, the case that was eventually mounted to obtain reparations from the Canadian government came to no avail.

River Territory from Six Nations Indians to William IV in 1835.[1395] After the land had been sold, the money was to be held in trust for Six Nations. Chief Justice Martland, opining with a degree of smugness that was almost palpable, wrote: "In the absence of evidence to the contrary, I think I an entitled to presume that these are the lands referred to in paragraph 11 of the statement of defence of the defendants other than Logan, the proceeds of the sale of which form a part of the trust fund mentioned in that paragraph.[1396]

Martland then took issue with the findings of Justice Osler, the Ontario trial judge, who had argued for exactly the opposite conclusion in 1973. Osler assumed that the *absence of evidence* [emphasis mine] as to when the Crown held money for Six Nations would presume that the burden of evidence for accountability would rest with the Crown. The Crown would then have to provide an accounting of the money, not the lawyers for Six Nations. AlterNatively, as the Crown's legal surrogate, the Canadian government would have to prove what, if anything, the Crown held in terms of assets for Six Nations and at what time.[1397]

Justice Martland also claimed that the Confederacy appellants ought to have attacked the validity of the Orders-in-Council more vociferously in the pleadings, specifically seeking a declaration that they were invalid. The burden of proof, according to Martland, rested on the appellants to prove they were not a band within the meaning of the Indian Act and to prove that the Order in Council, Privy Council Order 6015 was invalid. Justice Martland noted it had been Confederacy appellants who had stipulated the existence of a trust fund. "If the appellants desired to rely upon the *non-existence of that fund* [emphasis mine] when P.C. 6015 [1951] was enacted it was for them to plead

[1395] The Chief Archivist of Indian Affairs, A. E. St. Louis, who wrote the account of the Grand River debacle, opined: "As in the Bible, the Public Archives may provide any persevering research worker with all the arguments – pros and cons – of nearly every subject of historical interest; that is, if he searches long enough." Confidential Report on the Grand River Navigation Company, DIAND, Historical Claims and Research, Ottawa.

[1396] Public Archives of Canada, Indian Affairs, RG 125, Vol. 2058, File 13805, Pt. 5, Davey et al., v. Isaac, et al., Reasons of the Court, Chief Justice Martland, Supreme Court of Canada.

[1397] Ibid.

that fact and to establish it in evidence," Chief Justice Martland concluded.[1398] Of course, the members of both the Band Council and Confederacy Councils stipulated funds were held by the Canadian government, simply because they sought an accounting of their own funds – they had no other political choice.

There was absolutely no recognition by the Supreme Court justices of the untenable position in which Six Nations was placed by the government. Privy Council Order 6015 appeared to simply replace the former Order, P.C. 1629, to establish the elected system in 1924. Yet, now according to Justice Martland's newly constructed interpretation of the Order, it also reaffirmed the power of the Governor-General to set up the elected system without the consent of the Six Nations. According to this Supreme Court's decision, Six Nations Indians did not control their money, their land, or their government. The 1976 Supreme Court decision reaffirmed that every aspect of reserve life was controlled through the deus ex machina of the Canadian government, the Indian Act. Canadian power was unsheathed in this decision. It is curious that at the same time in the United States Native Americans obtained legislation centered on a policy of self-determination, yet in Canada, colonialism triumphed once again.

The Canadian government had abjectly violated their duty as a fiduciary trustee for Six Nations. The one thing most members of both councils have agreed upon is their sense that the Canadian government owes them an accounting for their funds. The "allegation of sovereignty and independence" had been abandoned in the course of the trial. The final decision of the Supreme Court deliberately undermined the agency of Six Nations and placed the group firmly under the heel of the Canadian government. In this sense, both councils lost something important in 1976. The Court's decision read as if it was an attempt at judicial sleight-of-hand, rather than constituting an earnest effort to probe serious questions related to the political framework of Native relations within a modern, Western nation-state. The Supreme Court's decision clearly smacked of internal colonialism, purely and simply fashioned by the Department of Indian Affairs and sanctioned by the highest court in the land.

[1398] Ibid.

The language of the Indian Act almost appears to substitute statutes for Native identity, for its endless clauses and notations mirror one another, but ultimately the Act reflects raw Canadian power. The Supreme Court decision read: "Paragraph (iii) of s. 2 (1) (a) states that a band means a body of Indians 'declared by the Governor in Council to be a band for the purposes of this Act.' P.C. 6015 declares that after November 15, 1951, the Council of the Six Nations Band shall be selected by elections to be held in accordance with the Indian Act, and it recites the authority of s. 73 of that Act."[1399] Chief Justice Martland fulfilled his role as the agent of colonialism by using the power vested in the Indian Act and the Governor General, as Commander in Chief of Canada, to subordinate Six Nations, ostensibly for good.

The same circular reasoning was also used to finesse the question of title in the land by simply citing the statutes of the Indian Act. Martland argued that "any difficulty in this regard is overcome" for even if one were to object Six Nations lands are not vesting in the Crown, the Indian Act provides a ready solution. If lands are set aside without such title being vested, then "this Act applies as though the lands were a reserve." As far as the Council House was concerned, the Band Council was properly entitled to use it for meeting purposes, the Court announced. The appeal was dismissed with costs. It had been remarkably easy for eight justices to conjure up the reasons and justifications for upholding the suppression of an indigenous system of government at Six Nations, once more. Canadian power over the colonial subject was reaffirmed and enshrined, at least for the moment.

Nothing in this decision was analyzed in proper context of historical or political conditions at the time involving Native people. The decision was self-contained, in the sense that the justices relied upon referents within documents serving as signifiers of Canadian power. Mackenzie King's dubious move fifty years before in issuing the ill-fated Order-in-Council had wrecked havoc in a Native community that was, from all accounts, progressive at that time. The sheer arrogance of the imposition of the Royal Canadian Mounted Police Forces vision of democracy, replacing one of the continent's oldest confederations, sparked a controversy that set back indigenous self-determination

[1399] Ibid.

in our community at Six Nations for many years. Native representatives at Six Nations were consistently assured in the time preceding the fateful 1924 Order-in-Council that the government would never impose their will against Six Nations. Yet, the Supreme Court justices in Davey v. Isaac merely took this for granted, of course there would be no meaningful Six Nations input or negotiation, it was clearly a *fait accompli.*

Chapter Fourteen

Gender and Cultural Rights: Six Nations Women Triumph over the Indian Act

The struggle for Native women's rights in Canada intersected with Six Nations political struggles on the reserve, in the courts and in the international arena. A spate of court cases resulted in passage of a bill in 1985 commonly known as "C-31," removing the onus of an infamous clause in the Indian Act, 12 (1) (b) that had oppressed Native women by removing their Indian status.[1400] Bill C-31 partially restored many Native women's status and rights so they might legally embrace their Native identity and culture.[1401] This chapter elucidates the way several Six Nations women mounted legal challenges that not only reshaped Six Nations conversations about gender and culture inside the reserve, but compelled the Canadian Parliament to purge discriminatory language and laws from the Indian Act. Yet, despite the courageous battle waged by many Native women working together to challenge the entrenched ideology of subordination in the Indian Act, there remains difficult work to do. Gender

[1400] "The following persons are not entitled to be registered, namely, (b) a woman who married a person who is not an Indian, unless that woman is subsequently the wife or widow of a person described in section 11." Indian Act, RSC 1970, c. I-6, s. 2.12(b). Women's status became was tied to their fathers, or their husbands in Sections 11, 12 and 14 of the Indian Act.

[1401] This legislation restored the status of my mother, Norma Ellen Martin, as well as legally giving Indian status to my siblings and me for the first time, insofar as the Canadian government and the elected Band Council were concerned. Since my mother married a non-Native, she was summarily removed from the Band list and considered "white," although she had been born and raised on the Six Nations Reserve in the family home at "Martin's Corner." Her grandmother was a Cayuga clan-mother and both her parents lived their entire lives on the reserve; they were both "full-blood." Yet, because of the Indian Act's gender discrimination she suffered effectual banishment from the reserve, could not hold property, raise her children on the reserve or be buried in her homeland. She, alone, as the youngest of nine children, met this fate and it affected her in myriad ways, particularly in the enforced separation from her extended family and culture. For example, she found fewer opportunities to speak her own language, practice the rituals she was brought up with and enjoy the simple things that mean home -- foods, cultural practices and day-to-day life in Indian society. The law affected the identity, cultural autonomy and movement of Six Nations people across the United States-Canadian border.

discrimination resonates powerfully in Six Nations society, for centuries of oppression of Native women by the majority society has left its mark – both on and off the reserve.

Many Native organizations oppose further changes in statutes that would grant Indian status to scores of Indian individuals and their families. At issue is the right of return of descendants of women who were removed from Band Lists through discriminatory provisions of the Canadian government. The Department of Indian and Northern Affairs is poised for a new round of lawsuits challenging discriminatory provisions governing indigenous people, among them many who have ties to Six Nations.[1402]

Native identity and status in Canada does not emanate solely as an expression of self-definition or sense of cultural consciousness, but is, as we have seen, circumscribed within the Indian Act. Under the British North America Act, the legislative authority for both Indians and Indian reserves rests solely in the Parliament of Canada. It is important to stress the difficulty of mounting an effective Native challenge to any law promulgated by the Federal government of Canada if there is seriously flawed legislation regarding Natives passed in Parliament. There is no independent Native body with legal authority within Canada to rule on an appeal concerning Canadian laws. Native affairs are regarded as the sole responsibility of the Federal Parliament of Canada. Consequently, Natives have often had to go outside of Canada to international forums in order to fight unfair legislation and to challenge patriarchal and colonial norms.

As the Indian Act historically evolved, Indian status, Band membership and legal identity were politically and socially constructed by the Canadian government. Policy was clearly geared to reshape Native cultures according to Western norms and ostensibly promoted "civilization" and "democracy." By altering the fundamental organization of Native groups such as Six Nations, enshrining patriarchy and undermining the matrilineal structure of many Indian bands, the Canadian government struck a telling blow to destroy

[1402] My own children are without Six Nations status at this point. Although I obtained Indian status through Bill C-31, my children are still ostracized. My mother was "full-blood" and my extended family is well known, for my grandparents had an old homestead at "Martin's Corners," and many relatives still live nearby. Many have served on both councils. Most of my immediate family supported the Confederacy, but we have people who have served the Elected Council, as well. Yet, for some members of the family the colonial imprimatur of the Indian Act continues to be a barrier for legal identity. My relatives kept the history of this conflict alive through oral history and gave me the pathway to write about this struggle for all of our children.

Native cultures organized through clans.[1403] Since women were the nexus of the clan and the key to selection of the chiefs in Six Nations families within the Confederacy, they unwittingly became the target of Canadian policy. By linking Indian status to males and stripping away Indian legal status from women who married non-Natives, Canadian policies severed the gender-linked cultural bonds at the core of Six Nations society (See Figure 1).[1404]

For Six Nations women the discriminatory statutes of the Indian Act affected language, religion, education and health – almost every aspect of day-to-day life, including burial rights. "Status" Indians were those Natives legally identified as belonging to bands that were federally recognized by Indian Affairs under the guidelines established under the Indian Act.[1405] Native identity gradually became linked with "Band membership through the statutes of the Indian Act, but bands did not necessarily determine their own membership – Indian Affairs in Ottawa often determined who was enrolled as a member of a band. Obviously, there was a political element to the "Band lists."[1406] Over time, following the evolution of the Indian Act, the Department of Indian Affairs became the final arbiter of Indian status, rather than one's family or community.

Since the key to social welfare, political and economic benefits, treaty rights and residency was "Indian status," it became a highly sought-after commodity in the

[1403] Public Archives of Canada, Indian Affairs, RG14, Accession no. 1990-91/119, Box 166, Wallet 1, File 6050-321-I3. House of Commons, Standing Committee on Indian Affairs, Sub-Committee on Indian Women and the Indian Act, 32d Parliament, 1st sess., 1980-82, 8. In his testimony, Professor Douglas Sanders related an incident during the hearings, concerning Elsie Cassaway, in which each spouse lost all status, despite the fact that both were "full-blood." The Indian Act determined membership to a Band in terms of kinship and residency on a reserve, not race. There was a "double mother" clause, in which individuals lost their Indian status at age 21, if their mother and paternal grandmother did not have Indian status. Sanders referred to this process as "cultural genocide in action."

[1404] Public Archives of Canada, Indian Affairs, RG 14, Accession no. 1996-97/193, Box 80, Wallet 3, File 5900-331-I1. Example of Inequality from the Six Nations Council, House of Commons, Standing Committee on Indian Affairs, 33d Parliament, 1st sess., 1985

[1405] Native "blood" or ethnicity did not guarantee Indian status, for there were four groups of Indians recognized by 1870 in Canada, namely, status Indians, non-status Indians, Inuit and Metis, or "mixed-blood" peoples.

[1406] When I was working in Hull, completing research for this chapter at the headquarters of Indian Affairs, officials told me that they regularly are instructed to "create" entire bands, with the full complement of identity cards, numbers and contingent benefits as more Native people struggle through the process set up by Indian Affairs to legitimate their Native ancestry through genealogical records, oral history and documentary evidence.

twentieth-century.[1407] A status card became the benchmark of Native identity recognized by the Canadian government in distributing benefits to Natives.[1408] Status and health cards were issued from local band offices, but legitimacy of Indian heritage and eligibility for benefits flowed from the bureaucratic power of Indian Affairs in Ottawa. Whether you were a Six Nations Indian, culturally, phenotypically, spiritually or historically gradually became less significant to the Canadian government than a bureaucratic assessment, conducted by non-Indians in the local Indian Office or in the headquarters of the Department of Indian Affairs and Indian Affairs at Hull.

Native women who "married out" of their ethnic group suddenly became outcasts, along with their descendants – not just temporarily, but forever.[1409] It did not matter how many ancestors were buried in the local graveyard, or how long your family had lived on the reserve, the white people at the Indian Office decreed that you were no longer Indian. Yet, Native men, who ventured to marry a non-Native, were not at all affected by the discriminatory statutes and neither were their descendants. In an ironic twist, a non-Native woman garnered the entire spectrum of indigenous rights, if they married Indian men. They were designated status Indians, even though they were without one drop of Native blood. This paradox arose due to the archaic provisions of the Indian Act that

[1407] Status cards are unfortunately, routinely stolen, particularly because they function as a passport across the international border for Six Nations people, as well as the proof that one is eligible for sales tax benefits. As an Indian, one can do business with local merchants without paying taxes under Canadian law.

[1408] In a recent article in *Tekawennake*, one of the the Reserve papers, one Mohawk spokesman put his finger on the problem: "The reality is…everyone that drives a car with an Ontario license, or everyone who has a status card are [sic] already in the system. The question is not if you are or not, the question is, how deep." *Tekawennake*, February 28, 2007.

[1409] In her classic study, Conservatism Among the Iroquois at the Six Nations Reserve, (Syracuse: Syracuse University Press, 1994), Annemarie Shimony, remarked upon the lack of support in the community, from both adherents of the Longhouse religion and Christians, for the return and reintegration of women who had "married out." Shimony reported that members of the Longhouse cited an ostensible admonition of their founder and prophet, Handsome Lake, for his followers not to marry outside of their own race. Historically, the Confederacy Council of Chiefs, before it was removed by the Canadian government in 1924, ruled on these situations case by case, for they had wide discretion, often allowing Six Nations people who had fallen on difficult times to come home. Women came back to the reserve with their young children after being separated or abandoned by their husbands. The Confederacy Council of Chiefs complained about the expense they incurred for the children's education, but they paid the costs through Six Nations funds. Supporters of the Confederacy Council, today, remain steadfast in their opposition to the Indian Act, but are not vocal supporters of Six Nations descendants who attempt to gain Indian status and Band membership. They also do not protest the continued discrimination against generations struggling with the legacy of gender discrimination stemming from the Indian Act.

defined Indians through bilateral descent, beginning in 1851. This process relied on descent by blood "on either side," including non-Indian women who were married to Indians.[1410]

The statutes were changed regarding intermarriage in 1869 to exclude non-Native men who married Indian women, from settling on Reserve lands intended specifically for Indian use.[1411] By exclusion of these non-Native husbands, as well as their Native wives and children, the Canadian government began its policy to dictate and define who is an Indian. In 1876, the statutory provisions of the Indian Act were consolidated and extended, using a patrilineal line of descent to determine Native identity, in contradistinction to customary matrilineal or bilateral descent for many Native groups.[1412] Six Nations, historically, was matrilineal, so this statute completely inverted customary patterns of social organization, both at the community level and within the family.[1413]

This bureaucratic gender-cleansing continued for over one hundred years under Canadian law. Native women who engaged in miscegenation and married non-Native men, as well as their descendants, were no longer deemed Indian and were not listed on the local Band list or in Ottawa. Under the guise of an infamous statute 12 (1) (b), of the Indian Act, women suffered under this juggernaut of gender discrimination, until it was partially remedied in 1985, by the law known as Bill C-31.[1414] This came about not

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[1410] Leslie, John and Ron Macguire, eds., "The Historical Development of the Indian Act," (Ottawa: Treaties and Historical Research Centre, Department of Indian and Northern Affairs Canada, 1979) 24. Two Acts were passed on August 10, 1850, for the protection of lands held by Indians in what had formerly been designated as Upper and Lower Canada from the period 1791 to 1841. Subsequently, from 1841 to 1867 the two colonies were united in a Union, with the sections newly designated respectively, Canada West and Canada East. See also, Desmond Morton's text, A Short History of Canada, (Toronto: McClelland and Stewart, Ltd., 2001) p. 52. These divisions necessitated the passage of the two acts governing Indian lands. An Indian was defined rather loosely in the mid-nineteenth-century by "blood," intermarriage, descent, residence, as well as adoption.

[1411] Weaver, Sally, "First Nations Women and Government Policy 1970-92: Discrimination and Conflict," in Changing Patterns: Women in Canada, eds. Sandra Burt, et al., (Toronto: McClelland and Stewart, 1993) p. 95.

[1412] Ibid.

[1413] Notably there are some bands that follow patrilineal descent, particularly in Western Canada.

[1414] "The following persons are not entitled to be registered, namely, (b) a woman who married a person who is not an Indian, unless that woman is subsequently the wife or widow of a person described in section 11." Indian Act, RSC 1970, c. I-6, s. 2.12(b). Women's status became was tied to their fathers, or their

through Canada's mea culpa, but through international oversight. Not only were these women's Native identities totally effaced by the Canadian government, they were effectively ostracized by their own families. The matrilineal moorings of Six Nations were gradually swept away as Six Nations people internalized the norms of the majority society.

A colonial construction of identity seeped into the consciousness of the Native population and was naturalized. The obvious economic benefits tied to Indian status and Band membership created a ready political constituency for the continuation of gender discrimination. Native men sought to hold on to their property, status and membership in a culture of gendered entitlement and anti-feminist sentiment. These policies have twisted and scarred the most intimate relationships within Native families, both nuclear and extended, brutally re-shaping gender relations and cultural roles. So weakened was the core of matrilineal societies such as Six Nations, that the community internalized and supported the model of patrilineal descent embodied in the Indian Act as self-engendered.[1415] Interestingly, the countervailing political force on the Reserve, the followers of the hereditary chiefs of the Six Nations Confederacy, never vocally protested the gender discrimination evident in the composition of the Band Council's "Indian list." Although they have fiercely contested their own loss of power, as well as Six Nations sovereignty in a series of historic court cases, they did little to protest the alteration of gender roles, perhaps, because they too, had been gradually imbued with a Victorian, patriarchal world-view.

There was a silence that cloaked this discrimination, for many women reacted with shame and bitterness to their banishment from their families and communities and left without overt protest.. Many were too traumatized to fight to return to their homes, fearing further ostracism and rejection. Others, too proud to even make the attempt, were

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husbands in Sections 11, 12 and 14 of the Indian Act. For the text of Bill C-31, see An Act to Amend the Indian Act, 33d Parliament, 1st sess., 1985.

[1415] Public Archives of Canada, Indian Affairs, RG14, Accession no. 1996-97/193, Box 80, Wallet 3, File 5900-331-I1. Chief Wellington Staats (Six Nations Band Council), "Presentation to the Standing Committee on Indian Affairs," House of Commons, Standing Committee on Indian Affairs, 33d Parliament, 1st sess., 1985. For example, in the presentation of the Six Nations Band Council before the Standing Committee on Indian Affairs on Bill C-31, Chief Wellington Staats noted, "…That bilateral descent principle should replace the historic rules of patrilineal descent." [Emphasis mine].

both angry and scornful of a process that seemed so corrupt, yet were saddened that even their own families began to view them differently. How were these displaced women, many of whom were "full-blood," to respond to this fiat, often rendered by "mixed-bloods," or even, non-Natives, with positions of power on Band Councils, but with no conception of Native identity or cultural rights? It was a daunting problem that was discussed at length, as they reified their own high degree of "Indian blood," for they felt they had been unjustly excluded from the reserve.[1416] Rumors and gossip swirled around Six Nations members who were whispered to be "white" or "part-white," yet, were passing for Native, some even running for election to the Band Council.[1417]

It would be a mistake to assume that women did not actively protest this discrimination though, for even before the well-known court cases were filed in the late twentieth-century, women fought their effacement from Six Nations society. For women from our Reserve, as well as those living along the international border, the loss of identity had particularly far-reaching consequences, especially if one married a United States citizen. Despite the provisions of the Jay Treaty of 1794, allowing Six Nations people to cross the international border at will, if a woman lost her Six Nations citizenship under the Indian Act, she encountered the full weight of international border surveillance and intervention, including the possibility of incarceration at the Canadian-United States border.[1418] Many joined Native associations such as the Indian Defense League of America, to protest their change of status.

[1416] "Mary Two-Axe Earley: Founder of Equal Rights," *Tekawennake*, August 28, 1996. Mary Two-Axe Earley suffered this fate in 1938 and was the founder of the movement for equal rights for Native women from Kahnawake.

[1417] This data comes from my own experience in a large extended family, some of whom lived off and others who lived on the Reserve. Continuing discussions took place over generations based upon the community elders' computation and assessment with regard to the amount of "Indian blood" possessed by individuals in the public sphere. It is rather bizarre to encounter in one's own family, "white" women from the United States, for example, who married Six Nations men, then explicitly seek Native entitlements for themselves and their children.

[1418] "The Accomplishments of the Indian Defense League," clipping file, Niagara Falls Public Library, Ontario. The Indian Defense League of America, forged under the leadership of Chief Clinton Rickard, Chief David Hill and Sophie Martin, was supported by men and women from Six Nations Reserve and the Tuscarora Reservation, on the American side of the border, to help Indians stopped at the border. The IDLA conducted an annual border-crossing celebration to support Indians, who were separated from their families and denied their treaty rights. The League intervened in the case of Dorothy Winifred Goodwin, a Cayuga woman from Six Nations who was stopped from crossing the border. The IDLA won her case on

A great deal of discord and bitterness would unfold across the Native landscape as women struggled to mend the damage done to their families by these patriarchal and discriminatory statutes in the Indian Act. Since male authority had become naturalized to some degree in Native communities, it was a struggle to re-inscribe women's leadership as a cultural norm. Native women across Canada who protested against the statute 12 (1) (b) faced entrenched patriarchal power within their own communities and were often criticized by their own families. The colonial constructs of Indian status and Band membership set neighbor against neighbor, brother against sister, as well pitting generations against one another, for all were vying for a share of the same finite socio-economic pie. Benefits such as housing, land, health, education and other entitlement programs are distributed by the local Band Councils based on Indian status.

