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ORIGINAL ARTICLE

Between Empire and State: Haudenosaunee Sovereignty at the League of Nations

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Abstract

In 1923, Haudenosaunee leader Deskaheh Levi General traveled to Geneva and launched a campaign for Indigenous statehood at the League of Nations. Drawing on a not-so-distant imperial past, the campaign was a novel attempt to use international law to assert Indigenous sovereignty. The Haudenosaunee claim hinged on a seemingly impossible conceit: that an independent native polity might persist within the borders of a settled state. The League of Nations' primary institutional frameworks for grappling with other such problematic sovereignties were minority treaties and the mandate regime. But the Haudenosaunee case, which hinged on the persistence rather than the novelty of sovereignty, fit within neither paradigm. Their campaign illuminates a larger crisis of legal legibility that characterized Indigenous-settler relations from the mid-nineteenth to the mid-twentieth centuries. By reading Indigenous history into international legal history, this paper shows how Haudenosaunee people leveraged older norms of imperial relationality in their engagements with international law. In doing so, it revises a persistent genealogical account of the history of Indigenous human rights in favor of a more capacious narrative of Indigenous internationalism.

As a young man, Levi General worked in lumber. He cut down trees along the western ridge of the Appalachian Mountains, sawing back and forth over the line King George III once drew over British North America.[1] The rapid expansion of commercial logging at the turn of the twentieth century, enabled by a ravenous network of transport railroads, razed the forests. Native men, including Haudenosaunee such as General, were among the multi-ethnic crew

[1] Donald B. Smith, "Deskaheh," in *Dictionary of Canadian Biography*, vol. 15 (University of Toronto/Université Laval, 2003–), accessed November 2, 2023, http://www.biographi.ca/en/bio/deskaheh_15E.html.

members laboring in areas only recently opened to intensive industry.[2] Careers could be brief and painful: General was injured on the job and left before middle age. He returned to Grand River, the hub of the Haudenosaunee nation in southern Ontario, and took up farming. In 1917, General was selected by his clan mother to become a royá:ner (chief) on the Haudenosaunee collective governing body, the Confederacy Council.[3] Given the title Deskaheh, General quickly became one of the leading figures in what Andrea Catapano has called "the sovereigntist movement," rejecting Canadian jurisdiction over Haudenosaunee territory and the Department of Indian Affairs' (DIA) assimilative policies.[4]

In his capacity as a royá:ner, General made two trips to Europe. For the first, in 1921, he was elected to carry a petition from the Haudenosaunee leadership to the British Crown in London.[5] The document argued that the Canadian government held no authority over Haudenosaunee territory or people. It insisted that their imperial relationship with Great Britain endured, despite the fact that the Crown had unilaterally transferred its relationships with Indians—reframed as responsibility *for* Indians—to the Dominion Parliament. The Confederacy Council appealed to King George V to intervene on their behalf against what they perceived as unlawful Canadian encroachment on their political independence. They hoped to deliver their petition to the King himself, as their predecessors had once done, but were instead shunted into a brief meeting with the brusque Colonial Secretary, Winston Churchill.[6] By the early twentieth century, a period long after that when Native nations were considered valuable allies in British North America, Indigenous petitioners to both Crown and country were routinely redirected or dismissed. But in 1921,

[2] Bradley J. Gills, "Navigating the Landscape of Assimilation: The Anishnabeg, the Lumber Industry, and the Failure of Federal Indian Policy in Michigan," *Michigan Historical Review* 34, no. 2 (2008): 57–74, https://www.jstor.org/stable/20174285.

[3] I use Haudenosaunee titles and legal terms on their first introduction when available. They will be defined by context or directly. While Haudenosaunee people today generally use the term 'Haudenosaunee' to refer to themselves, in the early twentieth-century they were also referred to as the Six Nations or the Iroquois (from the French).

[4] Andrea Lucille Catapano, "The Rising of the Ongwehònwe: Sovereignty, Identity, and Representation on the Six Nations Reserve" (Thesis, The Graduate School, Stony Brook University: Stony Brook, NY, 2007), https://ir.stonybrook.edu/xmlui/handle/11401/71912. Deskaheh denotes a title, not a new name: for this reason, Six Nations history includes several Deskahehs who also served on the Council before or after Deskaheh Levi General.