Ironically, it was often Canadian women's rights organizations, non-status Indians and Metis women's groups who came forward to help Native women who had lost their Indian status. They too, were shut out by the patriarchal system, excluding them from receiving recognition under the Indian Act. Yvonne Bedard, Sandra Lovelace and Jeannette Lavell would find to their chagrin that they faced opposition from their own people in fighting their battle against gender discrimination. Suspicious of the motives of women and Metis seeking Indian status, one Mohawk activist condemned the "aims of 500,000 half-breeds, would-be Indians and non-conformists who seek 800 million a year in benefits."[1419] Curiously, other Native women were often the most vituperative critics of women who had lost Native status through marriage – nativism, as well as gender discrimination were operative principles among Indian populations, mirroring the majority society.

Subsequently, Native women turned not to their own communities, but to the Canadian court system, media and international advocates for indigenous cultures, as well as the women's movement, for help in their struggle to overturn discriminatory laws in

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the grounds that "her marriage did not change her nationality." The Congress of the United States finally passed a Bill giving individuals from Six Nations entry to the U. S. at all times. See, "Old Six Nations Council Celebrates New Privilege, *The Expositor* (Brantford, ONT), undated, article received from John Leslie (Indigenous research consultant), Ottawa, Canada, February 2006.

[1419] Horn, Frank Taiotekane, "Mohawk Backs Indian Act," *Brantford Expositor*, Letter to the Editor, September 8, 1973.

Canada. Women's rights and human rights activists, motivated to obtain social justice and promote ideological change, aided Native women fighting the statutory power of the Indian Act. Notably, a Canadian Royal Commission issued a report recommending that Indian women retain their status, even if they married a non-Native spouse.[1420] During this period a critical nexus of Native leaders and organizations lent a high profile to Indian affairs by underscoring the third-world conditions of many Native communities in Canadian society.[1421]

The lack of access to relevant and accurate historical information hampered the development and presentation of the legal cases from the women from Six Nations. It also damaged the ability of Six Nations leaders' from both Councils to effectively discuss and clearly present the historic perspectives and patterns concerning gender relations and social organization of Six Nations society in order to convey them accurately to media, the Canadian government, but more importantly, to educate the wider Six Nations community. The dispute over membership and status of Native women unwittingly revealed just how effective the Canadian government had been in suppressing Six Nations oral tradition, which had always provided a bulwark for the Six Nations people for the transmission of cultural knowledge, social norms and political organization. Women were historically influential in public affairs as well as private, respected and equally valued for their contributions in conjunction with men in Six Nations culture.[1422]

[1420] Canada. "Report of the Royal Commission on the Status of Women," House of Commons, 1970, p. 238.

[1421] The Indian Act, the uniform statutory code for Indians across Canada, underwent substantive reform in 1951and 1970, so Native leaders were engaged in negotiation with the federal government. The Minister for Indian Affairs at the time under the auspices for the Trudeau government was Jean Chrétien, Minister for the Department of Indian Affairs and Northern Development.

[1422] See Nancy Bonvillain's discussion of gender relations in Iroquoian society in Women and Men: Cultural Constructs of Gender, an insightful and nuanced understanding of the flow of gender constructs between Euro-American society and Native communities. This text explains how nineteenth-century cultural interpretations and constructions of gender relations affected the study and representation of gender in Iroquoian societies. I am arguing that these constructs influenced and impacted tribal societies, too, altering discourse within Native communities, such as Six Nations. Significant to my discussion is the notion of reciprocity and shared respect in gender relations as an important characterization of Six Nations cultural norms, eroded by imposition of patriarchy. Matriarchy, as Bonvillain points out, was not strictly an accurate term to describe Iroquoian societies, for there was no overarching dominance of social and political affairs by women to the exclusion of men. The egalitarian sharing of power and respect by women and men that was a feature of Iroquoian culture was misunderstood by Euro-Americans who perceived Native cultures in hierarchical terms. (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1995), p. 70.

Colonial oppression had caused some Six Nations people to readily identify and support precepts and norms of Canadian governance, reifying patriarchal norms and displacing women's power and influence, particularly the power of the clan mother. Clan mothers were responsible for "selecting, installing and demoting clan chiefs and advisers."[1423] Yet, in testimony before Parliament, a few Six Nations leaders even denied and disavowed the existence of their own matrilineal system of inheritance of clan and nation, without missing a beat – colonialism trumped oral tradition.[1424] It was not just the women who had "married out" who had been victimized by the oppression of the Indian Act, it was the entire community.

The battle over gender relations not only had a long-term negative impact on Indian status, but resulted in further deterioration of unity, leadership and vision within Six Nations society. Canadian discrimination against Native women impeded Ongwehònwe forms of self-government and social organization, particularly undermining cultural norms of respect and responsibility that historically had imbued the gender relations within the Six Nations with balance and reciprocity. Contentious gender relations emergent in the media coverage surrounding the closely followed court battles between Canada and Six Nations, gave Canadian officials yet another tool to drive a wedge between groups competing with one another for scarce resources at Grand River. Yet, ironically, underscoring the cost of recognizing Natives who had formerly been excluded from band membership served the interests of all parties in power – the Band Council, the Confederacy and the Canadian government, since they could divert attention from their own lack of progress and competency to focus on "feminist" agitators and agents. Of course, none of these groups admitted their own culpability in regard to the

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[1423] Bonvillain, Nancy, Women and Men: Cultural Constructs of Gender, (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1995) p. 72.

[1424] Public Archives of Canada, Indian Affairs, RG 14, 1996-97/193, (Box 80: 5900-331-I1, Wallet 3 of Wallets 1-4), For example, on September 17, 1984, the Six Nations Band Council presented their views on proposals before the Standing Committee on Indian Affairs (SCIAND) in Parliament regarding issues of discrimination in the Indian Act. On September 17, 1984 in a letter to the Canadian Parliament the Band Council presented four principles stating their position on pending revision of the Indian Act. The Band Council argued that males and females must be treated equally, that marriage should not affect status, reserve land was to be owned only by Indians of the Band and that the "bilateral descent principle should replace the historic rules of *patrilineal descent"* [*Emphasis mine*]. The Elected Council also sought more resources to deal with the influx of members into the community from Bill C-31.

use of patriarchal power to discriminate against Six Nations' women. Through sponsoring dialogue among Six Nations leaders from both Councils, as well as inviting comments from interested Native and women's groups, Canadian officials ostensibly highlighted the social and economic costs of change. In reality, though, the Canadian government and both Six Nations Councils also bought themselves more time to conduct business as usual.

The initial case that made a significant impact on Native women's rights involved Yvonne Bedard, a Six Nations' woman who appeared before Justice Osler in Ontario court. Her struggle emerged as a key factor in the battle between the Band and Confederacy Councils. In addition, Osler's controversial ruling, deciding that the Indian Act was inoperative in the Bedard case, directly impacted his consideration of Isaac v. Davey case in 1973. The international spotlight turned on Canada by the United Nations Human Rights Committee, due to the Canadian government's apparent violation of the Optional Protocol of the International Covenant on Civil and Political Rights, brought an intense level of scrutiny to Canada's relations with its Native peoples.[1425] Six Nations women were in the forefront of the struggle over the statutory discrimination against Native women encoded in an infamous clause of the Indian Act, 12 (1) (b) that was eventually repudiated by the Canadian government.

The crux of the legal wrangle in several signal cases centered on the discriminatory definitions and practices historically encoded within the Indian Act which legally transformed Native social organization to reify patriarchy. The spread of a Western-centered ideology of subordination oppressed Native women and denied them their human and cultural rights, if they chose to marry non-Natives. Native women were banished from homes and families, as well as from their own lands for the simple act of choosing to marry a non-Native. Yet, Native men were free to marry whomever they wished, with no penalty. In fact, upon marriage their wives, even if non-Native, suddenly

[1425] Extract of Minutes, New Brunswick Human Rights Commission, October 17, 1977, Brief within Departmental Library, in Selected Documents in the Matter of Lovelace v. Canada Pursuant to the International Covenant on Civil and Political Rights, (Ottawa: Department of Indian and Northern Affairs and Northern Development, 1984) preface.

became "instant Indians" with all the rights and privileges accorded by the Indian Act.[1426] It was an absurdity that in some measure, still endures today for descendants of those who were affected by this legislation.

Yet, as we have seen by the firestorm of criticism that erupted during the 1969 White Paper crisis Native groups were not of one mind with regard to revision of the Indian Act. Since specific provisions had historically became naturalized within First Nations communities many Natives did not want their hard-won treaty rights, privileges and policies that had been historically encoded within the Indian Act jeopardized by drastic change. For example, some Native leaders fought to retain the entire Indian Act until substantive negotiations took place and they could attempt to forge a completely new agreement. Other First Nations leaders were intent on pressuring the Canadian government for a special sphere of Native rights. In the decade of reform preceding the adoption of the new Charter of Rights and Freedoms on April 17, 1982, Native groups focused on encoding their treaty and aboriginal rights within the Charter. [1427]

As with many movements for social justice at the time, women's issues were not always at the forefront of Native leaders' political agendas. Although Native women's rights would seem to be a logical extension of the ideological struggle against the Canadian government, they were hardly embraced as a priority by patriarchal, male-dominated indigenous associations and Band Councils, including Six Nations. Brushed aside by Native advocacy groups, Indian women went to the Canadian courts to challenge the discriminatory policies that impacted their lives and jeopardized housing, health and welfare, for themselves and their children. These policies were often promulgated and enforced by Band Councils against their own people.

Political pressure on the Canadian government to remove discrimination from the Indian Act came from three principal areas: the non-Native and Native women's movement; the international human rights' movement; and the Canadian national effort to

[1426] Horn, Frank Taiotekane, "Mohawk Backs Indian Act," *Brantford Expositor*, Letter to the Editor, September 8, 1973.

[1427] Weaver, Sally, "First Nations, Women and Government Policy 1970-1992: Discrimination and Conflict," Paper reviewed in the library of the Historical Claims and Research Center in Ottawa, at DIAND, January 15, 2006.

repatriate the Canadian Constitution.[1428] Canada's statutes were in violation of international accords, as well as its own emerging doctrine of human and civil rights, encoded in the Charter of Rights and Freedoms. Enactment of the Charter would create a 1985 deadline for Canada to comply with the principle of gender equality. Yet, a Mohawk activist argued that, for example: "The Canadian Bill of Rights must not be considered superior to the British North America Act and the Indian Act." He argued for Indians to be treated as a "special grouping."[1429]

The precipitating factor in bringing about a reevaluation and change of Canadian policy toward Native women was the agency of several First Nations women who mounted legal challenges to the prevailing statute, 12 (1) (b), in the Canadian courts. One case began with a formal complaint lodged by several Native women against Canada with the United Nations. Yet, Mary Two-Axe Early, a Mohawk from Kahnawake, had been protesting against gender discrimination since the early 1950s without finding any base of support. It took the joint efforts of Native and non-Native women's advocacy groups, as well as international and domestic political pressure to move this issue forward.

The initial cases charging discrimination under the Indian Act's statutory provision, 12 (1) (b) were filed in Ontario in the 1970s; notably, one case from Six Nations was decided by Justice Osler. All of the cases involved women who had married out of their bands and lost their Indian status, their band enrollment and their right to live on the reserves and to inherit property. The first case was brought by an Ojibwa woman, Jeannette Lavell, who sought to be reinstated within her Wikwemikong band from Manitoulin Island.[1430] Lavell had lost her status and treaty rights in December 1970.[1431] Although she lost her initial court bid, she won on appeal in Federal Court in October

[1428] The Canadian Constitution Act would provide a three-year window to remove forms of discrimination in Canadian law and reconcile the legal code with the new Charter of Rights and Freedoms, passed in April 1982.

[1429] Horn, Frank Taiotekane, "Mohawk Backs Indian Act," *Brantford Expositor*, Letter to the Editor, September 8, 1973

[1430] Sally Weaver, "First Nations Women and Government Policy 1970-1992: Discrimination and Conflict," in Changing Patterns: Women in Canada, eds. Sandra Burt, et al., (Toronto: McClelland and Stewart, 1993) 95.

[1431] "Indian Women Status Case Will Cause More Divisions," *Brantford Expositor*, February 22, 1973.

1971, for the judge ruled that the statute of the Indian Act was indeed discriminatory and conflicted with the Canadian Bill of Rights.[1432]

The second major case was initiated by Yvonne Bedard, a Native who had been born at Six Nations, but who had lost her Indian status through marriage to a non-Indian. Bedard, came back to Grand River with her two young children in order to live in a house that she had inherited from her mother, after she separated from her husband in 1970. Bedard's case came before Justice Osler after the Six Nations Band Council ruled that she must leave the reserve, after her permit to live there for a year had expired. According to the Indian Act, she had no right to inherit her mother's house and live on the Reserve without Native status. Osler ruled in Bedard's behalf two months later, in 1971, citing the favorable appeal's court ruling on Ms. Lavell's case.[1433] Ms. Bedard sought not only reinstatement of her Indian status but also residency rights on the Six Nations reserve for herself and her two young children, for she feared eviction by the Band Council.[1434] According to Canadian law, she was not eligible to inherit her mother's property at Six Nations – this, despite a long Iroquoian tradition in which women had controlled goods and resources of the household and allocated "farmland to their kinswomen."[1435] The Band Council appeared indifferent to this historical precedent, appearing far more concerned with forcing compliance with the Indian Act.

[1432] Justice Thurlow, of the Federal Court of Appeal ruled that sections 12 (1) (b) of the Indian Act, "are thus laws which abrogate, abridge and infringe the right of an individual Indian woman to equality with other Indians before the law…the consequences of the marriage of an Indian woman to a person who is not an Indian are worse for her than for other Indians of her Band who marry persons who are not Indians. In my opinion this offends the right of such an Indian woman as an individual to equality before the law and the Canadian Bill of Rights therefore applied to render the provisions in question inoperative. Attorney General of Canada v. Lavell and Isaac v. Bedard [1973] 38 DLR (3d) 481, 1973 SSC. Copy of transcript obtained from Indian and Northern Affairs Canada, Office of Claims and Historical Research, Ottawa.

[1433] Justice Osler ruled in the Bedard case, "Section 12 (1) (b) of the Act is…inoperative and all acts of the Council Band and of the District Supervisor purporting to be based on the provisions of that section can be of no effect," as quoted in "The Federal Appeal before the Supreme Court of Canada," Attorney General of Canada v. Lavell and Isaac v. Bedard [1973] 38 DLR (3d) 481, 1973 SSC. Copy of transcript obtained from Indian and Northern Affairs Canada, Office of Claims and Historical Research, Ottawa. See also,

[1434] "Indian Women Status Case Will Cause More Divisions," *Brantford Expositor*, February 22, 1973.
[1435] Nancy Bonvillain, Women and Men: Cultural Constructs of Gender, (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1995) p. 69.

Ironically, the Band Council even set forth their position upholding the Indian Act as historically consistent with Six Nations custom. Yet, as previously noted, descent by blood had been only defined as a bilateral process in 1851, in the context of the historic evolution of the Indian Act. Indians at that time began to be defined through descent "on either side," including non-Indian women who were married to Indians.[1436] Non-Native women therefore, who married Indians, were obviously not as troubling to the framers of this early legislation as non-Native men, whom they viewed as simply marrying Indian women to gain access to Indian lands.[1437] Before the Indian Act the inclusion of those who associated with, lived with or were adopted by the community set a much looser standard of identification.[1438] A patrilineal line of descent to determine Native identity was in contradistinction to customary matrilineal or bilateral descent for many Native groups.[1439] This statute completely inverted historic and customary patterns of social organization, both at the community level and within each family and clan. This was an overt attempt to remove women from their positions of power in Native societies and subordinate them to men, refashioning Native culture in the guise of Western advancement. This legislation insidiously reshaped perceptions regarding gender roles from within Six Nations.

What did this mean for Jeannette Lavell and Yvonne Bedard? As the late anthropologist Sally Weaver stated succinctly: "Both women had initiated court proceedings on their own, and they received no support from their communities, their band councils, or their regional and national Indian political organizations. The once

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[1436] Leslie, John and Ron Macguire, eds., "The Historical Development of the Indian Act," (Ottawa: Treaties and Historical Research Centre, Department of Indian and Northern Affairs Canada, 1979) 24. Two Acts were passed on August 10, 1850, for the protection of lands held by Indians in both Upper and Lower Canada. An Indian was defined rather loosely at that time by blood, intermarriage, descent, residence, as well as adoption..

[1437] Ibid., 27.

[1438] As the definition of an Indian became encoded with attendant socio-economic benefits, this has created a desirability to being a status Indian with access to social welfare programs and tax-free residence on reserves. This was one of the points debated in the women's status case.

[1439] Weaver, Sally, "First Nations Women and Government Policy 1970-92: Discrimination and Conflict," in Changing Patterns: Women in Canada, eds. Sandra Burt, et al., (Toronto: McClelland and Stewart, 1993) 96.

matrilineal and matrilocal Iroquois, for example, had become acculturated to the principle of male dominance in the Indian Act."[1440] No chorus of voices rose from the Confederacy to challenge this blatant reinvention of tradition on the Reserve widely celebrated for its "cultural conservatism."[1441] In fact, none was anticipated, as apparent from Mohawk activist Frank Taiotekane Horn's letter to the editor from Caughnwage [sic], a reserve in Quebec: "I would be shocked if the council in Ohsweken permitted the squatters to remain on the reserve after they have married white men."[1442] Also in a letter to the editor, "Forbidden Voice," nominally the "Indian name" of Mohawk clan mother Alma Green, revealed the depth of bitterness and anger directed at the women who had married non-Natives: "You have made your bed – now lie in it."[1443] Echoing both Councils' sentiments against these Six Nations women, the Association for Iroquois and Allied Indians (AIAI) also sought to uphold the widely reviled statute, citing 12 (1) (b) as

[1440] Weaver, Sally, "First Nations Women and Government Policy 1970-1992: Discrimination and Conflict," in Changing Patterns: Women in Canada, eds. Sandra Burt, et al., (Toronto: McClelland and Stewart, 1993) 95.

[1441] In her classic study, Conservatism Among the Iroquois at the Six Nations Reserve, (Syracuse: Syracuse University Press, 1994), Annemarie Shimony, remarked upon the lack of support in the community, from both adherents of the Longhouse religion and Christians, for the return and reintegration of women who had "married out." Shimony reported that members of the Longhouse cited an ostensible admonition of their founder and prophet, Handsome Lake, for his followers not to marry outside of their own race. Historically, the Confederacy Council of Chiefs, before it was removed by the Canadian government in 1924, ruled on these situations case by case, for they had wide discretion, often allowing Six Nations people who had fallen on difficult times to come home. Women came back to the reserve with their young children after being separated or abandoned by their husbands. The Confederacy Council of Chiefs complained about the expense they incurred for the children's education, but they paid the costs through Six Nations funds. Supporters of the Confederacy Council, today, remain steadfast in their opposition to the Indian Act, but are not vocal supporters of Six Nations descendants who attempt to gain Indian status and Band membership. They also do not protest the continued discrimination against later generations struggling with the legacy of gender discrimination stemming from the Indian Act.

[1442] Horn, Frank Taiotekane, "Mohawk Backs Indian Act," *Brantford Expositor*, Expositor Forum, September 8, 1973.

[1443] Letter to the Editor, "Forbidden Voice," *Brantford Expositor*, September 14, 1971. This letter was probably from Alma Greene, the Mohawk clan mother who testified for the Confederacy in the 1970 trial. She used her Mohawk name, Ga-wonh-nos-doh, (Forbidden Voice) as the title for her book on Six Nations culture. Alma Greene was my cousin and known for her fierce rhetoric in defense of the Confederacy and the Reserve from those women who "married out," for it was a point of pride for her that neither she, nor her daughters or grand-daughter ever left the community in which they grew up.

"merely a legislative embodiment of what had become Indian custom."[1444] The AIAI represented most Iroquois bands, including Six Nations, in the southern part of Ontario.[1445]

It was clear that colonialism worked extremely well, from the standpoint of the Euro-Canadian society, for each council at Six Nations appeared to have internalized the anti-feminist agenda voiced by Canadian officials in regard to Native women in positions of power. Clan mothers, formerly the bulwark of Six Nations culture and Confederacy organization, had steadily lost power and recognition to Native men in a culture of gendered entitlement and anti-feminist sentiment. Even the followers of the Longhouse religion of Handsome Lake, a revitalization movement now identified in popular culture as the "traditional" religion at Six Nations, had also integrated the ideology of subordination within their social reforms. Handsome Lake advocated for the nuclear family and male leadership within the household, following the religious teachings of Christian missionaries, particularly the Quakers. Nineteenth-century social practices that relegated women to the private sphere were replicated at Six Nations. The ideology of subordination was reinforced at the Mohawk Institute, as unpaid domestic labor further undermined women's voices and their opportunity to influence the public sphere. Women aspiring to the middle-class at Six Nations often sought to take part in ladies' guilds, auxillaries, fairs and benevolent organizations as demonstrated by the local newspaper, The *Brantford Expositor,* which covered decades of social events and competitions in which Six Nations women participated. By the early twentieth-century, as we have seen, these changes to "traditional" women's roles were still being resisted, but the refusal of Indian agents to acknowledge women's roles in leadership positions dealt a telling blow to the Confederacy system.[1446]

[1444] Weaver, Sally, "First Nations Women and Government Policy 1970-1992: Discrimination and Conflict," in Changing Patterns: Women in Canada, eds. Sandra Burt, et al., (Toronto: McClelland and Stewart, 1993) 95.

[1445] "Union of Ontario Indians Refuses to Join Forces with New Federation," *Brantford Expositor,* August 2, 1974.

[1446] Bonvillain, Nancy, Women and Men: Cultural Constructs of Gender, (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1995) p. 74.

Both Six Nations Councils embraced anti-feminist positions until the latter part of the twentieth-century, despite the vaunted history of the matrilineal organization of Iroquoian culture. Sadly, it took until 1962 until three women were installed as Six Nations Band Councilors, the first to hold power since the elected Council was installed in 1924.[1447] The Confederacy, though, was even later to appoint women as officers, for it did not install a female council secretary until 1973.[1448] The so-called traditionalists of the Longhouse, supporters of the Handsome Lake tradition, were hostile to the empowerment of women and refused to support the challenge Six Nations women mounted against the patriarchal norms of the Indian Act.

Yet, opposition to this gendered subordination of women was not totally silenced. During the Supreme Court hearing in Ottawa there were also those who rallied in support of Ms. Lavall and Ms. Bedard from white feminist organizations, as well as Native women who had lost their Indian status in the 1950s, such as Mary Two-Axe Early. Metis and non-status women added their voices in opposition to the government: fighting against women's exclusion were the Native Council of Canada; the Association of the Metis and non-status Indians; and the Committee for Indian Rights for Indian Women.[1449]

Supreme Court: Lavell and Bedard Fight Discrimination in the Indian Act

The two cases for Ms. Bedard and Ms. Lavelle, were eventually combined and were heard together in the Supreme Court of Canada, for the Minister of Justice, John Turner, appealed both decisions. Native organizations representing 325,000 Treaty Indians joined the Attorney-General in opposing a change in the statute that took away the women's Indian status. This would not be forgotten by Native feminists who

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[1447] "Three Women Take Seats As Six Nations Coucillors," *Brantford Expositor*, January 4, 1962. Rena Hill, Mina Burnham and Minnie Jamieson were installed by Indian agent, R. J. Stallwood at Six Nations Reserve.

[1448] "Woman Named Council Secretary," *Brantford Expositor*, June 25, 1973. Garnet Thomas was chosen as secretary of the Confederacy Council, "the first female in living memory to do so."

[1449] "Indian Women Status Case Will Cause More Divisions," *Brantford Expositor*, February 22, 1973. The numbers of supporters at the Supreme Court hearing for the two women were estimated at 250, while 900 Native people sought to upset the Lavell ruling.

recognized that these organizations were dominated by men. These organizations purportedly feared that restoring Indian status to women such as Jeannette Lavell would open the reserves to a tide of non-Natives. Also, some Native groups condemned the Supreme Court's interference with Native affairs, arguing that Parliament was the appropriate body to make decisions concerning the Indian Act, following Native consultation. Native leaders such as Harold Cardinal feared that rendering even a small part of the Indian Act "subordinate to the Bill of Rights" would destroy Natives' special status in Canada.[1450]

Testimony was heard before the House of Commons, Indian Affairs Committee while these cases involving women's status were ongoing. First Nations leaders were seeking the power to make decisions regarding membership and status for themselves as a prerequisite for indigenous self-government. Leaders such as Harold Cardinal of the Indian Association of Alberta sought such a role in drafting a new Indian Act.[1451]

In the Supreme Court case most national Native organizations such as the National Indian Brotherhood (NIB), the precursor to the Assembly of First Nations, supported the Canadian government. By negotiating with Canadian officials they sought to attain self-determination and First Nations' sovereignty, including the right to determine their own national membership. Opposition to Lavell and Bedard was particularly strong from Western Native groups, such as the Indian Association of Alberta, who argued that some bands' traditional social organization was patrilineal. These national Native organizations were still traumatized by the debacle over the White Paper and were exceptionally wary over government's attempt to abolish the Indian Act. They feared the Canadian government officials might use case law and the argument that the legislation violated the Canadian Bill of Rights to void the Indian Act completely, with no consultation.[1452] Indeed, Indian Affairs had already halted the removal of women from the tribal rolls when the appeals court ruling favoring Lavell was issued;

[1450] "Indian Women Status Case Will Cause More Divisions," *Brantford Expositor*, February 22, 1973.

[1451] "Says Bill of Rights Not Meant to Destroy History of Indians," *Brantford Expositor*, February 23, 1973.

[1452] Weaver, Sally, "First Nations, Women and Government Policy 1970-1992: Discrimination and Conflict," Copy of paper reviewed in the Historical Claims and Research Department, DIAND, Ottawa, January 2006.

this would affect thousands of women and children so the socio-economic impact on reserves was considerable.[1453]

Since the Canadian government appealed both cases against Bedard and Lavell, and the women argued virtually the same issue, the cases were combined and heard together. Justice Ritchie voiced the opinion of the majority for the court in a 5-4 decision August 27, 1973, that women who marry non-Indians lose Native status according the provisions of the Indian Act.[1454] According to his interpretation of the legal issues the crux of the two cases was that Lavell and Bedard both claimed that they were "denied equality before the law by reason of sex." Ritchie put great weight on the historical evolution of the designation of Indians as "distinct from other Canadians." He emphasized that the Indian Act was in Parliament's exclusive sphere of responsibility under the British North America Act. Ritchie argued that contemporary legal arguments and rulings, such as using the Canadian Bill of Rights to render the power of Parliament's mandate and constitutional responsibility over Native peoples as "inoperative and discriminatory," would not be "sustained." His perception was that the Bill of Rights did not implicitly invalidate prior Canadian legislation, particularly when nothing was passed to assume its place.[1455]

By emphasizing the role of the Indian Act as nineteenth-century protective legislation giving Parliament a fiduciary role over Indians as wards and structuring a separate sphere from other Canadians, in a paternalistic tour de force, Ritchie denied that the provisions of equality in the Bill of Rights were ever meant to be applicable to First Nations.[1456] In fact, Ritchie specifically stipulated that the phrase "equality before the

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[1453] "Fight by Woman on Indian Status to be Opposed by Organizations, *Brantford Expositor*, January 19, 1973.

[1454] "New Chief Justice Backed Women in Status Hearing," *Brantford Expositor*, December 29, 1973.

[1455] Attorney General of Canada v. Lavell and Isaac v. Bedard [1973] 38 D.L.R. (3d) 481, 1973 SSC. Copy of transcript obtained from Indian and Northern Affairs Canada, Office of Claims and Historical Research, Ottawa.

[1456] Attorney General of Canada v. Lavell and Isaac v. Bedard [1973] 38 D.L.R. (3d) 481, 1973 SSC. Copy of transcript obtained from Indian and Northern Affairs Canada, Office of Claims and Historical Research, Ottawa. The legal arguments from another signal case of the time, Regina v. Drybones, were also raised,

law" did not imply the broad egalitarian concept invoked by the United States Constitution in the Fourteenth Amendment, but rather "equality in the administration or application of the law…in the ordinary courts of the land."[1457] Therefore, equality in terms of the fairness of a law regarding a particular individual was not the issue, but the standard applicability of the law to a group. The Indian Act was created to be a uniform policy by the Federal Parliament to deal with Indians and Indians' land. Therefore, as long as the law was applied across the board, it did not raise the issue of inequality, according to Justice Ritchie's reasoning and the majority of the Court. The United Nations Committee on Human Rights would later disavow this reasoning.

Justice Laskin wrote the dissenting opinion in the Supreme Court appeal of Lavell and Bedard. Laskin pointed out that the most compelling argument in the case was precisely equality before the law. The principles of the Canadian Bill of Rights he believed, in contrast to Ritchie, were written specifically for such cases of gender inequality. Laskin had written for the majority on another case of discrimination, arguing that the provisions in the Bill of Rights offered "an additional lever to which federal legislation must respond."[1458] In his dissent in the Lavell-Bedard case, Laskin argued for dismissal of the government's appeal: "If, as in Drybones, discrimination by reason of race makes certain statutory provisions inoperative, the same result must follow as to statutory provisions which exhibit discrimination by reason of sex."[1459] Laskin argued that the Canadian Bill of Rights was the preeminent statute to be considered, before which Federal laws contradicting principles of equality must yield and he specifically

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for it, too, raised the issue of discrimination against Natives as a race, in regard to criminalizing intoxication. Ritchie dismissed the parallel, for he argued, the case pertained to behavior off Reserves.

[1457] Ibid. Justice Ritchie, in his decision on the Lavell/Bedard appeal, rejected an egalitarian interpretation of the phrase, "equality before the law" in the Canadian Bill of Rights, citing Smythe v. The Queen [1971] S.C.R. 680 per Fauteux C.J., pp. 683, 686. Ritchie preferred to interpret the concept as referring to "the rule of law," as interpreted by Dicey, as "equal subjection of all classes to the ordinary law of the land administered by the ordinary courts" in Stephen's Commentaries on the Laws of England, 21st ed., Vol. 3, 1950, p. 337.

[1458] See Curr v. The Queen, 1972 SSC, as quoted in Attorney General of Canada v. Lavell and Isaac v. Bedard [1973] 38 D.L.R. (3d) 481, 1973 SSC.

[1459] The Queen v. Drybones [1970] S.C.R. 282, 1970 SSC. This case challenged the Indian Act as discriminatory, punishing Natives, off the reserve, for intoxication, while not applying the same legal codes against non-Natives.

cited the Drybones decision, a former Supreme Court case. Justice Laskin pointed directly to the gender inequality implicit in statute 12 (1) (b) and concluded that, "no similar disqualification is visited upon an Indian man who marries a non-Indian woman." Laskin favorably cited Judge Osler's opinion, at the provincial level, noting that "there is plainly discrimination by reason of sex with respect to the rights of an individual to the enjoyment of property."[1460] Laskin was appointed as Chief Justice of the Supreme Court of Canada by Prime Minister Elliot Trudeau several months after his dissent in this ruling.[1461]

Nevertheless, five-of-nine judges sided with Justice Ritchie and granted the appeal of the Attorney General of Canada against Lavell, as well as Bedard; the terms of the Canadian Bill of Rights did not apply to Indians. This ruling focused a spotlight on Canadian-Native relations and brought forth a sustained level of scrutiny on the provisions of the Indian Act that ultimately would not withstand pressure from the international arena and women's rights activists, forcing Canada to modify the statute a decade later.

Justice Laskin discerned, in his reasons for dissent in the Lavell-Bedard appeal, a process of "statutory excommunication" inflicted upon Native women who married non-Indian men, as well as their children. He explored the issue in broader terms as the cultural separation of Native women from their society, a fate not visited upon males, if they, too, chose to marry a non-Indian. Laskin argued that the Indian Act rendered an "invidious distinction" upon brothers and sisters that amounted to "statutory banishment."[1462] This forced separation of an Indian woman from her homeland, relatives, society and cultural life was a cruel injustice that was even carried to the grave, for a non-status woman and her family could not even be buried on the Reserve, often the

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[1460] Attorney General of Canada v. J. V. Corbiere Lavell, and Richard Isaac et al. v. Yvonne Bedard [1974] S.C.R., 1349, 1974 SSC. Copy of transcript obtained from Indian and Northern Affairs Canada, Office of Claims and Historical Research, Ottawa.

[1461] "New Chief Justice Backed Indian Women in Status Hearing," *Brantford Expositor*, December 29, 1973.

[1462] Ibid.

place where she was born.[1463] As noted in an editorial in the Montreal Star noted, "…the only people who will find the Lavell judgment agreeable are Indian nationalists, concerned to stop intermarriage at any price."[1464]

The grounds for judgment in the Supreme Court of Canada were widely criticized as narrow, rather than encompassing the issues at stake, namely, equality and social justice for all citizens, despite gender, race or ethnicity. The cultural ramifications cited by Laskin in his dissent on the Lavell-Bedard case would provide the legal grounds for victory in the next critical stage in the struggle for the rights of Native women banished from their homelands. Lovelace v. Canada, pursuant to the International Covenant on Civil and Political Rights on December 29, 1977, was the next battleground on which the war for Native women's equality was fought.

Justice Ritchie's ruling was welcome news to the Canadian government, which had been supported by groups of Chiefs from Western Canada and several large Indian national associations. The Canadian government was in an unenviable position, however, for there was no unified Native position in regard to the case or statute of the Indian Act. There would be a substantive backlash against the government position. Also, the power of the Band Councils was largely in the hands of male leaders, who were not eager to give up their leadership, power or control of their economic resources, to share with women and their families, who sought to return home. A feminist critique would surely be advanced regarding the Canadian government's intransigence toward Native women. Nevertheless, the women seeking reinstatement on their former Band's list, were waging a battle against entrenched power at both the national and local level, with just the support of several newly forged Native and Canadian women's groups.

United Nations Intervention

[1463] This happened to my own mother, for all of her family is buried on the Six Nations Reserve but her. Even though she ultimately regained her Indian status, the rejection remained and the wound had not healed by the time she died, in 1995. Women who came back to the reserve as a result of regaining status were not looked upon as legitimate members of the community. Instead, they were viewed as interlopers seeking benefits or social services – once again alienating women who merely sought to come home again, often after their husbands had died, or they had separated from them.

[1464] Slayton, Philip, "Indian Act Ruling Illogical," *Montreal Star*, September 5, 1973.

The next assault on the Indian Act's discrimination against Native women came from the Tobique Reserve in New Brunswick, by a woman named Sandra Lovelace, a Maliseet Indian. Noel Kinsella, a member of the New Brunswick Human Rights Commission, an independent committee of the United Nations, initiated an investigation regarding the protest of married women held at the Band Hall on the Tobique Reserve. He began an inquiry regarding the possible violation of international accords signed by the Canadian government in August 1976. The most relevant accord was the Optional Protocol of the International Covenant on Civil and Political Rights.[1465] Article 26 was particularly intriguing, for all parties were entitled to equal protection before the law, without discrimination, specifically mentioning "sex." Yet, it was Article 27 that would prove to be the most powerful tool in the Lovelace case, for it established the rights of "ethnic, religious, or linguistic minorities…in community with the other members of their group, to enjoy their own culture, to profess their own religion, or to use their own language."[1466] An individual could pursue such a formal line of inquiry if all other pathways within the national framework had been exhausted. Lovelace simply provided the Human Rights Committee with the text of the Supreme Court decision rendered in the Lavell and Bedard case, as evidence that Canada upheld the legitimacy of the Indian Act, despite the prohibition against discrimination in the Canadian Bill of Rights. A complaint was formally initiated by Sandra Lovelace on December 29, 1977 and submitted to the Human Rights Committee, to determine if Canada's Indian Act, in particular, 12 (1) (b), constituted discrimination against Native women, in violation of international agreements. The three international accords in place held Canada to high standards of international human rights; any complaints from individuals, as well as groups, were handled, if found to be of merit, by the Human Rights Committee of the United Nations.

[1465] Extract of Minutes, New Brunswick Human Rights Commission, October 17, 1977, Brief within Departmental Library, in Selected Documents in the Matter of Lovelace v. Canada Pursuant to the International Covenant on Civil and Political Rights, (Ottawa: Department of Indian and Northern Affairs and Northern Development, 1984) preface.

[1466] United Nations, Covenant on Civil and Political Rights, and Discrimination against Women under the Indian Act, in ibid., 10.

The Human Rights Committee accepted the complaint from Ms. Lovelace as admissible, and by July, 1978 the wheels of diplomatic protocol began turning.[1467] The Human Rights Committee formally requested information from Canada regarding the case through the Secretary-General; Canada had no choice, but to respond.[1468] Admitting to the "difficulties that exist with the present Indian Act," the government promised to introduce legislation to amend it during the next Parliamentary session. Canadian authorities promised consultation with Native communities, but vowed to change the troublesome statute 12 (1) (b), "even if it could not, in the near future, reach an agreement with Indian groups."[1469] The Canadian officials quickly backed away from this position, however, citing in their next report to the Human Rights Committee, the wide range of opinion within Indian communities in regard to determining Indian status, Band membership and residency on Indian reserves.

Lovelace appealed to the Human Rights Committee to specify that the Canadian government must follow through in its initial promise to amend the statute 12 (1) (b) at the next session of Parliament, to "resolve all past difficulties which have been created" by the law, and finally, to make sure that the new amendment to the Indian Act was drafted in accord with the United Nations Covenant, so the issue of gender discrimination was resolved.[1470] Unfortunately, the Canadian government did not fully implement this recommendation. Native women and men are still suffering these disabilities in the early twenty-first centuries. The grandchildren of those first generations, both men and women, remain without status under the old Canadian statutes. They face the same hardships and barriers to membership as well as the same prejudice on their reserves. This "lost generation" has been unable to press Ottawa or the local Band Councils to acknowledge the issue and reconfigure Indian status to rectify this problem. The

[1467] Henri Mazaud (Assistant Director, Division of Human Rights, United Nations), to Sandra Lovelace, September 28, 1978, in ibid., 29.

[1468] United Nations, Human Rights Committee, Decision on Admissibility, Optional Protocol of the International Covenant on Civil and Political Rights, 7th sess., 1979, in ibid., 35.

[1469] The Permanent Mission of Canada to the United Nations, 1979, in ibid., 38.

[1470] Selected Documents in the Matter of Lovelace v. Canada Pursuant to the International Covenant on Civil and Political Rights, Brief within Departmental Library, (Ottawa: Indian and Northern Affairs and Northern Development, 1984) 85.

suffering and division of families that ensued through the application of this statute to Native culture and society cannot be erased, but it can begin to heal with understanding of the problem.[1471]

In response to the queries of the Secretary General, Canadian officials finally revealed that they were considering how to stipulate that Band membership lists were constructed with regard to the international accord Canada was obligated to uphold – to be "non-discriminatory in the areas of sex, religion and family affiliation."[1472] This did not come to fruition; the movement for Native self-determination and Band control of membership complicates this process in contemporary Native politics, as we shall see when reviewing Six Nations membership by-laws. Compounding the problem was that when the Canadian Human Rights Act was passed in 1977, the Indian Act was specifically exempted, for the government had promised the National Indian Brotherhood not to amend portions of the Indian Act, pending consultation with Native groups to revise the entire system, under the auspices of a Joint Committee.[1473]

The ruling of the Human Rights Committee of the Optional Protocol of the International Covenant on Civil and Political Rights was issued on July 30, 1981. The Committee maintained, "it is natural" that following the breakup of her marriage, that Sandra Lovelace sought to return to the reserve of her birth and to the Maliseet Band. "Whatever may be the merits of the Indian Act in other respects, it does not seem…that to deny Sandra Lovelace the right to reside on the reserve is reasonable, or necessary to preserve the identity of the tribe." The Committee ruled that her rights had been violated by Canada, under Article 27 of the Covenant.[1474] The international committee on human rights of the United Nations publicly censured Canada for its discrimination against Indian women who were not able to be a part of their own culture; it was truly a victory

[1471] My own children face this predicament for despite my own Indian status, it does not extend to my children. This has many ramifications for if I choose to go back to the reserve to live and teach, my children would not be eligible to stay and live at Six Nations, or stand to inherit my property

[1472] Ibid., 103.

[1473] Ibid., 125.

[1474] United Nations, Human Rights Committee, 13th sess., 1981, Communication R. 6/24, submitted by Sandra Lovelace, in ibid., 163-4.

to savor for generations of Native women denied the simple pleasures of their own cultural heartland.

Reform Under Fire

It was obvious that reform of the Indian Act had to be undertaken, but attempts were stalled during the larger struggle over the Canadian Constitution Act. When it was enacted in 1982, Native people emerged with the recognition of treaty rights and under the Charter, a guarantee of equal treatment under the law. There was also a deadline set for all discrimination to be removed from Canadian laws, not in accord with the rights guaranteed in the new Charter, including the Indian Act. Three years after the enactment of the Charter, April 17, 1982, the Canadian government had to expunge the discriminatory provisions from the laws, with the consultation of Native groups.

John C. Munro, Minister of Indian Affairs and Northern Development, set forth the agenda for removal of discrimination in the Indian Act. Munro sketched out the major issues to be resolved, namely, the reinstatement of Native women, who had been stricken from the Indian Band lists, rights of children, as well as the non-Indian spouse, and non-Indian children. An over-arching problem was to decide whether the Federal government or the Band councils would determine status and membership as two distinct categories of Native identity, so delineated for the first time. All of these thorny issues were discussed in a politically charged atmosphere in which Native organizations, such as the Assembly of First Nations, were flexing their new power and demanding self-government.

Munro charged a House of Commons Standing Committee on Indian Affairs, chaired by Keith Penner, a Liberal Member of Parliament, to focus on two key issues – development of Indian self-government and removal of "provisions that discriminate against women on the basis of sex," in the Indian Act.[1475] The debate of the committee, testimony, consultation with Native and women's groups, supplemented by their supporting briefs, became known as the Penner Report. Conflicts soon emerged between Penner's Committee and the Minister, particularly with regard to the interpretation of the

[1475] Public Archives of Canada, Indian Affairs, RG14, Accession no. 1990-91/119, Box 166, Wallet 1, File 6050-321-I3. House of Commons, Standing Committee on Indian Affairs, Sub-Committee on Indian Women and the Indian Act, 32d Parliament, 1st sess., 1980-82, p. 5.

mandate of the committee, the scope of the tasks, the timeline involved for the study and the range and depth of consultation with Native groups. Munro was facing a deadline and needed an exit strategy, neatly packaged in a report, by the time Parliament was back in session. The discrimination issue could not fester, he argued, unresolved, while representatives of First Nations and federal officials debated the meaning and construction of Native self-government. The Assembly of First Nations Chief, David Akenew, countered by explaining that Native groups would be "delighted [emphasis his] to throw out the Indian Act just as soon as their aboriginal and treaty rights are safely secured in the Constitution…"[1476]

A special sub-committee was appointed with the mandate to remove the discriminatory elements from the Indian Act, issuing its report September 20, 1982, without extensive Native input, as noted with asperity and chagrin by the Indian Affairs Minister, John Munro, who assailed the report as "a job half done." In Munro's view, it was incumbent upon Parliament to remedy the discriminatory provisions in the Act. He stated: "I believe it would be a failure for our Parliament if we permitted the problem with discrimination in the Indian Act to continue until the courts were forced to play a role."[1477] This is exactly what is happening once again, in Canada. Unfortunately, the Department of Indian Affairs is poised to revisit this legal issue, waiting to be targeted in yet another lawsuit on behalf of the remaining descendants of women who suffered the initial discrimination.

The Canadian government sought a "quick fix" to deal with a century-long problem of gender discrimination that had become a political embarrassment. The policy formulated as a result of the Penner Report was a critical start, but as we shall see, it

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[1476] Public Archives of Canada, Indian Affairs, RG14, Accession no. 1990-91/119, Box 166, Wallet 1, File 6050-321-I3. Testimony of Dr. Dave Ahenakew (National Chief, Assembly of First Nations) on September 8, 1982, House of Commons, Standing Committee on Indian Affairs, Sub-Committee on Indian Women and the Indian Act, 32d Parliament, 1st sess., 1980-82, p. 11.

[1477] Public Archives of Canada, Indian Affairs, RG14, Accession no. 1990-91/119, Box 166, Wallet 4, File 6050-321-I3. Notes for remarks by the Hon. John C. Munro (Minister of Indian Affairs and Northern Development) on September 8, 1982, House of Commons, Standing Committee on Indian Affairs, Sub-Committee on Indian Women and the Indian Act, 32d Parliament, 1st sess., 1980-82, pp. 1-3.

failed as a long-range policy to protect Native women and their children, from discrimination, resulting from the Indian Act.

Native Patriarchy and Power

Although the Sub-committee and the Assembly of First Nations both viewed Band membership as the cornerstone of self-government, the institutions of Native self-government were still emerging. Lines of power and authority within indigenous institutions were still to be defined, with no guarantee, but a fragile consensus emerged that indigenous ideologies would reflect international norms of non-discrimination with regard to race or gender. The import of the Lovelace case was to ensure cultural survival, but there was no clear roadmap, explaining how to achieve that goal. Moreover, central questions about whether indigenous institutions of self-government, such as Band councils, would be held to international standards of non-discrimination were not addressed specifically, only vaguely alluded to in the hearings. This was a problem for champions of cultural rights' theory would argue that western standards represent interference in cultural traditions. Specifically, what was the incentive for Indian communities, often led by male-dominated, politically invested Band Councils, to open up their membership to include more individuals, who would only increase competition for scarce resources and land. .

Long dominated by Indian agents and the patriarchal and dehumanizing Indian Act, even the stalwart resistance of the Confederacy to Canada's attempt to rule over Six Nations, has not rendered the community impervious to the subtle hegemonic power of internal colonialism. Six Nations people were themselves generally opposed to the restoration of rights and the inclusion of women and their descendants, who had been banished from the community under the discriminatory provisions of the Indian Act.

The dispute continued to roil the traditionalist community, home to adherents of the Longhouse religion. There was a considerable backlash against women and their descendants, who sought to return.[1478] Discrimination against these Native women

[1478] For a detailed analysis on the impact on women who fought for restoration of their rights, see Kathleen Jameison's text, Indian Women and The Law in Canada: Citizens Minus, published with the support of the Advisory Council on the Status of Women, (Ottawa: Ministry of Supplies and Services, 1978). See also, Gerald Alfred's study of these issues in the context of Mohawk nationalism, in Heeding the Voices of Our

further diminished the ranks of women available to lead their families and clans, for if they married outside of their Band, they were ineligible to conduct their ceremonial and familial roles. This was another way the power of Native women was subordinated to undermine the cultural fabric of Native societies. Ironically, gender discrimination turned traditionalists, many of whom were adherents of the Confederacy and the Longhouse religion, against many of their strongest female allies: women who kept their faith, language, and sacred knowledge, long after they were banished. Many turned their energies to political organizations to lobby for Native rights and recognition from the majority society that they could not obtain from their own Native groups.

A Road Not Taken: Native Self-Government

Self-government was the major focus of the Penner Report, released in October 1983. Extensive consultation with Native groups across Canada distinguished this Committee's efforts, including representatives from Six Nations Band Council. The Penner Report on Self-Government strongly advocated that Native Bands identify their own priorities and policies, and move forward to creation of institutions of indigenous self-government. Penner linked the right of self-government by First Nations with control of membership, according to Native criteria, such as clan and cultural affinity. It was envisioned that as each First Nation constructed its own membership code, it could also begin the process of shaping its own form of government. Membership was conceived as a two-tier system, with the Canadian government controlling an Indian Register granting general Indian status, the key to entitlements, while Band Councils determined their own community's membership, land base and residency on reserves.[1479] Roberta Jamieson, who later served as an elected principle chief for the Six Nations Band Council, served on the committee. She sought consensus and tried to forge a report that

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Ancestors: Kahnawake Mohawk Politics and the Rise of Native Nationalism (Toronto: Oxford University Press, 1995).