[5] Petitioning the Crown was a common Indigenous practice, as was travel to the metropole. See Saliha Belmessous, ed., *Native Claims: Indigenous Law against Empire, 1500–1920* (Oxford; New York: Oxford University Press, 2012); Timothy Clarke, "'Our Hearts and Brains Are Like Paper, We Never Forget': Indigenous Petitioning and the World Wars," *Canadian Historical Review* 104, no. 1 (March 2023): 1–24, https://doi.org/10.3138/chr-2021-0021; Coll-Peter Thrush, *Indigenous London: Native Travelers at the Heart of Empire*, The Henry Roe Cloud Series on American Indians and Modernity (New Haven; London: Yale University Press, 2016); Cecilia Morgan, *Travellers through Empire: Indigenous Voyages from Early Canada*, McGill-Queen's Native and Northern Series 91 (Montreal; Kingston; London; Chicago: McGill-Queen's University Press, 2017).

[6] Letter from Winston Churchill, Secretary of State for the Colonies, to the Governor General of Canada, Lord Byng, September 23, 1921. Department of External Affairs fonds, RG 25, Volume 1330, File 3162, Pt. 1. LAC.

when the Colonial Office in London once again punted the Haudenosaunee petition back to Ottawa, something new happened: General made another trip. This time, he went to Geneva.

The League of Nations introduced a new dynamic into ongoing struggles between the Canadians and the Haudenosaunee because it opened a different arena for claims-making. There, the nation's advocates deployed the discursive tools of internationalism and state sovereignty, historicizing Haudenosaunee independence as "the oldest League of Nations, the League of the Iroquois."[7] Their case turned on a bundle of eighteenth-century documents and a long historical narrative of self-governance. It also relied on a seemingly impossible conceit: that an independent Native polity might persist within the borders of a settled state. European jurists and League policymakers were themselves deeply concerned with the uncertain status of people caught between empires and states at this time, as sovereignties mushroomed in the aftermath of WWI.[8] The League of Nations' primary institutional frameworks for grappling with these new forms were minority treaties and the mandate regime.[9] But the Haudenosaunee case, which hinged on the endurance rather than the novelty of sovereignty, fit within neither framework. Their claims posed two overlapping problems: one of time and one of place.[10] This much was clear to observers in Geneva. They tended to agree that Indians were a domestic problem, not an international one, and that Indians themselves were merely holdovers from an earlier era, rather than people of this one. As the Union of the League of Nations journal commented in its dismissal of the case, "the League's task is with the future, not with the past."[11]

The Haudenosaunee campaign at the League of Nations illuminates a larger crisis of legal legibility that characterized Indigenous–settler relations from the

[7] "The Red Man's Appeal for Justice," 1923. George P. Decker Collection, Six Nations Appeal to the League of Nations. File 3.3.10, Digital Publication. Lavery Library, St. John Fisher University, Rochester, New York. https://fisherpub.sjf.edu/georgepdecker_leagueofnations/10/

[8] Mira L. Siegelberg, *Statelessness: A Modern History, Statelessness* (Cambridge, MA: Harvard University Press, 2020), https://doi.org/10.4159/9780674240490; Arnulf Becker Lorca, ed., "Circumventing Self-Determination: League Membership and Armed Resistance," in *Mestizo International Law: A Global Intellectual History 1842–1933*, Cambridge Studies in International and Comparative Law (Cambridge: Cambridge University Press, 2015), 263–304, https://doi.org/10.1017/CBO9781139015424.013; Megan Donaldson, "The League of Nations, Ethiopia, and the Making of States," *Humanity* 11, no. 1 (Spring 2020): 6–31, 145.

[9] Susan Pedersen, *The Guardians: The League of Nations and the Crisis of Empire* (New York, NY: Oxford University Press, 2015).