[1479] Frank Cassidy and Robert L. Bish, Indian Government: Its Meaning and Practice, (Halifax, Nova Scotia: Oolichan Books and The Institute for Research on Public Policy, 1989) 61.

[1479] Roberta Jamieson (Former chief, Six Nations Reserve), telephone interview with the author, February 24, 2006.

all parties could support. She felt that Natives on the Committee "pushed the envelope" as far as they could to reach a nexus for change.[1480]

Six Nations Band Council, under Chief Wellington Staats, supported the move toward self-government and stronger Band Councils, arguing: "…the right of any First Nation to control its own membership is to us basic to any consideration of self-government..."[1481] The strengthening of Band governments was resisted by Native women's groups who argued, "…At the present time you would only replace discrimination by the DIA [Department of Indian Affairs] with discrimination by Indian governments, Band governments."[1482] In contrast, Native advocates of self-government sought to decolonize relations with the Canadian government, by empowering community control of membership as a basic tenet of cultural survival and Native identity. Conflicts had grown so intertwined and complex that there was no single solution to cut the Gordian knot – each Native group had its own particular agenda, with women's groups, ultra-nationalists, Band Councils, national political advocacy groups and traditionalists all vying for their own turf in an emerging Native power struggle.

The sweeping, Indian-centered framework and perspective that characterized the Penner report on self-government was largely rejected by the Canadian government for it represented a movement toward less Federal control and accountability. Instead, Band Councils were to be further developed and reinvigorated in the style of municipal governments.[1483] The Canadian government's control over Native affairs was not to be relinquished quickly or easily.

[1480] Roberta Jamieson (Former chief, Six Nations Reserve), telephone interview with the author, February 24, 2006.

[1481] Public Archives of Canada, Indian Affairs, RG14, Accession no. 1996-97/193, Box 80, Wallet 3, File 5900-331-I1. "Presentation to the Standing Committee on Indian Affairs on Bill C-31," House of Commons, Standing Committee on Indian Affairs, 33d Parliament, 1st sess., 1985

[1482] Public Archives of Canada, Indian Affairs, RG14, Accession no. 1990-91/119, Box 166, Wallet 1, File 6050-321-I3. Ms. Donna Tyndell (United Native Nations, British Columbia), House of Commons, Standing Committee on Indian Affairs, Sub-Committee on Indian Women and the Indian Act, 32d Parliament, 1st sess., 1980-82, p. 16.

[1483] Weaver, Sally, "Self-Government Policy for Indians 1980-1990: Political Transformation or Symbolic Gesture," Revised paper delivered to UNESCO Conference, "Migration and the Transformation of Cultures in Canada," in Calgary, Alberta, October 21-22, 1989 (Ottawa: Department of Indian Affairs and Northern Development) 11.

First Nations leaders, such as Ovide Mercredi, expressed resentment over Canada's continuation of colonial rule cloaked in the rhetoric of reform and the government's new-found concern for human rights. Mercredi opposed the unilateral imposition of the Canadian Charter of Rights and Freedoms on indigenous people, for he argued that it was created with no input or understanding of Native cultures. He specifically cited Six Nations Reserve, referring to the removal of the hereditary Confederacy Council in 1924, as an example of insensitivity to indigenous forms of government and gender relations. Although the Confederacy was not democratic or matriarchal in a Western sense, the organization was responsive to the voices of all its members and the role of women as clan mothers in the selection, advising and removal of chiefs was a key function; women clearly had great power and voice in the institutional framework of the Confederacy. Yet, Canadian officials who removed the Confederacy Council in 1924 targeted and ridiculed the role of women, referring to the Six Nations Council as a "petticoat government."[1484] Mercredi argued, ironically, "…the government wants to apply the Charter to solve the human rights problems it created when it imposed the Indian Act." Confederacy adherents sought to revitalize their own form of government to guide their communities in the future according to indigenous principles and cultural values. Mercredi stipulated, "…it has nothing to do with wanting to undermine or diminish women…We want to guard against the destruction of traditional forms of governing ourselves and ways of resolving disputes."[1485] Yet, with no written guarantees for civil and human rights set forth by traditional leaders, would Native communities support indigenous forms of government, given the influence of Euro-American political forms reifying written codes and litigation to solve conflict? Did the rhetoric of traditionalism simply represent yet another layer of political self-interest?

The Canadian government was moving forward, however, pressing for legislation to remove the discriminatory provisions of the Indian Act. The measure that emerged under the auspices of the Minister of Indian Affairs and Northern Development, David

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[1484] Public Archives of Canada, Indian Affairs, RG10, Volume 2284, File 57,169-1 "Indian Braves Make Demands," *Quebec Chronicle*, September 23, 1919.

[1485] Mercredi, Ovide and Mary Ellen Turpel, In the Rapids: Navigating the Future of First Nations, (Toronto: Viking, 1993) p. 97-99.

Crombie, known as Bill C-31, was shaped in the midst of a fractious debate about women's rights, Native self-government and indigenous cultural survival. Native resistance to its imposition was engendered in large measure by its tincture of colonialism, but also stemmed from a patriarchal mentalite, entrenched in First Nations societies. Competition over scarce resources, particularly housing and land at the Band level, foreshadowed a strong backlash against the measure and set the stage for factional conflict and disputes. A surge of Natives returning to live in Indian communities, without a commitment of further resources from the Federal government, would exacerbate Native tensions and stir resentment against women, as well. Restricting Canada's responsibilities only to status Indians, under the two-tier system developed by the Penner Committee, would enable the Federal government to distance itself from community demands for increased funding and services.[1486]

In the set of hearings leading up to the Bill written to resolve the inequitable treatment of Native women, the elective Council of Six Nations, submitted a stunning graphic depiction of the central problem facing our community, then, as well as today. In Figure 1, the caption denotes the problem in a succinct phrase, "Inequality Remains." It displays in one glance the failure of the Canadian government and Native Band Councils to address continuing discrimination against women and their descendants at Six Nations Reserve, then and now.[1487] The proposed legislation created for restoration of the rights of women stricken from status and membership by the Indian Act, Bill C-31, still only solved a portion of the problems. The statutes drafted, that eventually would be enacted in Bill C-31 on June 28, 1985, to correct the damage from discriminatory statutes of the past, encoded in the Indian Act, would reinstate only the women directly impacted, as well as their first generation of children, who would not be able to transmit Indian status to their children.[1488] The remaining descendants of the women re-instated after Bill C-

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[1486] Cassidy, Frank and Robert L. Bish, Indian Government: Its Meaning and Practice, (Halifax, Nova Scotia: Oolichan Books and The Institute for Research on Public Policy) p. 61.

[1487] Public Archives of Canada, RG14, Accession no. 1996-97/193, Box 80, Wallet 3, File 5900-331-I1. Example of Inequality from the Six Nations Council, House of Commons, Standing Committee on Indian Affairs, 33d Parliament, 1st sess., 1985.

[1488] Due to the fact that the Constitution Act came into force on April 17, 1985, Bill C-31 came into force on the earlier date.

31, were to be left without status or Band membership, while everyone entered on the Band "list," even if they were non-Native remained, as well as their descendants.[1489]

Both the elected Band Council of Six Nations, headed by Chief Wellington Staats, as well as the Secretary of Six Nations Confederacy Council, Thomas Longboat, filed opposing comments in regard to the proposed Bill C-31.[1490] In addition, the Haudenosaunee Land Rights Committee, affiliated with the Confederacy, also filed a third statement.[1491] All of these groups represented Six Nations Reserve in some capacity. The Band Council generally supported Bill C-31, but evidenced great concern about the drain upon its resources, given the restoration of several thousand women and their descendants, if they were reinstated with attendant benefits. Staats argued that Six Nations would need at least 10,000 more acres of land and nearly four million dollars, as a minimum in additional annual funding, to handle approximately 2,500 more members, who would be reinstated.[1492] Both the Elective Council and the Confederacy were worried about a provision in the Bill regarding membership in the Band, for the proposed legislation stipulated the consent of a majority of electors, as a step required by the Federal government, in order to gain control of its own membership. Staats noted, "Many of the Band members are adherents of the Iroquois Confederacy, who under no

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[1489] This impacts my own children, who are one-quarter Cayuga, but not eligible for Band membership under the current statutes. This inequality exists for many Native people, while non-Natives enjoy every benefit of Native citizenship because they were listed as Band members before this law was passed. Membership lists, tribal or band rolls are politically constructed and have very little to do with historic or cultural identity, or even blood quantum – the nineteenth-century phrase for measuring "Indian blood."

[1490] Public Archives of Canada, RG14, Accession no. 1996-97/193, Box 80, Wallet 3, File 5900-331-I1. Chief Wellington Staats (Six Nations Band Council), "Presentation to the Standing Committee on Indian Affairs," and "Letter to Standing Committee on Indian Affairs from Six Nations Iroquois Confederacy," Thomas Longboat (Secretary, Six Nations Iroquois Confederacy), House of Commons, Standing Committee on Indian Affairs, 33d Parliament, 1st sess., 1985.

[1491] Public Archives of Canada, Indian Affairs, RG14, Accession no. 1996-97/193, Box 80, Wallet 3, File 5900-331-I1. "Statement of the Haudenosaunee Respecting Our Exclusive Right to Determine Citizenship/Membership of the Haudenosaunee Confederacy," Submitted by Terry Doxtator (Coordinator, Land Rights Committee), on behalf of the Grand Council of Chiefs, House of Commons, Standing Committee on Indian Affairs, 33d Parliament, 1st sess., 1985.

[1492] Public Archives of Canada, Indian Affairs, RG14, Accession no. 1996-97/193, Box 80, Wallet 3, File 5900-331-I1. Chief Wellington Staats (Six Nations Band Council), "Presentation to the Standing Committee on Indian Affairs," House of Commons, Standing Committee on Indian Affairs, 33d Parliament, 1st sess., 1985.

circumstances would have anything to do with an election process set up by the Federal government."[1493] This was a major stumbling bloc, since voting is an anathema to the Confederacy adherents who never vote in any referendums, since it is against the Great Law.

The Confederacy representative on the Reserve, Thomas Longboat, argued: "There has never been an election in which the majority of the people have voted. This is not a matter of apathy; the people feel that by voting they would legitimate Canada's actions in 1924, so they deliberately do not vote." Longboat accused the Canadian government of once again, imposing the will of a small minority at Grand River on all Six Nations people, just as it had in 1924. He deplored Canadian political practice that interpreted the lack of votes at Six Nations as compliant assent, rather than rejection of Canadian rule over Six Nations. "We do not recognize that your government has any right to tell us who [we] are…"[1494] The Haudenosaunee, or the Six Nations Iroquois Confederacy, Grand Council of Chiefs, agreed and further argued, "The Haudenosaunee reserve the exclusive right to determine our own citizenship/membership in accordance with our own laws and supported by International Law."[1495] The Confederacy claims sovereignty over its constituent nations' territories, without respect to Canada or the United States, as an aboriginal government established before European colonization of North America.

Despite such Native protest, the long-awaited Bill C-31 was passed. Hailed by Minister David Crombie as a path-breaking solution to a difficult and embarrassing problem, it was designed to render the Indian Act compatible with the Canadian Charter of Rights and Freedoms. It was to restore status to all Indian women who had suffered

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[1493] Ibid.

[1494] Public Archives of Canada, Indian Affairs, RG14, Accession no. 1996-97/193, Box 80, Wallet 3, File 5900-331-I1. "Letter to Standing Committee on Indian Affairs from Six Nations "Iroquois Confederacy," Thomas Longboat (Secretary, Six Nations Iroquois Confederacy), House of Commons, Standing Committee on Indian Affairs, 33d Parliament, 1st sess., 1985.

[1495] Public Archives of Canada, Indian Affairs, RG14, Accession no. 1996-97/193, Box 80, Wallet 3, File 5900-331-I1. "Statement of the Haudenosaunee Respecting Our Exclusive Right to Determine Citizenship/Membership of the Haudenosaunee Confederacy," Submitted by Terry Doxtator (Coordinator, Land Rights Committee), on behalf of the Grand Council of Chiefs, House of Commons, Standing Committee on Indian Affairs, 33d Parliament, 1st sess., 1985.

under the discriminatory provisions of Canadian law and allow Bands to control their own membership. Crombie signaled a new era by selecting Mary Two-Axe Earley, as the first Native woman to have her status restored. Ms. Earley, a Mohawk, who was President of Quebec Indian Rights for Indian Women, lost her status in 1938 and initiated a grass-roots campaign to publicize the suffering of Native women and their families under the Indian Act. She later founded the national organization Equal Rights for Indian Women.[1496] It is estimated that one million women may have lost their rights due to the Indian Act. Crombie praised her efforts on behalf of human rights and furnished her with the documentation that she was enrolled as an Indian both on the central Registry in his department and as a member of her local Band.[1497]

The two separate lists previously referred to are key to the continued debates over Indian status, for although the local Band Councils control their own membership, the government of Canada controls the Indian Register, through which Federal entitlements are linked to Indian status. As the Association of Iroquois and Allied Bands, who originally came up with the idea of the split to give Natives control of their membership, correctly pointed out: "The split between status and Band membership will allow the Federal government to limit its obligations and force the Indian communities to bear the costs of redressing the wrongs resulting from the government's discriminatory legislation." Not only was the government not providing any funding for restored members, the regulations left many more people out of the process.[1498] Specifically, the Association called attention to the "discrimination between generations, against children, against persons who enfranchised involuntarily, against Indians adopted by non-Indian families, and against people who were…through circumstance, never registered as Indians." This organization deftly pointed to the specter of termination as the most

[1496] "Mary Two-Axe Earley: Founder of Equal Rights," *Tekawennake*, August 28, 1996.

[1497] Communiqué, "Mary Two-Axe Earley Regains Indian Status," Indian and Northern Affairs, Toronto, July 5, 1985. She received an Order of Quebec, an Honorary Doctorate of Law from York University and a National Aboriginal Achievement Award.

[1498] On the other hand, when I was researching this chapter, in January 2006, the officer in charge of Native status at DIAND told me that he is often told to establish an entirely new Band, in an effort to redress the historic wrongs to Native people who often sold out their rights to Indian status without understanding the outcome.

troubling implication for the future of First Nations because of new regulations in the Bill. New restrictions for "passing on" Indian status were confined to those who had one status parent, if a child was registered for the first time on or after April 17, 1985. As a result inter-marriage will result in fewer and fewer status Band members, causing a drastic reduction of the total Native population recognized by the Canadian government.[1499]

This was after all, the point of the Indian Act, all along. Duncan Scott, the archetype of the Indian Affairs bureaucrat, intent on civilizing the Natives, made it his personal goal that eventually he would ensure that … "there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question, and no Indian Department."[1500] Ironically, DIAND promised the bureaucrats running these programs in Ottawa the same thing – their department was to disappear.[1501] DIAND is still creating new Native Bands, researching genealogical claims to Native status and Native claims are still a problem for twenty-first century Canada.

Despite the efforts of international tribunals, the Canadian government and Natives leaders, Bill C-31 was but an interim solution to grave, structural inequalities suffered by Native people, rather than an affirmation of Native empowerment and self-determination envisioned by the Penner Report. Yet, C-31 was an attempt to right an injustice; for that alone it is significant. Still, driven by a Canadian political agenda rather than a Native consensus, it was created in haste and under pressure in order to bury the mistakes of the past from a sense of shame, rather than embracing the future generations with a spirit of respect and pride in Native cultures. Although many women, such as Ms. Two-Axe Earley, regained status and membership, others were not so fortunate. As claims have continued to flow in to the Band Councils and to the Department in Ottawa, Bill C-31 seems less to represent a solution, than a beginning of

[1499] Public Archives of Canada, Indian Affairs, RG 14, Accession no. 96/97/193, Box 80, Wallet 3, File 5900-331-I1. "Bill C-31, An Act to Amend the Indian Act," The Association of Iroquois and Allied Indians, House of Commons, Standing Committee on Indian Affairs, 33d Parliament, 1st sess., 1985, p. 1-7.

[1500] Taylor, John Leonard, "Canadian Indian Policy During the Inter-War Years, 1919-1939," Ministry of Indian Affairs and Northern Development, Ottawa, 1984, p. 147.

[1501] Interview with statistician in DIAND, January, 2006.

long, protracted, colonial struggles over Native identity. Restrictions on residency have often tightened at the Band level, for Bill C-31 gave Band Councils increased control of their reserve population through by-laws. Justice was not rendered to successive generations of claimants, the descendants of women whose status was restored under Bill C-31, who simply seek to define themselves as Native people and recover their birthright.[1502]

Native Accountability

Unfortunately, it is too often the members of Native communities themselves who stand in the way of inclusion for their returning members. Due to the scarcity of resources and land individuals turn upon one another, understandably seeking to maximize their own resources. The obvious fact that the scarcity of land is due to the continued pressure of development in a post-colonial, settler society is sometimes forgotten. The reserve communities as a whole have been victimized by Canadian policies, particularly the lack of planned development and limited allocation of resources for a sustainable future for indigenous people. As there is more competition for scarce resources, however, many Native communities have unwittingly internalized the lessons of their former colonial masters, reflecting a continuing colonization of consciousness. Rather than fostering greater inclusion, they, too, target and exclude Natives of mixed ethnicity or those who have embraced members of another race, practicing the same racism and sexism they once condemned – metaracism flourishes within many postcolonial societies.[1503] This tendency to divide and target one another is the bitter fruit of colonialism.

[1502] See Sally Weaver's paper in the DIAND Archives, "First Nations Women and Government Policy 1970-1992: Discrimination and Conflict, for a closer examination of the points in contention between John Munro, Minister of Indian Affairs, and the Parliamentary Committee, the House of Commons Standing Committee on Indian Affairs and Northern Development, (SCIAND) under Keith Penner's leadership, regarding the origin of the 1982 decision to "study further" the extension of Indian status to future generations. Natives of blood-quantum of one-quarter or less were left out of this proposal. Munro sought a quick solution for removing discrimination from the Indian Act within a three-year window, (Ottawa: DIAND, Claims and Historical Research, 2005)

[1503] I am indebted to Kevin K. Gaines, the author of Uplifting the Race: Black Leadership, Politics, and Culture in the Twentieth-Century, for including this concept within his cogent analysis of nineteenth-

Sadly, a reinvented, reified tradition is often used to rationalize the exclusion of non-status Natives or their families. Persons of mixed ancestry suffer under the divisive and heated local politics of the reserve. This exclusionary rhetoric is often harnessed to an ideology of Native ultra-nationalism and redeployed as a revitalization movement. As Gerald Alfred's work attests, the Kahnawake Mohawks have gone so far as to implement strict criteria linking Band membership and residency to blood quantum, requiring 50% Native blood and placing a moratorium on "mixed marriages."[1504] So far, Six Nations has not replicated this process. Reiterating an ideology of racial exclusion would damage a spirit of mutuality, community consensus and respect for other cultures that fortunately has existed at Six Nations from the founding of the community by Joseph Brant. It was not a community founded on exclusion, but inclusion, according to Kelsay's biography of Brant: "There were Indians called Six Nations who had scarcely any Iroquois blood…Besides Joseph's white friends from his war days and those squatters who claimed to have bought land from individual Indians, there were white captives who refused to go home…"[1505] Yet, in 1969, the Six Nations Band Council made an attempt to evict a "white woman," from living on the Reserve. Although the Federal Court ultimately upheld the right of the Band to control residency, notably, the woman was allowed to remain at Six Nations community.[1506] There have been several unresolved cases related to residency; yet, people have always circumvented the restrictions, historically, by claiming that they were simply "visiting." According to Roberta Jamieson, approximately one-thousand people live on the reserve without proper documentation. Community complaints can trigger a process in which individual's status comes into play and is examined, but most people at Six Nations are reluctant to probe an individual's rights to live on the reserve unless there is an egregious violation of

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century race relations, (Chapel Hill: University of North Carolina Press, 1996) p. 26. Metaracism was described as when "non-racists"…"participate in the racist practices of the state…"

[1504] Alfred, Gerald R., Heeding the Voices of Our Ancestors: Kahnawake Mohawk Politics and the Rise of Native Nationalism, (Toronto: Oxford University Press, 1995) 165.

[1505] Kelsay, Isabel Thompson, Joseph Brant, 1743-1807: Man of Two Worlds, (Syracuse: Syracuse University Press, 1984) 538.

[1506] Alfred, Taiaiake, Peace, Power, Righteousness: An Indigenous Manifesto, (Toronto: Oxford University Press, 1999) 72.

community norms. Legally, unless an individual is a recognized band member, one is not authorized to live on the reserve. It is curious, however, that Six Nations people who are "full-blood" and were born on the reserve, still did not violate these boundaries when the Canadian government created exclusionary rules for marrying out of the band.

This by-law may be unenforceable for it remains for the courts to decide if the Band Council's mandates to evict individuals based simply on community complaint would be legally enforceable.[1507] There is definitely a conflict between general avoidance of disputes in the Six Nations community and the legal norms governing the access to increasingly limited resources, including land and Indian status that may have to be legally addressed.

Roberta Jamieson, a former chief, attested to the difficulty and struggle of Six Nations community in coming to terms with the trauma and pain of a colonial legacy, as manifested in the debate over the membership process and residency on the Reserve. She stated that she didn't choose the membership issue in her tenure, but it was thrust upon her.[1508] Remnants of colonialism beset many Native communities and feelings of disempowerment remain, limiting movement toward the creation of new indigenous institutions. Ms. Jamieson stated that she sought to facilitate the growth of the Six Nations community in its exercise of authority and as it sought to hold its leadership accountable. Prior to her tenure, she reported, there had been a lack of transparency and accountability, particularly with regard to spending economic resources on failed economic development. Community members sought to have their questions answered, she maintained, and to take responsibility for their own government. After all, she remarked, "we're founders of democracy in the Western world."[1509] That mix of hubris and failure to realize or develop a strategy to circumvent the divisions within the Six Nations community has severely hampered development.

Jamieson began her tenure as chief by separating politics and administration, calling for a model for inclusive decision-making; noting that traditional forms of

[1507] Roberta Jamieson (Former chief, Six Nations Reserve), telephone interview with the author, February 24, 2006.

[1508] Ibid.

[1509] Ibid.

governance included women and children in decision-making. She thought the community had an opportunity to take power and design their own system of government for the twenty-first century; to set forth a model using Six Nations norms, cultural values, methods of law-making and conflict resolution, as well as setting guidelines for membership. Yet, she found she was quickly thrust into a controversy over membership, as debate crystallized around a nexus of identity, race and gender. An ethos of exclusion and insularity developed on the Reserve amid the heightened tensions over C-31, as well as the pressure brought to bear on the Band Council from the Canadian government. In its wake, the atmosphere was not conducive to moving forward, but to revisiting the conflicts of the past, argued in a spirit of distrust. Jamieson noted that people have to believe that they have the power to change.[1510]

Ongoing Struggle for Women's Rights

It is important to understand the links between the Lavell-Bedard and Isaac v. Davey cases even though the cases were adjudicated in different periods. The cases resonated at Six Nations for the tumultuous struggle with the Canadian government marked a new era of resistance for Native activists. Many of the same individuals were involved in cases that spanned a generation – not merely plaintiffs and defendants, but also lawyers and justices who were involved in Native litigation at the time.

Justice Osler ruled in favor of Ms. Bedard in December 1971, two months after the Federal Court ruled in favor of Ms. Lavell. Justice Osler then referenced the Lavell ruling in the Bedard case and was certainly astutely aware of the contentious debate this ruling would arouse in the Six Nation community. Ramifications for the domestic and international scene would redound upon Canada regarding the discriminatory nature of the Indian Act. The parochial nature of Canada's nineteenth-century regulatory system of its indigenous population must have been painfully apparent to him as he evaluated the Six Nations case. Still, Osler courageously brought forward the notion that deprivation of

[1510] Ibid.

Indian status was in contradiction to the Canadian Bill of Rights.[1511] Osler decided that sections of the Act that were discriminatory and therefore were rendered inoperative and he acted accordingly, to his credit.

Several Toronto and Brantford attorneys were also caught up in this debate on Native women's rights, while they were still embroiled in the standoff between councils and the subsequent appeals lasting until 1976. Burton Kellock, for example, was an attorney for the elected Band Council in both Supreme Court cases – for Six Nations rule and gender equality. Richard Isaac was chief councilor for the Six Nations Band Council in this tumultuous and stressful period. Malcolm Montgomery continued his long advocacy for the Six Nations Confederacy Council throughout, appearing for Ms. Bedard in the Ontario Supreme Court case in February 1973.

Notably, Justice Osler's ruling in favor of the Six Nations Confederacy was issued in October 1973, two years after his decision in the Bedard case. The appeals process in all of these cases was lengthy and the political process tortuous, particularly in the women's status case and the case between the Confederacy and Elected Council. Ultimately, international pressure forced Canada to abolish the offensive discriminatory statute in the Indian Act, 12 (1) (b).

The initial judgment of the Supreme Court of Canada against the Native women was not upheld in the international arena. The negative force of the Supreme Court's ruling against the Native women and its validation of the Indian Act had certainly rippled through the judicial system, affecting many other deliberations. One wonders what impact it might have had on the Six Nations Confederacy Council's final appeal at the Supreme Court, if the timing had been a bit different – if Lavell-Bedard had become an international cause celebre a bit earlier. Perhaps, it might have prompted a turn-about or at least engendered a fuller discussion within the Canadian government on the broader issues of discrimination integral to the Indian Act. In the twenty-first century, the future of First Nations in Canadian society must take place with full integration and recognition of Native women's voices in both Native and Canadian societies.

[1511] "Indian Women Status Case Will Cause More Divisions," *Brantford Expositor*, February 22, 1973.

Part Four

Conclusion

The Wisdom of the Ongwehònwe, Looking Forward to Protect Seven Generations

The goal I had when I began this research was to tell the story of my own people's search for dignity and self-government our own government was dissolved by an Order-in-Council, backed up by the Royal Canadian Mounted Police in 1924. I intentionally centered the narrative on the Six Nations Confederacy – their political, social and economic affairs in order to counterbalance the long tendency in the historiography recounting Native history from the perspective of Canadian policy. This narrative is unabashedly Native-centered and illustrates the agency of the Six Nations people as they have struggled for nearly a century to reassert their voice and institute meaningful self-government.

I had heard bits and pieces of this story my entire life, but I realized that no one had written about this truncated saga concerning the Six Nations assertion of sovereignty with a view to place an Ongwehònwe perspective at center-stage. Anthropological studies were designed to investigate one or the other "faction" on the reserve, the Longhouse or the "progressives" with little attention to the broader community. A notable entry in an encyclopedia of Native groups by Sally Weaver argued that many Christians on the Six Nations reserve were acculturated and were "indistinguishable" from whites in "behavior and belief." Many studies lamented the loss of Native languages as the signal marker of Native identity. I simply did not believe these judgments to be accurate; languages can be learned and beliefs shift over time. I sought to understand the way identity historically unfolds in a community. Obviously, Native people no longer dress stereotypically as "Indians," the phenotypical appearance of Indians has changed over time and not everyone lives on the reserve – so what was the basis of an Ongwehònwe identity? I wanted to tease out of the data some relevant markers and the long-running dispute on the reserve regarding the end of the Confederacy Council of Chiefs in 1924 seemed a good place to start.

My purpose in writing this dissertation was to understand the genesis of the dispute and get a comprehensive view of the entire story. The argument on the reserve over the councils eventually devolved into a lengthy and complex series of legal cases, which has led to no lasting solution. As my research continued I also sought to create a

usable, accessible record for Six Nations people to consult concerning this relatively recent history, for I learned there are major gaps in the knowledge base of the community regarding these events. I wanted to find and bring home the documents I had found through my search of the Ottawa archives, for throughout this endeavor I was acutely conscious of having the audience at home as important critics and participants in this project.

The narrative unfolded slowly, for there were many more layers, complexities and contradictions than I felt could be adequately contextualized without sifting through the lengthy and detailed record, especially if I wanted to convey an adequate sense of Six Nations identity. I also used this time to balance the ties and responsibilities of the Native daughter writing about my own culture with the critical distance I needed to shape an inclusive academic narrative. I sought to do justice to all the parties involved without resorting to nationalistic cant or placing myself squarely on one political side or the other, in favor of either the present Confederacy Chiefs or the Elected Council. I tried to be painstaking in my research gleaned from archival records, many of which have not been widely released to the public. Many details of this story have been argued about for years on the reserve – for example, did someone deliberately take the wampum of the Confederacy Council; was George Beaver truly kidnapped by Mad Bear Anderson, the Tuscarora activist and what were the roles of people who were connected with both sides of the struggle?

I also sought to make it clear from the outset that my project was not directly related to Native rituals or ceremonies of the Longhouse. I do not purport to study the content, authenticity or survival of the Longhouse religion. I am interested instead in the way the Longhouse followers and their belief system intersect with the politics and ideologies at Grand River. My focus remained the politics and power relations surrounding Six Nations status, identity, representation and sovereignty. I also make clear that I am one of the people affected by Bill C-31, for my mother, as we say on the reserve, “married white.” For that, she was punished through the provisions of the Indian Act. I did not gain official Native status until Bill C-31 was passed. This law forced my family to live away from the reserve at Grand River for the matrilineal culture was overturned by the Indian Act. Residence restrictions were more carefully enforced when

the hereditary chiefs lost power. Lastly, the "silver-lining" of this circumstance is that as a result my quiet and reserved mother became in her small way, a political activist. The reason I was already fairly well-versed in the early part of the struggle over the Confederacy is that many of my close relatives lived at Grand River when this happened – many aunts, uncles, cousins and friends of my mother's huge extended family remembered this from their own experience. In addition, many later held offices in the Indian Defense League that took up the battle for the Confederacy. I became aware of this dispute and acquainted with people who participated in the events when I was a child.

The politics and the exercise of power by Euro-American cultures in relation to indigenous groups continues to be fraught with tension and sometimes borders on violent confrontation. Misunderstandings frequently become major incidents as historic grievances against majority societies magnify differences and give way to direct action in Native communities. Natives have turned to international bodies to broker tensions between indigenous rights and settler societies, plumbing international law for answers. From the Six Nations perspective it is no accident that Canada and Australia are two of the remaining hold-outs to an international agreement on an Aboriginal Rights Declaration currently sponsored by the United Nations. Both of these nation's records are abysmal in terms of protecting their indigenous populations.[1512] Canada is beginning to acknowledge its own "Lost Generation;" the children forced into residential schools who were deprived of the emotional sustenance of their own culture and their families.[1513] These children were made to feel ashamed because they were aboriginal and then abused in the bargain at many of these sites run by the Churches. No monetary

[1512] "Canada Blocking UN Aboriginal Rights Declaration, Says Amnesty," *Tekawennake*, June 13, 2007. Amnesty International reported that "Canada has been obstructionist and exploitive" in discussing indigenous issues at the United Nations and that along with Australia, remain the only two members of the "47-country Human Rights council to vote against the UN Declaration on the Rights of Indigenous Peoples in June 2006." Further, Amnesty International asserts that Canada is encouraging African, Asian and Latin American nations to also block the declaration since the election of a conservative leader, Stephen Harper, as Prime Minister in January 2006. Interestingly, the Department of Indian and Northern Affairs, (DIAND), supports the Declaration, along with Foreign Affairs and the Defence Department. Harper's administration withdrew support of the agreement that was drafted by the prior Liberal government with the help of Indian Affairs. This illustrates how fluid the politics of Native affairs remain and how First Nations governments have to be acutely aware of shifting alliances and pragmatic about who will support them, whether it is at the provincial, bureaucratic, national or international level.

[1513] This is the term given to describe the children of aboriginal people in Australia who were taken from their families during colonialism. The film, "The Rabbit-Proof Fence" describes the travails of this population in seeking a way home.

settlement will make up for this damage done to many Native children. It continues to impact not only these individuals through adulthood, but also their families and the wider aboriginal community. The depth of the problem is still under investigation in Native communities across Canada. Legal judgments and settlements have been won against residential schools, but the issue is still unfolding.

Searching the archives was a way for me to understand how and why the architects of Indian policy used their power to suppress Six Nations aspirations to continue to develop Grand River Territory under the existing government. Why had Indian Affairs struggled so hard to break Six Nations cultural continuity and governing council? It became very clear to me that national affiliation was deeply important to our own sense of identity; political, social and cultural changes resulting from the Indian Act and the policy of assimilation would deeply affect people of Six Nations personally and collectively. The removal of the Confederacy was intended to restructure the orientation of the entire community to the majority society in terms of culture, economy and life-ways. The shift in forms of government would subordinate and subject Six Nations to more Canadian oversight and control. By abruptly removing the Confederacy Council in 1924 under the guise of bringing a democratic and more inclusive system to Six Nations through Indian Advancement, Canadian officials halted the internal discussions that most likely would have led to the gradual transformation of the Confederacy as it continued to respond to the exigencies of modernization.

The chiefs were sensitive to the attacks on their leadership from within the council: first, from the Mohawks for a faster pace of change regarding education and modernization; then from the Delaware and the Tuscaroras, in turn, regarding their limited access to power in Council. Yet, these groups within the reserve were not the architects of the Chiefs fall from power. There was no “smoking gun” in the record, but rather pressure building from within the Council and from pockets within the community for change. Reformers pushed against the boundaries of the old order, but not enough to overturn the system. Several times the petitioners carefully drew back from conflict, cautioning Indian Affairs to move slowly. Some even withdrew their petitions seeking change, for there was no consensus on the reserve. The markers for change were distinctly different from inside and outside the boundaries of Six Nations political

culture: Canadian officials looked for a majority, while Six Nations Natives sought debate until consensus was reached.

The use of political power in the ethos of Confederacy culture was based on consensus, not simply hereditary office as the Canadian government asserted in the report of the Thompson Commission. Leadership and accountability was a two-way street in the Six Nations community. Not only did the clan mothers and the threat of "dehorning" loom over the Confederacy Chiefs, but ordinary people – both men and women – in the community acted as a form of "checks and balances" on the old Confederacy Council. Community members and opinion mattered. The Chiefs used the local press to defend their system of government and their rulings, as well as their reaction to the policies of Indian Affairs, especially if there was some crisis or local strife. Conversely, public criticism and social pressure frequently impacted leaders' political discourse and Confederacy decisions. The mechanisms encouraging accountability of Confederacy chiefs to the community were more complicated than acknowledged by the Dominion and not simply reducible to the role of the clan mothers as a "petticoat government."

In addition to the call for reform within the council and pressure from the community the influence of Indian Affairs had reshaped the governance of the Confederacy Council. The Department's agents increased their oversight of the Council, suggested a disputes committee, supervised the council meetings and controlled the funding. Council minutes, appointments, expenditures were all submitted to the Department. The encroachment of Canadian bureaucratic oversight within the Council forced adaptations in the composition, framework and day-to-day workings of the Council during the nineteenth-century and early twentieth-centuries. The Chiefs complained about this but they adapted their practices, accordingly. The council continued to evolve, albeit at a slower pace than an elective system and certainly not rapidly enough to satisfy everyone's expectations at Grand River.

The personality and management style of the Canadian officials at Indian Affairs had a great impact on the relations between the Confederacy Council and Ottawa. There is no question that the unfortunate appointment of Duncan Scott and later, his henchman, Cecil Morgan accelerated the demise of Six Nations self-government in a critical period of adjustment for the Confederacy. Rather than ameliorating the already disputatious

relations with the Chiefs, both men courted and stoked conflict by their open contempt of Six Nations institutions and practices. Arrogant to a fault about the superiority of his own culture and supremely confident of his own managerial expertise, Scott was a quintessential Canadian progressive with a desire for order, efficiency, economy and control. Sadly, Scott imprinted the Canadian version of the 'white man's burden' on Indian Affairs. Scott's perspective on Indians appeared to be colored by an ahistorical presumption that they were laggards, pagans and fanatics, who refused to stand on their own and were consequently held back by their own perverse superstitions and customs. Scott served for over 50 inglorious years as administrator of a policy detached from the human needs of the population he was charged with guiding toward assimilation. The "narrow vision" ascribed to Duncan Scott by Brian Titley in his biography was not just Scott's problem; it was a fair characterization of Canadian society. Ironically, although now Canada basks in its tolerant social and ethnic "mosaic" in which "various groups maintain their identity in a 'multicultural society,'" throughout the twentieth-century, there were no reformers or visionaries in Indian Affairs who believed in the inherent worth of Native people or their cultures.[1514] There was no political window and no political advocate for Indian rights to push for reform of the Native relationship with Canada.

Colonel Morgan, while intellectually limited, was also perversely confident in his own reasoning and ability to take charge of situations. He served Scott as a cruel enforcer of the Department's edicts. As a loyal 'apparatchik' Morgan occasionally went too far in his zeal for exercising authority and had to be reigned in by his boss and even by the RCMP, who balked at his methods and disregard for the law. Under the watch of this regime Canadian power over Six Nations was unsheathed, making clear the mastery and patriarchy that is usually hidden in relations between colonizers and indigenous leaders. Unveiled, this blatant exercise of power only stoked the conflict for it pricked the pride of Six Nations people. In Deskaheh and in all those unsung leaders who came

[1514] Franks, C. E. S., "Canada and the United States Compared," in Aboriginal Rights and Self-Government, edited by Curtis Cook and Juan Lindau, (Montreal: McGill, Queen's University Press, 2000), p. 223.

after, this attitude of mastery brought forth adversaries who would relentlessly oppose and resist the power of the Canadian government to rule over Six Nations.

The first real adversary faced by Scott was Deskaheh and notably, Asa Hill feared that Deskaheh's inability to compromise would bring the era of Confederacy rule to a close. The spirit of a worthy compromise on principle is different from the art of the back-room deal. Indeed, the well-worn political craft of cutting corners to achieve practical results – no matter the ideological loss, was not a strong component of Deskaheh's persona. As this clash accelerated, neither Deskaheh nor Scott would compromise. Scott's long tenure at Indian Affairs certainly gave little hope to Native leaders hoping for new directions. Morgan's military edicts and his bearing confirmed Native leaders' views of Canada's policy of colonial rule. Deskaheh, in turn, appeared to the Canadian bureaucrats as unreasonable, unyielding and irrational for he would not recognize the power of the Canadian state. To Six Nations leaders Canadians were only former fellow colonists of the British, not the rulers. Canada was a young nation; in terms of constitutional government. Canada was the "upstart," not Six Nations.

One of the reasons Canada had an entrenched sense of mission and connection with the British Empire was because of their role in the Loyalist defense of North America against American interests. This is the trump card Six Nations Chiefs always expected to play with the British and also with their Canadian surrogate when the Dominion began to encroach against Six Nations power. Six Nations leaders stumbled across a clear class and color line when they attempted to draw upon the historic legacy of their military exploits and their support for the British domain as Empire Loyalists. Racism had become entrenched in the early twentieth-century and Indians were no longer accepted in the colonial capital. Deskaheh had it exactly right -- they shut the door in our faces. The Six Nations historic defense of the British Empire was treated almost as negligible, a thing of the past, compared to the efforts of European settlers of Upper and Lower Canada. As C. E. S. Franks observed:

> The communitarian ideological strand [of Canada] did not extend to cultural pluralism. Instead we find a belief in the great civilizing mission of the British Empire and in Canada's role as an integral component of the Empire. This greater British community and its

> ideology, the raison d'etre of English Canada in its origins in the loyalists who supported the British in the American war of independence, was at the center of Canadian values.[1515]

This composition of the community of Empire Loyalists had radically changed from Brant's day, however, for the celebration of the English-speaking peoples' support for the Empire clearly did not include Six Nations Indians to quite the same degree.[1516] Since the Six Nations were not embraced as High Commission Territories and the color line became more deeply entrenched in Canadian society, the historic role played by Six Nations in the struggle for the empire was increasingly marginalized. In the early twentieth-century the pejorative depiction of Six Nations as a backward, pagan community conflicted with plaudits for the courage of Indians in the struggle to secure Canada. The stereotypical depiction of Indians mired in savagery, ignorance and superstition was growing to be a much more familiar story to Canadian citizens.

Yet, the prospect of modern life and the municipal model of self-government was to some degree an ideal that was appealing and attainable to some of the chiefs at Six

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[1515] Franks,C. E. S., "Canada and the United States Compared," in Aboriginal Rights and Self-Government, edited by Curtis Cook and Juan Lindau, (Montreal: McGill, Queen's University Press, 2000), p. 236.

[1516] The Six Nations on the Grand River have argued that we were in a unique historical position with regard to the British Empire since they had been allies of the Crown. Canada, while acknowledging these links, these links, emphasized the rationale of treating all Native peoples alike, within the confines of the Indian Act. Yet, there was indeed historical precedent for continuing direct links to Britain, lasting long after settler societies such as Canada were established. Several territories in Africa for example, had unique designations within the British Empire that preserved their direct connection with the Crown. The High Commission Territories of Basutoland, Swaziland and Bechuanaland (Botswana), were regulated under the mandate of British Authority. This was not an advantage for the indigenous population in the long-term, however, for white supremacy quickly became entrenched and power devolved to the white minority. The territories were not absorbed into the settler societies, but remained directly linked to the British government, so development of the region was increasingly marginalized. This option would clearly not have been a workable solution for Six Nations considering the history and independence of the Iroquois League and the leadership of Joseph Brant in acquiring the territory for Six Nations. The British-Six Nations relationship was very difficult to characterize, particularly due to the nature of the historic alliance between the Six Nations and the Crown, known as the Covenant Chain. It would appear that Six Nations leaders were on solid ground, though, in seeking a close, mutually beneficial relationship with the Crown that differed from that of other colonized peoples especially since there was an historic precedent for this in Africa. See J. D. Omer-Cooper's text, History of Southern Africa, (London: James Currey Publishers, 1994) p. 252-277. Moreover, Six Nations was not the only Native group that continued to petition the Crown for a greater degree of independence. The Maoris of New Zealand also vouchsafed a persistent attachment to the British government until well into the twentieth-century. See Williams, John, Politics of the New Zealand Maori: Protest and Cooperation, 1891-1909,

Nations. Even Deskaheh described his vision for the future of the community in terms of a municipality. As a conservative adherent of the Longhouse, he, too, was proud of the strides Six Nations had made in agriculture, social welfare and in the upkeep and care for the Grand River territory. The "chiefs, women and warriors" were neither pagan, nor "backward" and to characterize them as such was disingenuous and a way for Indian Affairs to disempower the Six Nations community by definition. There was pride in modernization at Six Nations – even the authorities at the Indian Department dutifully reported to Ottawa about Six Nations progress. The agent's promotions depended upon him reporting strides toward self-sufficiency and advancement.

The division of duties for the Chiefs-in-Council had evolved from the beginnings of the ancient Confederacy as a theocracy to a more secular model at the time of the schism. There was a continuum of beliefs reflected on the reserve resulting from an "invasion within" in the words of James Axtell, as Native beliefs encountered Christianity in a multiplicity of denominations and dealt with the legacy of the Handsome Lake revitalization movement. Many chiefs were not active in the Longhouse in the latter part of the Confederacy Council's reign.

Ironically, the intervention of the Canadian government in the early twentieth-century to discourage and remove the "pagan element" in the Six Nations Confederacy Council was a setback to evolving local practice that had enhanced syncretism within the Confederacy Council, for many of the chiefs who had served on the Council were practicing Christians. The polarization between "pagan" and Christian forces underscored by the Canadian administration lent energy to the conservative religious forces on the reserve. The Confederacy regrouped around the obvious site of resistance – the Longhouse, the bastion of the Handsome Lake movement. The reification of the Longhouse was part of the fallout from the Canadian intervention in Six Nations political strife. Mohawk critics of the present-day Confederacy argue the belief system should again be centered solely on the Great Law, not the Code of Handsome Lake. Mohawk chiefs left the Confederacy as it became more closely "fundamentalist" in its orientation to the Handsome Lake Code. Only two Mohawk chiefs are presently sitting in the Confederacy at Grand River although there is some movement to mend this rift.

The charges laid open by the Thompson Commission regarding paganism, ignorance and illiteracy were dismissed out of hand by the Chiefs and their supporters who boycotted the Commission's hearings, referring to it as the "inquisition." The Commission sought to censure and remove the Six Nations Confederacy Chiefs based on testimony from a disaffected minority of residents. The Thompson Commission not only stood apart from democratic process for its exclusionary practices, but for its racist assumptions and pejorative statements concerning Native women. From the Chiefs' perspective, the Commission was a colonial instrument, a charade laid bare by Thompson's decision to label non-participation of the Six Nations community in his commission as signifying political assent. It was stark political coercion perpetuated against the Six Nations community by the Canadian government's high-handed colonial methodology and enforcement. Why would one participate? Perhaps, for power…but the band council had no power. To participate in this farce was to declare oneself no longer a part of the Six Nations community and to risk the opprobrium of the community and your relatives, with nothing much to gain. Communal cultures have strong bonds and strong sanctions; no one wanted to stand outside the group and vote for those who would take away Confederacy rule.

Ironically, Canadian politicians had recently celebrated their own sovereignty and nationhood as a signatory on the Treaty of Versailles and were flush with their own membership at the League of Nations. Nevertheless, they had no qualms about taking away those prerogatives away from an indigenous group that symbolized many of those same principles long before colonization. The process had both a tragic and farcical dimension. Canadian officials may have miscalculated in terms of the long-term historical fallout from their actions, but Six Nations has paid the price in terms of political upheaval. Until recently there has been no way to move forward past this breach in the path to self-government.

The lack of immediate response to the crisis on the reserve was striking; the chiefs continued to deliberate even after Colonel Morgan's proclamation of a pending election. No one seemed to seriously consider that the confederacy would actually be completely removed from power. They were depending on a last-minute reprieve from Geneva. Also, a nearby reserve had experimented with an elected council, but in that case both

councils continued to exist side-by-side until the 1930's. This gave the Natives on this reserve a period in which they tried out the new system, while still retaining the hereditary system. It gave those dissatisfied with the old system an alterNative, preserved continuity and most importantly, allowed a choice. It appears that in the Six Nations situation, Indian Affairs was intent on creating one streamlined, smaller council under tighter control of Indian Affairs that would end agitation and be less expensive. The day the Council was actually dissolved in 1924 a shock wave rolled over the Grand River tract affecting even those who had previously agitated for reform, such as Chief J. S. Johnson. Chief Johnson argued it was simply an anathema to have this change thrust upon the reserve, not a "step in the right direction" as Morgan contended.

Failure to understand the havoc this would create in the community had the opposite effect than intended by the Department of Indian Affairs for it created a resistance that persists to the present. By dissolving the Council by proclamation through an Order-in-Council and establishing democracy through fiat, it demonstrated a contempt for the very democratic process it was purportedly trying to teach. It also displayed the hollowness of Ottawa's pretensions to inclusion and equality for Native people. Rather than fostering conditions where a democratic spirit and principles might develop gradually and perhaps as an adjunct to the Confederacy, the Canadian officials arrogantly seized the moment to impose their own vision on Six Nations. There was no "trial-run" to demonstrate the benefits resulting from a system that was unfamiliar and strange to most of the community.