[10] Drawing from the example of Indigenous rights jurisprudence in Australia, New Zealand, and Canada, Natasha Wheatley has recently theorized this kind of disjuncture as a problem of temporal legal pluralism. Her framing is illuminating, though it remains to be seen how Indigenous actors understood and addressed the "time texture" of their claims. Natasha Wheatley, "Legal Pluralism as Temporal Pluralism: Historical Rights, Legal Vitalism, and Non-Synchronous Sovereignty," in *Power and Time: Temporalities in Conflict and the Making of History*, eds. Dan Edelstein, Stefanos Geroulanos, and Natasha Wheatley (Chicago, IL: University of Chicago Press, 2020), 53–79, https://doi.org/10.7208/chicago/9780226706016.003.0002.

[11] Clipping from *Headway*, title obscured, August 7, 1924. Bibliothèque de Genève, papiers René Claparède, Ms. Fr. 3993, image 517. https://archives.bge geneve.ch/archive/fonds/claparede_rene.

mid-nineteenth to the mid-twentieth century. The form and content of the Haudenosaunee claim shows how one Indigenous polity drew on its particular history to navigate this fraught period. The documents they circulated in Europe referenced over a century's worth of diplomatic correspondence and petitions, as well as treaties made with Dutch, French, and British empires. Drawing on a not-so-distant imperial past, theirs was a novel attempt to use international law to assert Indigenous statehood.[12] Telling, too, is the fact and content of the Canadian government's published response, a meticulous line-by-line repudiation containing startling insight into the machinations of twentieth century Indian policy. Taken together, the Haudenosaunee campaign and the Canadian response show that "settler sovereignty" requires constant reassertion in the face of novel and creative forms of Indigenous resistance.[13]

The history of the Haudenosaunee Confederacy, and their role at the heart of what Michael Witgen has called the "battle for North America," suggests that Indigenous–settler relations produce legal theory as well as legal practices.[14] These theories include frameworks for living together and apart, models of political organization that have since been made strange by the unprecedented dominance of the nation-state form.[15] Nevertheless, such ideas are part of the larger conceptual history of North American sovereignty and of the contemporary state. In bringing their case to the League of Nations, Haudenosaunee people advanced and insisted on the ongoing relevance of their understandings of a shared Euro-American and Indigenous present.

Yet historical work on the Haudenosaunee campaign tends to compress its significance. General's trip to Geneva is often understood as the starting point of a slow climb upwards to the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). James Anaya, in his foundational work *Indigenous Peoples in International Law* (1996) asserts that contemporary Indigenous rights organizing builds "on the initiative of the Council of the Iroquois Confederacy in the 1920s."[16] Similarly, in *The Origins of Indigenism* (2003), Ronald Niezen describes the Haudenosaunee's "abortive appeal" as the starting point for the "changes in the international community's approach to the rights of indigenous peoples that have taken place in the post-World

[12] As Gregory Ablavsky has argued, eighteenth century Creek and Haudenosaunee leaders drew on the language of international law in their negotiations with the United States. What sets this Haudenosaunee case apart from those is the period and the venue in which it was conducted, both which shaped the politics of petitioning. Gregory Ablavsky, "Species of Sovereignty: Native Nationhood, the United States, and International Law, 1783–1795," *Journal of American History* 106, no. 3 (December 1, 2019): 591–613, https://doi.org/10.1093/jahist/jaz503.

[13] Lisa Ford, *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788–1836* (Cambridge, MA: Harvard University Press, 2010).

[14] Witgen teaches an undergraduate lecture course under this title at Columbia University.

[15] Kayanesenh Paul Williams, *Kayanerenkó:Wa: The Great Law of Peace* (Winnipeg, MB: University of Manitoba Press, 2018).

[16] James Anaya, *Indigenous Peoples in International Law* (New York, NY: Oxford University Press, 1996), 57.

War II human rights era."[17] Likewise, in *Mestizo International Law* (2014), Arnulf Becker-Lorca draws on the case to make a larger argument about the emergence of the right to self-determination and the slow "dissolution" of the standard of civilization in international law.[18] The UN's own historical timeline places Levi General at the beginning of a story that culminates in UNDRIP. As Stephen Young has argued, this portrayal dissolves the historical specificity of the Haudenosaunee claim.[19] But it also obscures what Levi General actually brought to the table: not a demand for Indigenous rights, but a claim to Haudenosaunee statehood.

If the Haudenosaunee case was not about Indigenous rights per se, then how might one understand its significance? What does it mean, and what does it matter that General went to Geneva in 1923? Examining the League of Nations claim from within the thicker context of Indigenous–settler relations offers one way into such questions.[20] This approach draws from the work of Indigenous scholars, particularly Deborah Doxtator, Susan Hill, and Andrea Catapano, to instead locate General's travel to Geneva within a longer history of Haudenosaunee self-determination. It also takes seriously Maggie Blackhawk's insistence on the importance of power, not only rights, in contemporary Indigenous–settler relations.[21] In a sense, then, this paper tracks attempts to exercise power—over self-representation, resources, and decision-making, but also, and perhaps most importantly, the power to define the meaning of the past in the moment of the present. It shows how Haudenosaunee leaders recognized in the League of Nations a new venue for arbitration with settlers and it highlights their corresponding strategies of legal legibility. To get their case to League, the Haudenosaunee invoked the historical significance of their collectivity, not the rights of individuals within it. In other words, they turned themselves into a state. Unhooking the history of the Haudenosaunee campaign from the history of human rights thus illuminates the political

[17] Ronald Niezen, *The Origins of Indigenism: Human Rights and the Politics of Identity* (Berkeley, CA: University of California Press, 2003), 30.

[18] Arnulf Becker Lorca, "Circumventing Self-Determination: League Membership and Armed Resistance," *Mestizo International Law: A Global Intellectual History 1842-1933*, Cambridge Studies in Inernational and Comparative Law 115 (Cambridge, UK: Cambridge University Press, 2014), 286.

[19] Stephen Young, "Re-Historicising Dissolved Identities: Deskaheh, the League of Nations, and International Legal Discourse on Indigenous Peoples," *London Review of International Law* 7, no. 3 (November 1, 2019): 408, https://doi.org/10.1093/lril/lraa004.

[20] An argument for approaching Haudenosaunee letters and petitions as part of international legal discourse is also made by Genevieve Renard Painter, "A Letter from the Haudenosaunee Confederacy to King George V: Writing and Reading Jurisdictions in International Legal History," *London Review of International Law* 5, no. 1 (March 1, 2017): 7–48, https://doi.org/10.1093/lril/lrw022.

[21] Maggie Blackhawk, "On Power and the Law: McGirt v. Oklahoma," *The Supreme Court Review* 2020 (November 2021): 367–421, https://doi.org/10.1086/715493. Indigenous scholars and activists in Canada have also criticized the rights-based paradigm, see Jeff Corntassel, "Toward Sustainable Self-Determination: Rethinking the Contemporary Indigenous-Rights Discourse," *Alternatives: Global, Local, Political* 33, no. 1 (2008): 105–32; Glen Sean Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*, Indigenous Americas (Minneapolis, MN: University of Minnesota Press, 2014); James Youngblood Henderson, "UN Declaration on the Rights of Indigenous Peoples and Treaty Federalism in Canada," *Review of Constitutional Studies* 24, no. 1 (June 1, 2019): 27–42.

context that precipitated their efforts and expands our understanding of the campaign's significance.

Framing the Claim

The Haudenosaunee campaign at the League took place in the phase of Indigenous–settler relations often described as the assimilation period, when both Canada and the United States worked to consolidate territorial control by undermining Native polities.[22] General's life (1873–1925) overlapped with the assimilation period; in Canada, the Indian Act (1876) and its legions of annual amendments undermined Indian culture and control over their lands. Drawing heavily from earlier Upper Canadian legislation, the Indian Act flattened case-by-case treaty negotiations and regional laws into a (theoretically) uniform legal apparatus for the entire Dominion. It also sought to stabilize the legal category "Indian," vesting, as it went, gendered rights and obligations in people defined as such.[23] Holding it all together was one central principle, well-articulated by Prime Minister John A. MacDonald in 1887: "to do away with the tribal system and assimilate the Indian people in all respects with the other inhabitants of the Dominion as speedily as they are fit to change."[24] To this end, the Indian Act created Indian reservations as a form of federal municipality under the fiscal and political authority of the DIA. It also regulated economic activity and agricultural production on reserves, imposed electoral councils with male-only suffrage, and established mandatory residential schools for Indigenous children.[25] However, there were significant gaps between federal power and federal enforcement, gaps stretched and widened by Indigenous resistance.