The only experience with voting had been during the very brief extension of the Federal franchise under Conservative leader John Macdonald in 1885 that was quickly revoked by the Liberals. The contentious nature of political parties and competition connected to the Canadian electoral process back-fired as an introductory model for it just seemed to demonstrate to Six Nations Natives that they were only being exploited by the Conservatives for their vote and then cast aside. This experience strengthened opposition against voting for it seemed to sow discord and faction in the community, not the consensus valued by Six Nations.

Likewise, the policy of Indian Advancement was not viewed as democratic or inclusive for it only gave select members of Six Nations opportunity to participate, going

against the harmony ethic. Democracy, as put into effect by Canadian policy under the Indian Act, was not seen as an inclusive, democratic opportunity for Six Nations. Instead, it was perceived as an intrusive, coercive practice designed to adversely affect nationality, treaty rights and nation-to-nation status – privileging some more assimilated individuals over others and overturning existing gender relations at the core of the matrilineal society.

Bureaucrats at Indian Affairs and policy makers ignored the positive aspects of change at Grand River. Indian Affairs officials were the ones who had characterized the "band' as a sound candidate for advancement, based on its record of achievements for the agents sought to take credit for Native progress. Indian Advancement, Part II of the Indian Act, was applied abruptly in a coercive way, but the dissolution of the Confederacy Council was carried out under the auspices of the Liberal government of Mackenzie King as a progressive initiative. The Act was seen as regressive at Grand River, for it removed the national status prized by the Confederacy and Six Nations Natives.

The core functions of the Confederacy were two-fold by the early twentieth-century entailing relations with the former colonial power, Britain and its surrogate, the Dominion and the domestic administration of the Grand River Tract, namely management and protection of the land and treaties. This is roughly the same jurisdiction the Chiefs claim today. [1517] These functions have never been as adopted as core principles and integrated into the duties of the elected council in quite the same way as they emerged in the Confederacy, for the Elected Council is strictly a political entity and was generated from a different institutional context, gaining its mandate from Ottawa. The Confederacy, as a theocratic institution, had intertwined governance and sacred duty in the role of the hereditary chiefs. Protecting the land and treaties was a sacred obligation for the chiefs, as well as carrying out other duties as mandated by the Great Law. The Confederacy Council as an institution continues to wrap itself in the mythic mantle of the ancient League and purports to derive its legitimacy in the community from

[1517] Many in the Six Nations community today argue that this function should be again placed in the hands of the Confederacy chiefs. Despite their removal from power the chiefs have intermittently had a hand in negotiations with the government. Representatives of the Confederacy testifying at Hearings, consulted on environmental impact and consulted on boundary disputes and interpretation of treaties.

this basis, removed from the secular political context. In challenging the Canadian government's policies on land and treaties, the Confederacy chiefs argue that their voice is the legitimate and independent voice of the Ongwehònwe. As clearly subordinate to Indian Affairs, the Band Council is not set up as a national entity to challenge the Canadian government with the same freedom and independence as the Confederacy.

Also, by holding their deliberations in the Native languages the Chiefs' Council was an important influence in keeping the languages alive in government proceedings and in every day use in the community. The chiefs served as a repository for cultural knowledge and lore, as well as oral history concerning the affairs of governance and community. This function was not part of the elected council's agenda and the change has resulted in an enormous loss of historical knowledge to the community.

Part II

The period from 1924 to the Warrior's Revolt in 1959 was a much more difficult story to elucidate for it involved the workings of the colonial process in more subtle ways than just stationing the RCMP on the reserve. The Canadian government continued to use policies of assimilation and acculturation to root out the community's sense of identity and Native consciousness. Cultural continuity, social reproduction and historical memory were the targets of Indian Affairs after the Confederacy Council of Chiefs was removed. Indian Affairs agents and bureaucrats struck at the very roots of indigenous cultural, political and social survival: language, land, identity and history. For almost a century the Canadian authorities oppressed the Six Nations population until many of our own leaders, once celebrated for their command of oratory and oral history are hard pressed to utter and restore the narratives of our own cultural consciousness and political history. This case study is a signal example of how a previously self-governing aboriginal people can be damaged through the colonial process through deprivation of cultural rights and denial of ethnic identity.[1518] This process had a much more profound

[1518] I decided to get an overview of the entire narrative, first, and then seek guidance from both the Elected and Confederacy Council after I submit this manuscript for the next stage of my research. Remember, I am coming to my reserve as a "Bill C-31 returnee" and most of the older members of my family have died, I have had excellent access to the archives in Ottawa and privately to both Band Council and Confederacy sources at home. I decided I would lay out

effect than I would ever have suspected at Six Nations and it made me take great care to carefully check local oral history with multiple sources. Although I had expected to rely heavily on oral history as primary sources for manuscript, I decided to work extensively with the archival data first for this stage of my research.[1519]

When reviewing the historiography of the Six Nations dispute with Canada over the form of governance on the reserve I found a binary perspective posited throughout: Canadian vs. Native, or progressives vs. traditionalists, interpreted through the prism of factionalism. Two anthropologists who studied the Six Nations extensively, Sally Weaver and Annemarie Shimony, appeared initially to have viewed the community as divided between so-called, progressive supporters of an elective system, or traditionalists steeped in the ceremonies of the Longhouse. Their work changed and grew in complexity as both became increasingly aware that the binary divisions did not totally describe their data.

Shimony and Weaver, both perceptive and caring scholars, engendered a great deal of trust from their "informants." Shimony concentrated on the Longhouse community, while Weaver focused on the "progressive" elements. From much of their work it would appear the people at Six Nations lived in two separate worlds. The people "down below," the traditionalists," generally live in an enclave within the reserve, but certainly are not segregated, often inter-married with other Six Nations families. If one reads the anthropological texts, it would appear as if these "factions" are constantly at odds and separate, yet all meet on a continual basis at various community events, weddings, funerals, celebrations and pow-wows. Six Nations life is rural and communal, not necessarily always peaceful or without conflict, but events are open to Natives and

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what I had found in the archives as a foundation and let this be accessed through a web-site set up through the local paper, the *Tekawennake*, and interview sources in the next stage of my research with some foundation in the sources to compare the oral history available and the archival data I have found. This is not the way I initially planned to do this, but the knowledge base for the oral history is not as wide-spread as I initially hoped to find at the start of my research.

[1519] The history of the Longhouse is not the political history of the Six Nations and there are chiefs who are in the Confederacy who are not the ritualists, but who concentrate on the political and diplomatic affairs, as well as resources, social welfare and the environment. Not everyone on the reserve is happy with the way the present-day Confederacy has evolved. For example, many Mohawks are very critical of the integration of the Handsome Lake Code within the present day Confederacy Council and insist that the Great Law, not the Code of Handsome Lake would properly restore the unity of the ancient political-religious nexus of the League. The Elected Council represents the governing council of the community, but often are not well versed in Six Nations history, but rather the day-to-day workings of municipal governance as a Band Council, not a national organ of sovereign government.

non-Natives. Six Nations has not replicated some of the racialized nationalism at other reserves where one might feel compelled to identify as a Native.[1520]

The historiography did not describe the complex roles individuals assumed and sustained in Six Nations society, especially for those who had moved from supporting the Confederacy to working for the elective council, or vice-versa, or those who might have moved away and then moved back to the reserve. The representation of Six Nations in the literature was problematic for Natives made choices based on not only their religious values and ideological principles, but also in regard to options that would better their lives on a day-to-day basis. In a small, rural face-to-face reserve factions simply do not work: differences have to be subsumed for the sake of ongoing community or personal relations. Yet, the notion of factionalism once implanted by agents of colonial discord or unwittingly by academics seeking to impose a conceptual framework for analysis became rooted in local political struggles and part of Six Nations discourse.

Legal counsel might have helped to bridge this gap. Contrary to convention that lawyers only prolong cases to make money no one made a fortune in Canada defending Indians. No band was even allowed to hire lawyers until the mid-twentieth century. Before that time, advocates for self-government had to raise money at what they humorously called, "sack socials;" events with sandwiches and refreshments in a paper bag to raise money for the cause.[1521] Much of the Six Nations community was rural and poor, dependent upon farming while the controversy over self-government swirled around them. None of the lawyers who represented the Confederacy were well-paid and I

[1520] The Kanhnawake experience provides an example of the internalization and re-deployment of nineteenth-century norms about blood quantum, for the racialist membership policies require a high degree of Indian blood, as described by Gerald Alfred in Heeding the Voices of Our Ancestors: Kahnawake Mohawk Politics and the Rise of Native Nationalism, (Toronto: Oxford University Press, 1995) pp.173-77. His later book, in which he uses the name Taiaiake Alfred, entitled Peace, Power, Righteousness: An Indigenous Manifesto, describes his support for Mohawk Nationalism as the key to revitalization of tradition under the auspices of an "indigenous intelligentsia." Alfred outlines a proposal for self-strengthening within native communities, based on Vine Deloria's work. Deloria was an advocate for Native leadership that coupled traditional wisdom, with realistic, practical and skilled intervention and management of the institutions of modern society. Alfred argues that structural reform of Native governments, reintegration of Native languages, economic self-sufficiency and nation-to-nation relations with the state are the steps to decolonization and then, self-determination for Native communities. Alfred's "manifesto" is set forth as a challenge and call to action for Native people. See Alfreds's text, Peace , Power, Righteousness: An Indigenous Manifesto, (Toronto: Oxford University Press, 1999) p. 142-145.

[1521] This was a term used often by women who founded of the Indian Defense League from Six Nations, particularly Sophie Martin.

would wager that Indian Affairs was no gold mine for litigation for the Band Council, either.

Lawyers do serve a purpose in litigation, especially with intransigent parties for whom they can build bridges to settlements. They often draw together ideologically opposed litigants to forge compromises and write detailed and comprehensive briefs. I was astounded to realize that the briefs used by the Confederacy representatives in testifying before the Joint Committee of Parliament in 1960 were based on Chisholm's historical brief from the 1920s. Even worse – the chiefs had only one copy and no funds to make an additional one for the court. Indigenous communities rarely have funds to initiate and pursue litigation against the nation state. The expense of merely going to Ottawa was prohibitive, and copying and accessing government records was difficult, costly and sometimes prohibited. The Canadian government made it inordinately difficult for our people to access our own records, to seek justice in Canadian courts, or preserve our own history. The record showed that daily sustenance, heat, food, shelter, sanitation and clean water were pressing issues for the litigants in the Six Nations cases – the costs for transportation, food, lodging and expenses for litigants were overwhelming. People packed sandwiches for members of the delegations to Ottawa; this was far from a political junket. The playing field was unquestionably loaded in favor of the Dominion and the Band Council, whose travel and legal fees were paid. Nevertheless, many people have set aside their own lives and devoted themselves to working for Six Nations focusing on land claims, indigenous aid groups and community and political affairs.

The impact of the colonial process at Six Nations is three-fold: the destruction of lives at the Mohawk Institute; the suppression of Six Nations language, culture, history and self-government since the passage of the Indian Act; and lastly, the assault on independent spirit of the people of the community which damaged confidence and self-respect. Cultural knowledge and Native identity depend on historical continuity; unless Native people really struggle and work continually to prevent its loss, the prospect for Native languages, culture and history is rather bleak.

My work during this dissertation was critically informed by theories of the ways the consciousness of the colonial subject is affected and expressed due to the impact of colonialism. Much of the theoretical work undertaken during the research portion of the

dissertation was extremely helpful in understanding the cultural interplay of Native and Euro-American cultures concerning the politics of identity and representation. The insights garnered by Jean and John Comaroff for example, as they analyzed the intricate process of colonialism as experienced by the colonized and the colonizer alike in South Africa, was unsurpassed in enlightening me about the hierarchies of power and subtleties of feedback at a systemic level in a colonial system. This process clearly affected both the European metropole and peripheral regions, such as the Dominion of Canada. I used this work to understand the interplay between Duncan Scott and Deskaheh as they personified the dynamic inherent in the colonial hierarchy. While analysis of the relationship of the colonizer and the colonized is fairly standard fare in postmodern analysis, the Comaroff's work led me to look more deeply into the way an ostensibly colonized individual such as Deskaheh could use the "master's tools" to focus public opinion and gain public sympathy and support for the treatment of minorities and aboriginal people.

It also led me to understand why a rigid and repressed bureaucrat like Duncan Scott would identify with the "better sort" of Indians, namely, Christian progressives with a clear sense of middle class morality. As a Confederation poet, Scott was known for several of his essays and poems about Native people. Yet, as an administrator of Indian Affairs he was scornful and contemptuous of what he deemed as the ignorance, paganism and immorality of the race. Role-playing is part of the colonial encounter and the process is seductive to both the colonizer and the colonized. Scott's poetry has earned him praise as a Confederation poet and has led some analysts to humanize him as a historical figure. Scott's core identity was related to his role as self-proclaimed progressive, a colonial agent intent on controlling his charges and instilling his values of Christianity, self-mastery and the Protestant Ethic. Duncan Scott was not empathetic toward Natives, but even he was subject to the pulls and pressures of the colonial encounter.[1522]

[1522] I ended up closer to De Certeau's understanding of the colonial encounter than Foucault's heavy-handed analysis of power; De Certeau's analysis is more nuanced, it involves more agency and ambivalence reflecting the conflicts of putting into practice the discourses and edicts of colonialism as part of lived experiences. See the text of Michel de Certeau, Heterologies: Discourse on the Other, (Minneapolis: University of Minnesota Press, 1986) pp. xi-xxi.

In contrast, Deskaheh was able to turn the tables on the Dominion by underscoring the arrogance of the Canadian officials' treatment of an indigenous minority, but his path brought him directly to the metropole, where he came face to face with the allure of the colonizer's culture. He appeared to enjoy his travel in elite circles within Europe as he was celebrated for his race and exotic appearance; this was something new and intriguing for a former farmer and lumberjack at Six Nations. Deskaheh may have had limited success in appealing to the Dutch and several small, independent nations for aid at the League of Nations, but he became an excellent communicator in elite European circles and garnered much popular support. What did this immersion in European culture and society do to this Native son?

Deskaheh became quite acclimated to European society and the press after initially complaining to Decker about having been "left alone in Europe." I rather suspect Deskaheh grew to embrace the élan of being a "Red-skin" in Europe, for he was widely celebrated as an Indian chief.[1523] As the focus of attention celebrated by the public, the press and society, Deskaheh was welcomed into elite circles, but he was viewed as a curiosity. There is no way to understand his personal subjectivity, but the stress upon Deskaheh in this representative role for Six Nations must have exacted a great psychological toll on him.

Deskaheh was certainly uneasy with the racialized environment surrounding him and was under a great deal of pressure to get the Six Nations case before the League of Nations, no matter what the personal cost. He sometimes mirrored the racism of his surroundings and began to speak in similar racialized terms. Deskaheh was transformed

[1523] I understood this much better when I read the letter my grandfather's uncle wrote to Sir Henry Acland when he was seeking to attend school in Oxford. Peter Martin subsequently became life-long friends with Sir Henry Acland and his family. He came to Acland's door with four-pence in his pocket to attend medical school and was suddenly immersed in European culture in the mid-nineteenth century. Martin had to become a global citizen and move between these worlds, in a similar fashion to Deskaheh. I understood much more about my ancestor's journey when I e-mailed the curator at Oxford about seeing my relative's papers and his portrait, for no one from our family had ever viewed these things. Unknowingly, I used the name Peter Martin, thinking that Canadian assimilation would have erased his actual Indian name, "Oronhytekha" or Burning Cloud, that my mother had carefully taught me since I was a child. The curators at Oxford, however, were amazed that I knew the English name, for they told me I was the first person who had ever asked to view the portrait of "Peter Martin." He was the signal figure in my mother's oral history of our family for she clearly admired him and sought for me to emulate his achievements in education. When I went to Oxford, I knew I had to find his portrait.

to a great degree by this experience as much as he transformed the impressions, assumptions and understanding of many of the Europeans diplomats and officials he contacted during the status case.

Six Nations leaders always had played one power against another, but the subtleties of Michael Taussig's writing gave me an intimate theoretical guide to the dialectics of colonial representation for an individual. I inverted Taussig's perspective and viewed it more closely from the point of view of the colonized. This led me to interpret the way Deskaheh deployed the imagery and representations of colonialism to Six Nations advantage. As the "Red Indian abroad," Deskaheh both deployed this representation and was assessed through its colonial matrix. Although this discussion was steeped in race and eugenics, to a degree, Deskaheh mirrored this conversation with "friends of the Indian" such as Ms. Fleming-Gyll, with whom he corresponded.[1524]

Race pervaded every aspect of relations between Six Nations and the colonial officials depicted in this dissertation, pervading even the judicial decisions rendered about the status case. It is embedded in the language of all sides in the argument – Native and non-Native discourses. The subtlety of Stephen Greenblatt's theoretical points in regard to the circularity of cultural signs, symbols and signifiers offered me yet another way to work through and reflect upon the way Confederacy symbols were used throughout the archival material; the theory flowed effortlessly in and out of my data – for indigenous spokesmen and Euro-Canadians used this cultural matrix to try to communicate, but almost always missed the mark.[1525]

The constant reinterpretation and mining of symbols, language and concepts by colonized and colonizers, was remarkable as it unfolded – for example, the changing use of the term 'warriors' by Six Nations in various periods to reference groups with differing ideologies and loyalties was clear from the evidence. The "progressive" Mohawk "warriors" who had a hand in bringing about the schism in the council had opposite goals from the warriors who sought to defend the Confederacy chiefs and the Longhouse under

[1524] Taussig, Michael, Mimesis and Alterity: A Particular History of the Senses, (New York: Routledge, 1993).

[1525] Greenblatt, Stephen, Marvelous Possessions: The Wonder of the New World, (Chicago: University of Chicago Press, 1991).

the leadership of Deskaheh. As Mohawk nationalism has increased over the course of the twentieth-century, Mohawk warriors acting as the Kenienkehaga (Mohawk) Nation of the Grand River have frequently been engaged in direct conflict with the Canadian government, supporting other reserves in disputes over land claims and treaty rights.

Currently, Mohawk warriors and community members occupy a tract of land outside the neighboring town of Caledonia, arguing that it is Six Nations land and the beginning of a "reclamation" process.[1526] The land had been slated for a housing development when it was "reclaimed" and renamed Kanonhstaton under the leadership of a young activist, Janie Jamieson – inverting the gender association of the male warrior.[1527] In a situation somewhat analogous to the incident in 1959, the group was raided by the Ontario Provincial Police; sixteen people were arrested, but the occupation continues at the present time, despite two court injunctions.[1528] At Six Nations, Mohawk warriors are now contemporary critics of the Confederacy chiefs for being too close to the tenets and proceedings of the Longhouse religion, as part of the Code of Handsome Lake. The Mohawk Warrior argue for the Great Law to be restored as the primary ideology and spiritual force for the entire Confederacy.[1529]

Sovereignty is another term that has evolved through a multiplicity of meanings, depending upon who is defining the term and how it was to be used by either Euro-Americans or Natives. Interpretation of land-holding as a usufructuary right, in "fee simple" or held "under the Crown" were all legal terms that were continually reinterpreted in every period, depending upon the political circumstances and economic interest of the parties involved. These terms provoked the most intense dispute within the neocolonial context and were contested not only by Natives, but by judges, lawyers, Indian Affairs officials and political leaders at every level of government. Sovereignty

[1526] Krauss, Clifford, "Mohawks and others Block Trains in Ontario to Protest Land Use," *New York Times*, April 22, 2006.

[1527] Windle, Jim, "Mainstream Media Get the Goods from Confederacy Negotiators, *Tekawennake*, March 7, 2007. This article recounts the first anniversary of the Caledonia reclamation, February 28, 2006.

[1528] Krauss, Clifford, "Mohawks and others Block Trains in Ontario to Protest Land Use," *New York Times*, April 22, 2006.

[1529] Windle, Jim, "Mohawk Workers Vow to Get More Assertive," *Tekawennake*, May 30, 2007.

from a Six Nations perspective had shifted from self-government under the ancient Confederacy, to a much more limited mandate under Council of Confederacy Chiefs, due to the Indian Act. With the elected Band Council in place after 1924, the Confederacy Chiefs' rule had been reduced to the role of a "shadow government." Canadian oversight under an already intrusive and cumbersome Indian Affairs administration became more intense. As a result, policy stagnated within this closed system, stifling any movement toward Native self-sufficiency until the late '50s..

The interpenetration of the symbols, language and metaphors entangled in the representation of identity of colonizers and colonized seems inextricable from analysis of this record, for all parties were deeply affected by the colonial process.[1530] The Six Nations Confederacy made a Faustian bargain with British imperialism when they agreed to migrate to Canada. All the visits of the monarchs to the Reserve and the dignitaries, who received Indian names, wore the headdresses and listened to the welcoming speeches of the chiefs detailing the covenant chain, signified nothing for the "protection" of the Crown was a myth. As Canadian authority was enshrined as the British surrogate for imperial power, rule over Six Nations became much more intrusive, for there was no reciprocity of respect from Canadian officials for Six Nations authority and reserved Native sovereignty. In short, Crown protection proved to be an empty phrase.[1531]

[1530] I have reached a conclusion similar to one reached by V.Y. Mudimbe in his text, The Invention of Africa: Gnosis, Philosophy and the Order of Knowledge, (Bloomington, Indiana: Indiana University Press, 1988). How do we deconstruct the language and concepts both colonized and colonizer share and depend upon? Negating the colonizer and removing the traces of European encroachment, names, rules and policies, even forbidding intermarriage to whites as was done at Kahnawake seems to once again deploy the hate-filled racialized discourse once turned against Native people. Instead, It would seem obvious that we have to go on – divesting oneself of this racism and doing one's best with the shared language and conceptual framework we have, rather than trying to find some pre-colonial authenticity. Native interpretations must be part of this interpretative framework though, if there is to be some peace in regard to the hierarchical relationship engendered by the colonial process.

[1531] Bruce Clark argues that social justice, reason and the law calls for a reexamination of the fiduciary relationship of the Crown to aboriginal people. As responsibility for Natives was assumed by Canada, the Crown, Clark argues was still obligated to act in its role of trustee and legally committed to fully disclose Native public rights. Clark argues: "This pattern of dissembling established in the colonial era continued right up to the present, and dominates modern land claim agreements and constitutional negotiations." Clark argues great swaths of land rightfully and legally belong to Natives whose rights should be restore along with their right to govern, Native Liberty, Crown Sovereignty: The Existing Aboriginal Right of Self-Government in Canada, (Montreal: McGill-Queen's University Press, 1990), pp. 191-204,

The long running dispute between Natives and colonized continued in the context of Canadian rule with each group using similar metaphors, images and tropes from the colonial past for their own purposes. This was readily apparent throughout the "Rebellion" of 1959 that was a battle of cultural representation, as well as a violent skirmish. The Rebellion of the Warriors was deeply disappointing for the Confederacy and its supporters, since it failed to permanently reinstate the Confederacy Council, but it definitely reenergized the resistance to Canadian authority in latter part of the twentieth-century. The dispute over the council house was carried out at several levels for different audiences. Those on the reserve experienced the occupation of the Council House and the storming of the building by the RCMP, but it was also widely viewed on Canadian television. The larger significance of the event, besides local color, was the high-stakes legal drama that unfolded for decades. Remarkably, for all of the intensity of feeling displayed on the reserve, there has been very little violence between the two Councils – another sign that the differences between the Elected and Confederacy Councils was a part of the colonial process and at some level, each group recognized that the real adversary was the Canadian government, not their neighbor from Six Nations. Only the RCMP seemed to be out of control during the '59 altercation. The Ontario Provincial Police exercised restraint in the '70s incident, an event that took on the tone of a sad farce with the padlocking of the doors, first by one group, then another, leading to no resolution but more litigation.