Haudenosaunee people grounded their political claims on the Canadian state in their eighteenth-century military alliance with Great Britain. The American Revolution was part of a larger sweep of violent change across late 18th century North America, shattering and re-forming imperial alliances and

[22] For more on the United States, see Sidney L. Harring, *Crow Dog's Case: American Indian Sovereignty, Tribal Law, and United States Law in the Nineteenth Century*, Cambridge Studies in North American Indian History (Cambridge; New York: Cambridge University Press, 1994); Cathleen D. Cahill, *Federal Fathers and Mothers: A Social History of the United States Indian Service, 1869–1933* (Chapel Hill, NC: University of North Carolina Press, 2013); Katherine Ellinghaus, *Blood Will Tell: Native Americans and Assimilation Policy* (Lincoln, NE: University of Nebraska Press, 2017); Samantha M. Williams, *Assimilation, Resilience, and Survival: A History of the Stewart Indian School, 1890–2020* (Lincoln, NE: University of Nebraska Press, 2022).

[23] Judith F. Sayers and Government of Canada, eds., *First Nations Women, Governance and the Indian Act: A Collection of Policy Research Reports* (Ottawa: Status of Women Canada, 2001); John F. Leslie, "The Indian Act: An Historical Perspective," *Canadian Parliamentary Review* 25, no. 2 (2002): 23.

[24] Sessional Papers, vol. 20b, Session of the 6th Parliament of the Dominion of Canada, 1887, 37.

[25] As the Six Nations were considered an "advanced band," the DIA did not initially seek to replace their Confederacy Council with an elected one. Public Services and Procurement Canada, Government of Canada, "The Indian Act: Evolution, Overview and Options for Amendment and Transition/John Giokas.: Z1-1991/1-41-130E-PDF—Government of Canada Publications—Canada.Ca," July 1, 2002, https://publications.gc.ca/site/eng/9.829796/publication.html.

Indigenous geographies.[26] After the war, many Indigenous peoples who fought with the British found their homelands on the wrong side of the new border. While some negotiated new peace settlements with the Americans, others were unable or unwilling to abandon their relationship with the British.[27] But they expected compensation for their losses. For these reasons, at the turn of the 18th century, some of the Seneca, Cayuga, Onondaga, Oneida, Mohawk, and Tuscarora nations, which make up the Haudenosaunee Confederacy or the Six Nations, moved to new territories.[28] Other British loyalists moved too, increasing pressure on the British Crown to acquire new lands for resettlement. The Crown entered a fevered process of negotiating new treaties with Ojibwe and other Indigenous peoples in the southern Great Lakes region to accommodate newcomers.[29] In 1784, the British Governor Frederick Haldimand issued what became known as the Haldimand Proclamation.[30] It granted the Six Nations a six mile tract on both banks of the Grand River from its source to Lake Erie. Though not described in acreage in the original grant, the lands promised comprised approximately 950,000 acres. The Grand River itself runs from the belly of southern Ontario down to Lake Erie. As part of the rich Great Lakes region, the river passes through small forests, wetlands, and marshes. The area was part of the larger sphere of Mohawk hunting grounds in the eighteenth century and would have been part of a familiar geography to those emigrants. The document stated that:

> The said Mohawk Nation and such others 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 to 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.

[26] Michael Witgen, *An Infinity of Nations: How the Native New World Shaped Early North America* (Philadelphia, PA: University of Pennsylvania Press, 2013).

[27] Alan Taylor, "The Divided Ground: Upper Canada, New York, and the Iroquois Six Nations, 1783–1815," *Journal of the Early Republic* 22, no. 1 (2002): 55–75, https://doi.org/10.2307/3124858. For Mohawk people, whose home in Mohawk Valley was ceded to the Americans in the Treaty of Paris (1783), moving was their only option. For other nations, many villages and crops were destroyed during the war, and though some chose to rebuild, others decided the safest option was to move. They were also joined by small families and groups from other nations who sought the protection of the Confederacy

[28] Susan Hill, *The Clay We Are Made of: Haudenosaunee Land Tenure on the Grand River* (Winnipeg, MB: University of Manitoba Press, 2017).