The incident with George Beaver was enlightening for he quickly realized that he was not being "kidnapped" despite all the press accounts. He grew up with the "warriors" holding him and the ethics of Six Nations were not to harm anyone in these standoffs against the government – rather they were to make a political point. Once Mad Bear obtained his publicity, the event was over. Much of the warrior ethos was calculated for public consumption and press coverage. Six Nations had replicated and integrated the cultural stereotypes of the warrior from the majority culture's portrayal of the "white man's Indian," in Berkhoefer's memorable phrase. The '59 Rebellion was the key to challenging the hegemony of the Canadian government wherever possible. This was not a unified course for the Confederacy, though. Some leaders were afraid of obtaining a definitive ruling that would close options in the future.

In 1959 the chiefs who viewed the conflict between Canada and Six Nations in strictly religious terms, for instance as a protest against the government's prohibition of legal marriage in the Longhouse, made common bond with the political wing of the Confederacy. These chiefs cast their lot with the "warriors" who sought the reinstatement of the Confederacy at all costs; as can be seen from the record the conflict was recorded by the media and exploited from all sides, with the exception of George Beaver, the young teacher who explained his part in the fray without politicizing his account. Although the '59 rebellion failed the spirit and legacy of this ostensibly lost cause fueled the legal challenges in the future against the Canadian government.

The years out of power exacted a terrible toll on the ability of the Confederacy to act in its former capacity as a focal point for the community in regard to the conservation of languages, ceremonial knowledge and cultural traditions. As much as they tried to hold their ground, they were no longer the official governing body on the reserve. Why would the broader community grant them a forum to speak or listen to their warnings? Without the Confederacy's affirmative and reinforcing cultural influence on the Six Nations community at large the knowledge base of the broader community began to erode: exactly what the Canadian government had planned.

The reification of the Longhouse religion of Handsome Lake, as opposed to the more ancient system of belief entwined with the Confederacy system as a whole, was an important result of the Canadian dissolution of the Council in 1924. For example, by 1966 a clan mother in the Longhouse stated in a Confederacy Council meeting that "…installation of any further chiefs who are non-believers in the Longhouse religion should be stopped." In a dispute played out on the editorial page of the *Brantford Expositor* just after the '70's "Rebellion" Mrs. Verna Logan – a clan mother and wife of Chief Joseph Logan – cited the Confederacy constitution when she argued: "As required by the Confederacy constitution, a Confederate chief, clan mother or faith-keeper must belong to the Longhouse religion. The lack of understanding of these Christians have caused much turmoil in the Confederacy." [1532] Alma Greene noted in a sharply worded

[1532] Letter to the Editor, *Brantford Expositor*, February 19, 1971, "Deposing Indian Chiefs," from Mrs. Verna Logan, from the clipping file of Beatrice Smith. The argument was over a report that Chief Joseph Logan had been "dehorned" or removed from office, which had been reported to the paper in error.

response that the "Longhouse religion" of Handsome Lake was not even created until the early nineteenth-century, but missed the larger historical point that the ancient Confederacy did indeed consist of followers of one faith. The Chiefs of the Confederacy Council were embarrassed due to the presentation of private Confederacy arguments in the press. A chief wrote to the newspaper as well, decrying a fundamentalist streak in some Confederacy adherents, who were speaking without the requisite knowledge and conveying "…an unauthentic [sic] and unreal portrayal of the Iroquois Confederacy."[1533] This emphasis on the sacred as the overriding part of Confederacy rule was accentuated in the '80s and remains a strong current in the attitude of the Confederacy Council today.[1534] The concept that "one religion is shared by all the chiefs of the Confederacy," was certainly not the case when the Confederacy Council of Chiefs held power at Grand River. This incident points out the substantive disadvantages under which the Confederacy Council was operating after being driven from office, with no other refuge but the Longhouse; this impacted the wider community's broader base of cultural and political knowledge, as well as the Confederacy's own followers.

After the '59 "rebellion" failed the chiefs' followers were discouraged by the lack of progress with regard to the courts. It was a major turning point for the Confederacy to test the legal waters once more following the summer takeover of the Council House in 1970, despite severe internal criticism of the decision. Chief Joseph Logan in particular was severely criticized "long before the injunction issue" for selecting a separate lawyer from the other defendants, Malcolm Montgomery, and attempting to gain clarification of the status claim in Canadian courts. The conflict in the Confederacy reflected fear of the "dragon of discontent" -- the metaphor used to warn of internal strife used in the Constitution of the League.[1535]

[1533] Appalled that this dispute was going on in the public newspaper one Confederacy supporter, "Gah-wi-treh," wrote to the editor to correct the record, "Dehorning a Chief," *Brantford Expositor*, February 11, 1971, Clipping File, Beatrice Smith.

[1534] Shimony, Annemarie, Conservatism Among the Iroquois at Six Nations Reserve, (Syracuse: Syracuse University Press, 1994) p.xxxv.

[1535] Letter to the Editor, "Dehorning a Chief," signed Gah-wi-treh, *Brantford Expositor*, February 11, 1971, Clipping File, Beatrice Smith.

After Justice Osler's unexpected decision in favor of the old guard, the situation at Grand River was characterized by Malcolm Montgomery as "vaguely similar to a protectorate."[1536] What does Native "sovereignty" mean given the relations of indigenous groups to the Canadian government when one acknowledges the effect of internal colonialism in Canada? A few Native writers have argued that very the use of the term is a trap for indigenous communities. The Euro-American meaning and significance of the term draws Native populations into the very hierarchies of power that they want to escape.[1537] Leaders of the Assembly of First Nations, the political group currently representing Native rights and Band Council adherents contend that self-government is the only useful concept for indigenous groups to use as a starting point for increasing aboriginal control over their affairs within the Canadian constitutional framework.[1538]

Still other analysts counter that the term sovereignty is still useful when defined within an international context citing Supreme Court Justice John Marshall's decisions structuring tribal relations in the United States. In contrast, some theorists such as Kahnawake nationalist Gerald Alfred, echoing Native analysts Meno Boldt and Anthony Long, all apply postmodern theory to argue that one must remove the hierarchical power constructs embedded within sovereignty through Euro-American power relations which a priori negate the possibility of a non-Western, aboriginal sovereignty to evolve. These analysts emphasize collective rights vs. individual rights. An indigenous "traditional" sovereignty according to Alfred was characterized by "…no absolute authority, no coercive enforcement of decisions, no hierarchy and no separate ruling entity." The Western model of sovereignty, for example, the dependent status created for tribal

[1536] "Hereditary Chiefs May Talk to Minister," *Brantford Expositor*, July 25, 1972, Clipping File, Beatrice Smith.

[1537] Alfred, Taiaiake, Peace, Power, Righteousness: An Indigenous Manifesto, (Toronto: Oxford University Press, 1999) p. 56.

[1538] C. E. S. Franks, "Indian Policy: Canada and the United States Compared," in Aboriginal Rights and Self-Government, eds., Curtis Cook and Juan Lindau, (Montreal: McGill-Queen's University Press, 2000) p, 254. See also, Alfred, Taiaiake, Peace, Power, Righteousness: An Indigenous Manifesto, (Toronto: Oxford University Press, 1999) p. 57, for his dismissal of Ovide Mercredi's (former leader of the Assembly of First Nations) view that the American power sharing relationship is an adequate model for "regaining control of our lives."

governments in the United States, is connected to a flawed model of statehood tainted by colonialism, Alfred argues, and should be abandoned, rather than embraced by Native leaders. Alfred asserts that merely carving out a space for aboriginal "self-government" in a Western hierarchy of state relations will not lead to true independence for it does not fully critique state power and is an acceptance of colonial domination.[1539]

Unfortunately, this critique does not advance the argument much further, for almost all of the language, legal principles and conceptual analysis used in this debate is derived from Western perspectives – so, I find myself in the company of V. Y. Mudimbe in regard to practical use of the language and forms that are themselves artifacts of the colonial process, remembering syncretism does not alter just the Native norms and forms of cultural interaction, but also the colonizers.[1540]

Recently the visit of a group of Six Nations activists to Osgoode Hall, the Law Society for Upper Canada, brought this to mind: the group viewed a replica of the Two Row Wampum or "Kahwentha," a symbol interpreted by Six Nations cultures as allowing each society to enjoy its own political and cultural autonomy, growing separately and fulfilling their own ethos and destiny without interference with the other.[1541] This wampum belt has been used to buttress the assertion of Native sovereignty, but the symbolism is hard pressed by reality in Native societies impacted by the Indian Act. The Two Row Wampum is not accepted as legally valid by Canada as a treaty. But in order to continue to live peacefully and productively, officials of both societies have to begin somewhere to accord one another respect needed even to begin a dialogue. All the language, tropes, symbols, signifiers, concepts, one can even argue the epistemology, of Native and non-Native societies has been transformed by the colonial process; it is inextricably linked in out texts, documents, speech and symbols.

[1539] Alfred, Taiaiake, Peace, Power, Righteousness: An Indigenous Manifesto, (Toronto: Oxford University Press, 1999) p. 56-58.

[1540] Mudimbe, V. Y., The Invention of Africa: Gnosis, Philosophy, and the Order of Knowledge, (Bloomington, Indiana: Indiana University Press, 1988).

[1541] Sywyk, Jim, "Pillars of Justice Get a Shake," *Tekawennake*, August 22, 2007. It is argued in this article that the money used to build Osgoode Hall was taken from the Six Nations Trust Fund and never repaid. Also, this article alleges that Canada has offered twenty-five million dollars for settlement of the Grand River Navigation debt.

In terms of current scholarship on this subject: "International law increasingly recognizes that subunits of states exercise a measure of sovereignty in the international arena.[1542] This view posits that there are still possibilities for indigenous communities to carve out space for reconciling aboriginal aspirations for sovereignty within a state apparatus. The last Royal Commission alluded to several possibilities within the current state apparatus that would yield space for Native decision-making, such as local judiciary councils and gradual assumption of band creation and certification for local populations along local lines that are presently generated by Ottawa.

The last Royal Commission also advocated for more power to be shifted to Native control as a third tier or order of government, but Ottawa bureaucrats are still busily creating bands and adding to their power base while ostensibly funneling power to band councils. In an age where indigenous people are seeking meaningful self-government, the façade of band councils acting as agents of internal colonial rule is not exactly suited to express the needs of aboriginal communities.[1543] DIAND officials often state that the goal of the administration was to get out of the business of running Indian Affairs; yet, bureaucratic oversight exercised over Native affairs is more extensive and intrusive than ever.

Local leaders at Six Nations are currently searching for a community approach to control of political, cultural and social life without the vitriol and racial politics of the Kahnawake experience. A calm and centered pathway forward with leaders from both Councils might yield substantial political capital for Six Nations. Native sovereignty can be structured to uphold Six Nations principles and practices of self-government without exacerbating Canadian politicians' visceral fear of the third rail of Canadian politics, ethnic separatism. There are a multitude of flexible alterNatives to the absolute control of the nation-state demonstrated all over the world, not just the United States model with respect to shared or parallel systems of sovereignty with regard to law courts, police and administration.

[1542] Macklem, Patrick, Indigenous Difference and the Constitution of Canada, (Toronto: University of Toronto Press, 2001), p. 169.

[1543] Conversation with administrator within DIAND, Hull, January 17, 2006.

Many Native activists argue for an ideal of Native governance resting on consensus, power-sharing and without that rigid class structure of modern industrial capitalism so alien to Native societies. Six Nations ancient government had a completely different substance and context for it was based on a theocratic system.[1544] The way the Six Nations Confederacy Council of Chiefs was beginning to deal with and had made progress in handling challenges to the theocratic basis of governance. The current Confederacy also militates against Mohawk nationalism, as did the older Council, for after emigration to Canada Six Nations became a pluralistic community and did not accept the exclusivity of Mohawk leadership under the guise of Native nationalism. Therefore, the racialized terms of Kahnawake membership are not reflective of Six Nations norms, nor were they reflective of the old Confederacy. Mohawk militants at Six Nations are divided, but some are currently considering a plan to work within the Confederacy at Grand River. The Mohawk Workers argue that the acceptance and reification of the Handsome Lake Code undermines the supremacy of the Great Law.[1545]

Grand River began as an integrated settlement: Brant invited Natives from many Indian nations fleeing the Americans to settle at Grand River, as well as his friends and comrades from the British army. Six Nations historically was characterized by a fluid conception of Native identity based on culture, not race or blood quantum. The leadership did not make a fetish of racialized regulations on the reserve for many people acknowledge that because of the Indian Act our own markers of identity – family and matrilineal clan are in disarray. The Six Nations house is not in order and the process is just beginning to set this back to the matrilineal construct of the Confederacy structure for many people seek to be reorganized according to the clan system once again.

[1544] Porter, Tom, "Traditions of the Six Nations of the Constitution," in Pathways to Self-Determination: Canadian Indians and the Canadian State, edited by Little Bear, Leroy, et al., (Toronto: University of Toronto Press, 1984) p. 14-21.

[1545] It may be remembered that the Mohawk Workers were a largely Christian nationalist faction during Deskaheh's time as Speaker of the Council. Mohawk nationalism has grown to be increasingly centered on the mythic origins of the Confederacy and the Great Law during the latter part of the twentieth-century and came into conflict with the Confederacy chiefs in the Longhouse in the 1980's who "emphasized the more ritualistic and sacred aspects of the League Tradition," see Annemarie Shimony, Conservatism Among the Iroquois at the Six Nations Reserve, (Syracuse: Syracuse University Press, 1994), p. xxxiv.

The court cases pursued by the Confederacy adherents against the Canadian government and the Band Council were not simply to regain power at Grand River. By pressing its case for retained Native sovereignty and arguing the Confederacy had never ceded this principle to Canada, Six Nations leaders sought to establish a space of legal recognition for their inherent right to govern their territory and exercise legal jurisdiction over their society and culture. This was a limited agenda for the chiefs did not seek to take over any part of Canada or disrupt the rest of the nation, but simply to rule themselves on their own lands. Their legal advisors used the language of the Haldimand Proclamation to back up their claims, interpreting the language forthrightly as an outright land grant.

Legal scholars debating the viability of a sovereignty measured, as it were, in degrees, argue that a space can be carved out for protecting indigenous rights using international law without threatening the national sovereignty or the constitution of Canada. According to Macklem in his discussions of Canadian constitutional law and aboriginal "difference," Natives' aspirations to protect their rights, culture and territories can be fulfilled, but the key to an arrangement of this type requires both Canadian and Native flexibility and a willingness to use international principles to structure limited sovereignty to indigenous groups, short of independent statehood.

By pressing the series of cases stemming from the altercation and violation of the injunction at the Council House during the summer of 1970 Six Nations Confederacy's elder leaders, such as the Logans, sought an exploration of these political boundaries at the intersection of national and international law and gave the Canadian courts much to ponder in constitutional terms. The justices faltered, however, choosing not to take the opportunity to address a far-reaching problem of aboriginal governance within Canada using legal principles garnered from international law. The Canadian Attorney-General and the most of the justices instead took refuge in the ideology of the past – Duncan Scott's modus operandi: namely, "stonewall," ignore the problem and revert to the status quo, rather than chart a way forward using the Six Nations community as a test case. Six Nations has, for all its contested history with Canada, powerful tenets militating peaceful negotiation – it is not a community ruled by a militant nationalist group. Six Nations

demonstrated willingness to go to the Canadian courts rather than to the barricades should have been rewarded rather then rebuffed.

The loss of the short-lived victory under Justice Osler was a stunning blow to supporters of the Confederacy. The brief interregnum also reflected the damage done to the Confederacy in terms of its lack of preparedness to govern when given a chance to seize power. Malcolm Montgomery had counseled the chiefs to exercise their power immediately and take control of the Reserve, but the leadership had decided to leave the Elective Council unmolested while they awaited a final decision. The loss was a severe setback to Six Nations ongoing and steadfast challenge to legal boundaries of status and sovereignty. Six Nations Chiefs had mounted an unusual and sustained legal challenge to Canadian policies and had kept up a steady drum beat of criticism pertaining to the way Canada governed aboriginal communities. By refusing to submit to the category and identity of colonial subjects, Six Nations has always prided itself on difference, on its unique status in its relations with the Dominion. Rather than taking this position as an affront to its power, Canadian justices might have seized on these cases as an opportunity to explore and reinterpret the existing law toward First Nations through an enlightened lens. Instead, the justices refused to grant Six Nations the necessary measure of respect, in line with contemporary notions of Native self-government, to creatively interpret the historical background leading up to the case.

Instead, the futility of taking the issue of Six Nations status to Canadian justices has often been decried, even within our own community, as a grave mistake. The Canadian justices' collective sense of judicial nationalism was not overcome.[1546] The Indian Act had been burnished, once again, rather than closely examined and found wanting. The Confederacy Chiefs and legal advisors had made mistakes in political timing and pushed beyond realistic political boundaries, at the time, given the political fallout from the Quebecois separatist movement.

Timing is intrinsic to politics and the law. The analysis of the justices' rulings in the Canadian Supreme Court showed how unfortunate it was that rulings in the status

[1546] The Canadian Supreme Court ruling stands in sharp contrast to the way status has evolved in the United States, stemming from the ruling of Chief Justice John Marshall in Worcester v. Georgia. Marshall ruled that Native Americans had a basis for their claim to a degree of sovereignty within the spirit of international law in the celebrated case over Cherokee Removal in 1832.

case took place before the full impact of the United Nations ruling against Canada for gender and cultural discrimination took hold. The analysis of the rulings of the justices in these cases, with the signal exception of Justice Osler, demonstrates the inflexibility and lack of adaptation that is the hallmark of the Canadian justice system toward indigenous groups. Rather than responding to critical external and internal currents of change sweeping over Canadian society, the justices turned back any challenge against Canadian authority. The few critical justices such as Osler and Laskin who dissented were willing to be flexible and adapt their decision to take into account new interpretations of the historical record and a changing international climate regarding Native justice and cultural rights theory. Canada's statutes governing indigenous groups regarding gender relations were ultimately refuted, much to the public embarrassment of the Canadian political leadership.

Unfortunately, the international political pressure that came to be placed on the Canadian government to revise the Indian Act resulting from the cases involving Ms. Bedard and Ms. Lavalle, was not revealed soon enough to fully impact the Supreme Court ruling in the Six Nations case. It might have made a considerable difference for the cases uncovered the anachronistic, colonial elements of Canada's rule over its Native population.

In retrospect, the political timing could not have been worse for the Six Nations to try their case before the Supreme Court of Canada. It appeared that the simultaneous focus of international human rights agencies on Canadian policy from outside the country and the domestic critique that emerged domestically, revealing glaring inconsistencies between governance of First Nations and the newly minted Charter of Human Rights – notably, both streams of criticism deeply embarrassed Canadian officials – would yield positive results. Yet, even though a select number of high-profile Native rights' cases framed during this political window of opportunity helped highlight and overturn inequality for some Natives it proved to be merely a cameo moment. It was not indicative of a lasting commitment to aboriginal equality. The slogan "citizen plus" of the vaunted Hawthorn Report became a cruel joke when conditions on the ground were assessed in Native communities. Progress in key indicators of poverty, disease, suicide rates and human rights has been maddeningly slow. Canadian officials were not about to

overturn over a century of legislation and disavow dominance over First Nations without a fight – patriarchal and neocolonial precepts were far too deeply woven into the fabric of Canadian relations with its Native population.

Of course, the "elephant in the room," or more specifically in the Chambers of Parliament throughout this period was certainly the Quebecois separatist movement. This movement has militated against the extension of meaningful self-determination to Native groups, for Ottawa obviously feared that the national fabric of Canada would be rent into ethnic enclaves. Balancing the aspirations for cultural recognition against increasing desires for outright national sovereignty was an impossible task of Canadian politicians and the judiciary facing simultaneously the rising militancy in many aboriginal and Quebec separatist communities. The Canadian government even chose to ignore the conclusion of its own Parliamentary study, the Penner Report, which recommended it empower it own creations, the band councils, as a way to structure an aboriginal order of government conceived as a pathway to First Nations self-government.

Nevertheless, the Six Nations status case amounts to a tragic, missed opportunity for the Canadian justice system to take a new look at aboriginal rights and the potential for self-government. The case was not lost on its merits, but through political timidity and a refusal to reject a century of paternalism and patriarchy. The exigencies brought forth by aboriginal dissent continued to impacted Canadian society, not only through the courts, but also within civil society through violent demonstrations for change such as Oka.[1547] These themes of Native discontent had been expressed through international forums and will continue to emerge in the twenty-first century, despite Canadian efforts to repress indigenous aspirations and continue its long-cherished model of assimilation and colonial domination.

Currently, Canadian leaders have prevented the passage of an international agreement on Indigenous Rights. Even Canadian bureaucrats are taking the unusual step of urging the Conservative Prime Minister Harper to stop blocking the United Nations

[1547] Oka was the site of a clash between Native warrior societies, Quebec and Canadian authorities in 1990 that stands as the nadir of aboriginal and Canadian relations, for Federal troops were used to suppress Native combatants.

Native Rights Declaration.[1548] Canada and Australia are the only two holdouts blocking this declaration out of 47 countries on the Council on Human Rights. Harper's administration has repudiated the position of the Liberal government that helped draft the initiative amidst fears that the declaration could run counter to Canada's constitution, as well as laws regarding defense and land deals. The international agreement supports "land, language and self-government" for indigenous peoples and is the result of twenty years of work, according to the national chief of the Assembly of First Nations, Chief Fontaine.[1549] The Conservative government also repudiated a 5 billion dollar accord in Canada that had been reached to improve Native social and economic conditions.[1550]

Sovereignty is a legally constructed principle to serve the interest of the state. Indigenous people are pressing their case at the international level to force Western nation states to recognize and restore indigenous cultures to some measure of self-government, for they never yielded their own sovereignty.[1551] This was the pathway begun by Deskaheh at the League of Nations and taken up by Six Nations leaders. Accommodations can be made to share a measure of power within Canada similar to the pathway for indigenous self-government outlined in the last Royal Commission in which a third tier of government was envisioned that was devoted to aboriginal needs, structuring a pathway to self-government. "International law increasingly recognizes that subunits of states exercise a measure of sovereignty in the international arena. In contrast to a formal demarcation between international and national competence, sovereignty can be understood as a set of 'disaggregated rights to be pragmatically bundled, rearranged

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[1548] "Ottawa Bureaucrats, Government, at Odds Over UN Native Rights Declaration," *Tekawennake* June 13, 2007, as reported in the *Toronto Globe and Mail*, Amnesty International has determined that Canadian officials from Indian Affairs, Foreign Affairs and the Defense Ministry are urging support for the declaration. The working group in the Liberal government preceding Harper had supported the United Nations Declaration, so support in the bureaucracy is not surprising, although it is not often voiced given the non-political climate of the Canadian government where workers are to support whichever party is in power.

[1549] "Canada Should Back UN's Indigenous Rights – Fontaine," *Tekawennake*, August 15, 2007.

[1550] "Canada Blocking UN Aboriginal Rights Declaration, Says Amnesty," *Tekawennake*, June 13, 2007.

[1551] This was Bruce Clark's conclusion in his text, Native Liberty: Crown Sovereignty, (Montreal: McGill University Press, 1990), p. 204.

and balanced."[1552] The argument reflects the notion that sovereignty is multi-dimensional and internal sovereignty can be exercised as a matter of degree so that Native societies do not surrender their political independence and exercise of power over their own affairs.[1553]

There seems to have been historically little desire among Canadian politicians to respond to critique from aboriginal leaders to reform or decentralize the administration of Indian Affairs; there was no equivalent of John Collier's "Indian New Deal." Even when Parliamentary hearings were held to investigate conditions on reserves and generated a report calling for sweeping change such as the Hawthorne Report or the Penner Report, nothing changes. Lack of consultation with Natives reveals Canada's political insensitivity to Native voices and its lack of commitment to reform of Indian Affairs in any meaningful way other than trying to hand off responsibility to the provinces or the disempowered band councils. The Royal Commission held in the 1990s had very little demonstrable impact, despite a great deal of publicity and money spent focusing on the state of aboriginal people, lands and cultures; particularly the deteriorating conditions in aboriginal communities. The Canadian government did not forge a response that would lift its indigenous peoples to a position of equality and regard within the society; "citizens

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[1552] See the enlightening discussion reviewing legal scholars debates regarding the meaning and construction of sovereignty in Patrick Macklem's text, Indigenous Difference and the Constitution of Canada, (Toronto: University of Toronto Press, 2001) p. 107-131.

[1553] The exercise of tribal sovereignty by tribes in the United States reflects this arrangement and evolved after Chief Justice John Marshall's ruling in the Worcester v. Georgia (1832) case in which Marshall argued that international law held that tributary states did not lose their independence under the protection of a stronger nation, so that political independence of Native nations was retained and protected by the Federal government of the United States. Cherokee Nation v. Georgia (1831) had already set forth Marshall's concept of Native American tribes as "domestic, dependent nations," a principle which prevented the Cherokees from being "annihilated" as a political society – clearing the way for development of tribal jurisdiction and sovereignty in many areas. Marshall emphasized that the "relationship of the Indians to the United States is marked by peculiar and cardinal distinctions which exist no where else," in Documents of United States Indian Policy, edited by Francis Paul Prucha, (Lincoln: University of Nebraska Press, 1975) p. 58-62. Native jurisdiction was limited by Congressional authority in specific cases such as U. S. v. Kagama (1886) which gave United States courts jurisdiction over murder and other severe crimes on reservations when committed by Indians against one another, in Prucha, cited above, p. 168-69. Lone Wolf v. Hitchcok (1903) established the plenary power of the Supreme Court even to the point of abrogating a treaty ratified by Congress if it was in the interest of Native Americans to do so, for in this case lands were ceded without the appropriate consent of the Natives involved. Three-fourths of adult males in the tribe concerned was required for land cession and the requisite number of votes was not obtained, so the treaty was abrogated. See Prucha, cited above, p. 202-3.

plus" is a cruel reminder of heady days when Natives were encouraged to hope that they would move forward out of the third-world conditions which still are their day-to-day reality on reserves throughout Canada.

Tensions between Quebec and Ottawa obviously created fear within the political hierarchy that Canada's celebrated "mosaic" might fall to pieces, but as a mature nation it must move forward to enable indigenous communities to address problems of health, land, resources and the impending social, economic and cultural crisis that is building within First Nations. The rising tide of Native activism, including the reclamation of Native lands, is stoked by Native nationalism and signals the unwillingness of aboriginal people to accept continued paternalism and willful disregard of the problems of their communities. A reckoning is long overdue. Native leaders are organizing protests, but emphasizing non-violence. A National Day of Action was held on March 29, 2007 promoted by the Assembly of First Nations in which the Six Nations community participated.[1554]

It is clearly not enough for Canadian officials to point to the entrenchment of Native rights and cultural protections within the Constitution. It still leaves aboriginal communities in the same colonial backwater, forced to cope with band councils with little or no real power, for the central administration of Indian Affairs has never shifted from Ottawa. Power must be accorded to some degree with Native groups; unfortunately, there has never been strong Canadian leadership centered on the needs of aboriginal people. Until there is crisis or embarrassment on the world stage to force Ottawa's hand, there is likely to be little movement to take pro-active steps to facilitate the restoration of Native peoples to self-government. DIAND officials anticipate yet more law-suits filed to protect Native rights from activists protesting third-world conditions in the most unlikely of places – the neat and tidy Dominion. They also expect more law suits to be filed as a result of Bill C-31 as another generation confronts the artificial construct of Native status under the Indian Act.

The centralized power and control extended by Canadian authorities over Six Nations has been mightily resisted, but it has unquestionably damaged our people, too.

[1554] "Day of Action Planned for Six Nations," *Tekawennake*, June 27, 2007.

The United Nations Committee on Human Rights caught a glimpse of what one small portion of a single statute, within the vast code that represents the Indian Act, has done to proud, matrilineal cultures with a history of self-government preceding colonization by a century. Imagine the far-reaching damage the whole agenda of domination and assimilation has wrought. Focusing on the loss of historical and cultural references at Six Nations, our leaders are clearly disturbed by how much the knowledge base of much of the community, especially language and history, has been eroded through the extension of Canadian power over the Grand River territory.[1555]

The picture is not all bleak, however, for these cultural losses and the steady encroachment on Six Nations land have engendered a crisis mode at Grand River and opened some communication between a few members of the Confederacy Council of chiefs and some members of the Band Council. The two Confederacy positions that are consistent from the beginning of settlement at Grand River to the present is the refusal to be ruled by another nation-state and that the conduct of relations between Six Nations and any other nation will be conducted on a nation-to-nation basis. Of course, Band Council owes its creation to Canadian law and therefore must acknowledge the power of the Canadian government. The model of government ostensibly sought by the Confederacy would be wholly based on the Great Law, for its present-day advocates argue for a strict return to its precepts. The current Council has abandoned the municipal model that was used by the Chiefs in the early twentieth-century. Abandoned as well were the compromises which allowed Christians, believers in the ancient calendar of ceremonies, and Longhouse advocates to function under the same umbrella, a situation that will be extremely problematic if a shared system of government evolves in the near future.

Band Council leaders, by including the Confederacy in land negotiations have opened the door to Confederacy chiefs to bring their critique of the Canadian government to the table, a position that is not always comfortable for Canadian elected officials but popular with the community; however, both groups sometimes share an adversarial position against the Canadian government. The rapprochement, if it does continue, will

[1555] See for example the editorial by the publisher of the *Tekawennake*, G. Scott Smith, "And Which History Do You Like," August 15, 2007, in which he laments the "various versions of Six Nations history" argued vociferously by community members at public meetings from espousing competing ideologies and systems – the elected and traditional councils – without the "facts."

most certainly be a process fraught with missteps, altercations and break-downs but both councils, pushed together by the leaders of the community who seized the moment after a reclamation of land near the reserve to call for joint action may have opened up a pathway to unity.[1556]

A 4 a.m. assault on April 20, 2006 at Kanonhstaton (Douglas Creek Estates) had been undertaken by the Ontario Provincial Police to serve an injunction on the reclamation encampment that was headed by Janie Jamieson. This action back-fired, though, for it brought community members from all walks of life and all ages to the reclamation site to defend what they argue is Six Nations territory. Allegedly assaulted and bodily dragged out of the camp by the hair, men, women and children (aged 14 to 70) of the Six Nations community have stood their ground despite having charges lodged against them in the violent skirmish.[1557] And, so it goes…into the twenty-first century.

At this time there is energy and desire at Six Nations to heal the nearly century-old rift between the Band Council and the Confederacy. The elective council has been steadily criticized by the community and even its own members for decades for closing its meetings to the community, creating a problematic atmosphere rather than transparency.[1558] As a new group of politically active chiefs has come to power, the Confederacy Council is focusing on negotiations stemming from a comprehensive land claims suit filed by Six Nations against Canada in the 1990s. The Confederacy was recently asked to take the lead at the negotiation table on land claims by the Elected Council and given key responsibilities within the negotiation process. This is the first time there had been even a partial implementation of a plan in which the Confederacy exercises its authority a few of the eight areas envisioned by Confederacy leaders in a

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[1556] A 4 a.m. assault on April 20, 2006 at Kanonhstaton (Douglas Creek Estates) by the Ontario Provincial Police to serve an injunction on the reclamation encampment headed by Janie Jamieson. This action back-fired for it brought community members from all walks of life and all ages to the reclamation site to defend what they argue is Six Nations territory. Allegedly assaulted and bodily dragged out of the camp by the hair, men, women and children (aged 14 to 70) of the Six Nations community have stood their ground despite having charges lodged against them in the violent skirmish. See the article written by Jamieson, "Six Nations Activists Up the Ante," *Tekawennake*, August 15, 2007

[1557] Jamieson, Janie, "Six Nations Activists Up the Ante," *Tekawennake*, August 15, 2007.

[1558] "Council Business Decided at Closed Meetings," Letter to the Editor, Helen Miller, *Tekawennake*, August 22, 2007.

position paper in 1991. The Confederacy was to handle the Great Law, land, treaties, international affairs, membership, the installation of chiefs, ceremonies and justice.[1559] The ongoing comprehensive claims process is presently being discussed by representatives of both the Confederacy and elected councils – a community first that has made many people cautiously optimistic.[1560]

This is a distinct shift following the 1980's, when the Confederacy was quiescent, renowned more for its ceremonial and ritual expertise than political strategy. Chief Jake Thomas exemplified the Six Nations Confederacy's focus on a renewal of ritual knowledge and language in the community, with his unparalleled command of oral history, all six of the nations' languages and cultures in regard to "reading" the wampum belts, holding week-long recitations on the Great Law and teaching Native languages on the reserve. This period seemed to serve as a mini-revitalization movement for the Confederacy and both religious and political leadership within the Longhouse currently seems strong, symbolized by the return of the Confederacy "mace" and the wampum belts.

Confederacy leaders at Six Nations from both councils are distrustful of Mohawk nationalists and state that they will not be co-opted by groups who give lip service to the Great Law, but do not share the ethical values of the belief system. The Chiefs are understandably worried about illegal activities being carried on at Grand River for it endangers their community and refutes their beliefs. Principles related to the Confederacy ideology and practices of governance seem to be their focus at the moment, rather than seeking to rule the reserve in place of the band council. They have disavowed the possibility of a power-sharing arrangement with the Band Council, for the Confederacy insists it will not give up its assertion of nation-to nation-status. Other interventions are possible at the international level, however. The Confederacy chose not to appeal their loss in the Supreme Court case, but it is not inconceivable that if there existed a possibility of reviewing the legal principles seriously on their merits a new case

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[1559] Shimony, Annemarie, Conservatism Among the Six Nations at the Grand River Reserve, (Syracuse: Syracuse University Press, 1994) p. xxxvi.

[1560] Muse, Sandra, "SN Caucus Prepares For Offer From Feds," *Tekawennake,* May 30, 2007, Representatives from both councils are engaged in these deliberations.

might be framed reinterpreting Six Nations relations with Canada.[1561] Clearly, the power of the Canadian state was used aggressively in Canadian courts to trample Six Nations assertions of sovereignty, presenting the government not as a protector of indigenous rights but as an arrogant and aggressive usurper of lands and authority.

The steadfast efforts of the Confederacy for nearly a century have been focused on retaining the identity, culture and life-ways of the Six Nations people and assuring our survival on the Grand River Tract. The chiefs have struggled to voice and maintain the principles of the Confederacy fashioning their agenda according to the historical conditions at the time. The leaders of the elected council have conducted much of the daily business of Six Nations under the mandate of Indian Affairs, who turned the Band Council into a municipal government. Both groups after nearly a century of struggle have found that the community needs them both to confront the Canadian government in the battle over land claims, perhaps involving the entire Haldimand Tract. The confederacy is acting within the eight-point program of jurisdiction they issued in 1991 and the elected council has made room at the negotiating table for the Confederacy. The Band Council has knowledge of the bureaucracy at Indian Affairs and experience in drafting agreements regarding budgets, protocols and reports. Band Council can access information, funding and exercise a degree of power within Ottawa. The Band Council sponsored an office to begin research into land claims and treaties in the 1990s as part of the overall land claims process over Canada, but as a complement to bureaucratic know-how, the critical and independent stance of the Confederacy is welcomed by the larger community. The emphasis to forge a Six Nations consensus is driving this process forward.

At this critical juncture, both groups are needed to lead Six Nations and work side-by-side using their strengths, employing practical and principled judgment, without violence. The Confederacy has never yielded in its position of nation-to-nation status and

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[1561] Windle, Jim, "What Is and Is Not the 'Rule of Law,'" *Tekawannake*, August 22, 2007. In this article a professor and author from Alberta, Tony Hall, who has served as the expert witness in several aboriginal cases in Canada offered the following suggestion: "Why not explore the possibility of bringing in judges from outside Canada to arbitrate when two or more assertions of sovereignty are in contention?" It would seem that the litigation in terms of Six Nations in not finished yet. It would clearly be a monumental risk, for the political climate may never reach a level of acceptance of aboriginal rights within Canada.

in this negotiation, forcing the Canadian government to face land claims in the billions of dollars, this is an asset for the community for it is using this status to demand accountability from the Canadian government. After ignoring the steady encroachment on Six Nations land, funds taken for the Grand River Navigation Company and illicit land deals ignored for generations the Canadian government is facing a harsh reckoning in terms of dollars and cents. Researchers working on the behalf of Six Nations have produced documents, maps and letters detailing massive problems with title and it appears, fraudulent practices.[1562] Developments are being halted daily for lack of clear title stops work and investment in property surrounding the reserve. Until pending land claims are investigated and ruled upon by the courts or handled through the claims process, the Six Nations community has a great deal of leverage to influence the future of the Haldimand Tract. Six Nations leaders are seeking recovery of land once though lost and revenue from long forgotten leases and outright appropriation of land by Canadian citizens, companies and the government.

Whether the elected council or the Confederacy governs, or they cooperate – with the Confederacy exercising authority over the areas outlined in 1991 and the Elected Council acting as the administrative arm of government, Six Nations must continue to protect its people, resources and land base to ensure society's survival. Currently, the Confederacy is taking the lead in the community to take on the problems facing the people of the reserve. They recently invited local officials from Brantford and the county to meet with them at the Longhouse for the first time in the history of the communities. Traditional people do change and adapt: the assembly of chiefs viewed the officials' power-point demonstration about plans for land development. In a forum that once was only for Native speakers a dialogue about land claims, land development and needs of both communities was begun. Six Nations has always governed itself and while the leadership of the community may assert its sovereignty vociferously, it is peaceful in the assertion of its claims – not so, all of its people. Six Nations activists are extremely impatient and frustrated with the comprehensive claims process that was supposed to address outstanding disputes and lead toward self-government.

[1562] Windle, Jim, "Mainstream Media Get the Good from Confederacy Negotiators," *Tekawennake*, March 7, 2007.

Indigenous affairs have never been at the center of Canadian policy, but that picture is changing quickly, forcing them to react now. Courts, even Canadian ones, do sometimes rule for Native interests; witness the residential school settlement recently announced.[1563] In 1989 the Supreme Court of Canada in Wewayakum v. Canada, finally recognized aboriginal title as having been in "existence continuously" prior to British sovereignty so aboriginal title is a matter of "federal common law."[1564] The Haldimand Tract claim will have to be resolved, as well, and recompense made for Six Nations land acquired improperly. Canadian officials should understand it is much wiser to deal with Six Nations voices representing the community at the negotiating table, rather than face Mohawk nationalists, "warriors" halting transportation and commerce or activists in "reclamation" camps scattered through Canada. The resurgence of the Confederacy may have begun: as Six Nations leaders guide the next seven generations they will lead from a position of pride in Ongwhehonwe identity that binds people at Six Nations together and gives them some degree of confidence using one of earliest indigenous systems of governance still in existence. The community has continued to be hopeful for ninety years that this system retains the capability to provide an ideological structure and organization, as well as a belief system, which may still be a good fit with the aspirations and life-ways of the Six Nations people in the future.

[1563] The settlement is an effort to stem the tide of lawsuits from Native people concerning their treatment in the residential school system. Monetary payout will be made from a fund of at least $1.9 billion for the "common experience" of students who attended residential schools, with individual payments of $10,000 for the first school year and $3,000 per year after that. Students who were abused psychologically or sexually will be awarded money in addition ranging from $5,000 to $275,000. $200 million is set aside for research, healing and commemoration projects. If former students accept these payments they give up the right to sue the Canadian government or the churches who ran these schools. On April 30, 2007 a motion was introduced into the House of Commons proposing a formal apology to the students of the residential school system for the abuse they suffered.

[1564] Clark, Bruce, Native Liberty, Crown Sovereignty: The Existing Aboriginal Right of Self-Government in Canada, (Montreal: McGill-Queen's University Press, 1990) p. 218.

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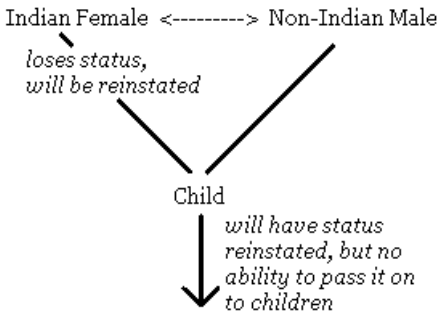
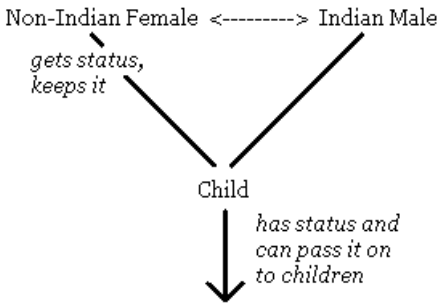
Appendix I

Example of Inequality





Inequality remains.

Under Six Nations Band Rules, both children would be dealt with fairly, according to rules of blood quantum, etc.

Appendix II

The Haldimand Proclamation

Frederick Haldimand, Captain General and Governor in Chief of Quebec and Territories depending thereon, &c., &c., &c., General and Commander in Chief of His Majesty's Forces in the said Province and the Territories thereof, &c., &c., &c.

Whereas His Majesty having been pleased to direct in consideration of the early attachment to His cause manifested by the Mohawk Indians, and of the loss of their settlement which they thereby sustained, that a convenient tract of land under His protection should be chosen as a safe and comfortable retreat for them and other of the Six Nations who have either lost their settlements within the territory of the American States, or wish to retire from them to the British; I have at the desire of many of these His Majesty's faithful allies, purchased a tract of land from the Indians situated between the Lakes Ontario, Huron and Erie, and I do hereby in His Majesty's name, authorize and permit the said Mohawk Nation, and such other of the Six Nation Indians as wish to settle in that quarter to take possession of and settle upon the banks of the river commonly called Ouse or Grand River, running into Lake Erie, allotting them for that purpose six miles deep from each side of the river, beginning at Lake Erie and extending in that proportion to the head of the said river, which them and their posterity are to enjoy for ever.

Given under my hand and seal at arms at the Castle of St. Lewis at Quebec the 25th day of October, 1784, and in the 25th year of His Majesty's reign.

Fred. Haldimand.

By His Excellency's Command,

F. Mathews.[1565]

[1565] Deskaheh, Chief of the Six Nations, "Memorandum on the Relation of the Dominion Government of Canada with the Six Nations of the Grand River," Submitted at London by Chief Deskaheh to the Colonial Office, Exhibit B., August 1921. Rochester: The Decker Collection.

Appendix III

J. Graves Simcoe
[Great Seal of Canada]

George the third, by the Grace of God, King of Great Britain, France and Ireland, Defender of the Faith, and so forth. To all to whom these presents shall come, Greeting!

Know ye, that whereas the attachment and fidelity of the Chiefs, Warriors, and people of the Six Nations, to Us and Our Government has been made manifest on divers Occasions by their spirited and zealous Exertions, and by the Bravery of their Conduct, and We being desirous of showing Our Approbation of the same and in recompense of the Losses they may have sustained of providing a convenient Tract of Land under Our protection for a safe and suitable Retreat for them and their Posterity, Have of Our Special Grace, certain Knowledge and mere motion, given and granted and by these Presents Do Give and Grant to the Chiefs, Warriors, Women and People of the said Six Nations and their Heirs forever, All that District or Territory of Land, being Parcel of a certain District lately purchased by Us of the Mississagua Nation, lying and being in the Home District of Our Province of Upper Canada, beginning at the Mouth of a certain River formerly known by the name of the Ouse or Grand River, now called the River Ouse, where it empties itself into Lake Erie, and running along the Banks of the same for the space of Six Miles on each side of the said River, or a space coextensive therewith, conformably to a certain Survey made of the said Tract of Land, and annexed to these Presents, and continuing along the said River to a Place called or known by the Name of the Forks, and from thence along the main Stream of the said River for the space of Six Miles on each side of the said Stream, or for a space equally extensive therewith, as shall be set out by a Survey to be made of the same to the utmost extent of the said River as far as the same has been purchased by us, and as the same is bounded and limited in a certain Deed made to Us by the Chiefs and People of the said Mississagua Nation, bearing Date the Seventh Day of December, in the year of Our Lord One Thousand Seven Hundred and Thirty-Two; To have and to Hold the said District or Territory of Land so bounded as aforesaid of Us, Our Heirs and Successors, to them the Chiefs, Warriors, Women and People of the Six Nations and to and for the sole use and Behoof of them and their Heirs for ever, Freely and Clearly of and from, all, and all manner of rents, fines, and services whatever to be rendered by them or any of them to Us or Our Successors for the same, and of and from all conditions, stipulations and agreements whatever, except as hereinafter by Us expressed and declared. Giving and granting, and by these Presents confirming to the said Chiefs, Warriors, Women, and People of the said Six Nations and their Heirs, the full and entire possession, use, benefit and advantage of the said district or territory, to be held and enjoyed by them in the most free and ample manner, and according to the several customs and usages of them the said Chiefs, Warriors, Women, and People of the said Six Nations; Provided always, and be it understood to be the true intent and meaning of these Presents, that, for the purpose of assuring the said lands, as aforesaid to the said Chiefs, Warriors, Women, and People of the Six Nations, and their

Heirs, and of securing to them the free and undisturbed possession and enjoyment of the same, it is Our Royal will and pleasure that no transfer, alienation, conveyance, sale, gift , exchange, lease, property or possession, shall at any time be had, made, or given of the said district or territory, or any part or parcel thereof, by any of the said Chiefs, Warriors, Women or People, to any other nation or body of people, person, or persons whatever, other than among themselves the said Chiefs, Warriors, Women and People, but that any such transfer, alienation, conveyance, sale, gift, exchange, lease or possession shall be null and void, and of no effect whatever, and that no person or persons shall possess or occupy the said district or territory or any part or parcel thereof, by or under any pretence of any such alienation, title or conveyance as aforesaid, or by or under any pretence whatever, upon pain of Our severe displeasure.

And that in case any person or persons other than them, the said Chiefs, Warriors, Women and People of the said Six Nations, shall under pretence of any such title as aforesaid presume to possess or occupy the said district or territory or any part or parcel thereof, that it shall and may be lawful for Us, Our heirs and successors, at any time hereafter, to enter upon the lands so occupied and possessed by any person or persons other than the people of the said Six Nations, and them the said intruders thereof and therefrom, wholly to dispossess and evict, and to resume the part or parcel so occupied to Ourselves, Our heirs and successors; Provided, always, that if at any time the said Chiefs, Warriors, Women and People of the said Six Nations should be inclined to dispose of and surrender their use and interest in the said district or territory or any part thereof, the same shall be purchased for Us, Our heirs and successors, at some public meeting or assembly of the Chiefs, Warriors, Women and People of the said Six Nations, to be holden for that purpose by the Governor, Lieutenant-Governor, or person administering Our Government in Our Province of Upper Canada.

In Testimony Whereof, We have caused these Our Letters to be made Patent, and the Great Seal of Our said Province to be hereunto affixed, Witness. His Excellency John Graves Simcoe, Esquire, Lieutenant-Governor and Colonel Commanding Our Forces in Our said Province. Given at Our Government House, at Navy Hall, this fourteenth day of January, in the year of Our Lord one thousand seven hundred and ninety-three, I the thirty-third year of Our Reign.

(Signed) Wm. Jarvis, Secretary, (Initialled) J. G. S.
Recorded February 20th, 1837.
Lib.F., Folio 106.

(Signed) D. Cameron, Sy. and Regr.[1566]

[1566] "Copy of the Simcoe Deed," as printed in League of Nations, Official Journal, C. 154. M. 34. 1924. VII., June 1924, Annex B., p. 840-41.