[29] Gerald M. Craig, *Upper Canada : The Formative Years, 1784–1841* (Don Mills, Ont: Oxford University Press, 2013).

[30] In the negotiations after the American Revolution, some Haudenosaunee people preferred a different settlement site to the Grand River. They were thus issued a separate, almost identical version of the Haldimand Grant that recognized their settlement in Tyendinaga. In contemporary writing, Tyendinaga is sometimes also referred to as Mohawks Bay of Quinte or MBQ. Susan M. Hill, *The Clay We Are Made of: Haudenosaunee Land Tenure on the Grand River* (Winnipeg, MB: University of Manitoba Press, 2017). For a visual representation of the Grand River tract, see: https://landconflict.newmedialab.cuny.edu/HT/ContestedLands.html.

The abstract language of the proclamation, and the rapacity of settler-squatters eager for quality land, meant that the boundaries of the promised territory, as well as the particular quality of the Haudenosaunee rights of "possession" and "enjoyment," were immediately disputed.[31]

In letters, petitions, and lawsuits, Haudenosaunee people cited the specific promises of the Haldimand Grant and norms of imperial statecraft alongside kaswentha principles. As Jon Parmenter notes, kaswentha refers to "the ongoing negotiation of [Haudenosaunee peoples'] relationship to European colonizers and their descendants," and is represented visually in wampum.[32] The Two-Row wampum is perhaps the most famous example of a wampum agreement. Originally an agreement between Dutch colonists and Mohawk people dating from the seventeenth century, it depicts Europeans traveling in their boat along the water and Haudenosaunee in their own vessel. Neither is disturbed by the other, nor by the shared environment: both boats travel the same river.[33] As Chief William Jacobs wrote to Deputy Superintendent of Indian Affairs William Spragge in 1862, "You sail your own Boat and we'll paddle our own canoe Side by Side. I was not to enter in your craft and you was not to enter in my canoe. Gale and calm we must be side by side."[34] Other petitioners used similar language in their reminder to Lord Knutsford, Secretary of the Colonies, of wampum's enduring import. The "wampum treaty belt having two white rows," one unsigned letter written in 1890 explained "represents the two Governments [...] will exist and not interfere with each other."[35] Yet the shifting balance of settler–Indigenous power steadily undermined Haudenosaunee self-governance. Not only did their leverage as military allies disappear after 1812, but the rising power of local settlers eroded the possibility of a relationship mediated by kaswentha principles of mutual respect and non-interference. By the mid-nineteenth century, the response to Haudenosaunee peoples' invocation of their imperial allyship can be summed up in two words: so what?

[31] As both Susan Hill and Elizabeth Elbourne note, the right to alienate land was understood by some Haudenosaunee leaders to be a hallmark of sovereignty, but certainly not by all. Hill; Elizabeth Elbourne, "Land, Identity and Indigenous Sovereignty in British North America, 1783–1820," in *Empire, Kinship and Violence: Family Histories, Indigenous Rights and the Making of Settler Colonialism, 1770–1842*, Critical Perspectives on Empire (Cambridge, UK: Cambridge University Press, 2022), 114–50, https://doi.org/10.1017/9781108782791.005.

[32] Jon Parmenter, "The Meaning of Kaswentha and the Two Row Wampum Belt in Haudenosaunee (Iroquois) History: Can Indigenous Oral Tradition Be Reconciled with the Documentary Record?," *Journal of Early American History* 3, no. 1 (January 1, 2013): 82–109, https://doi.org/10.1163/18770703-00301005.

[33] Richard W. Hill and Daniel Coleman, "The Two Row Wampum-Covenant Chain Tradition as a Guide for Indigenous-University Research Partnerships," *Cultural Studies ↔ Critical Methodologies* 19, no. 5 (October 1, 2019): 339–59, https://doi.org/10.1177/1532708618809138; Jonathan C. (Jonathan Christopher) Lainey, *La "Monnaie Des Sauvages": Les Colliers de Wampum d'hier à Aujourd'hui* (Sillery, Qué: Septentrion, c2004).

[34] William Jacobs to William Spragge, Deputy Superintendent of Indian Affairs, May 7, 1862. Department of Indian Affairs fonds, RG10 volume 722, file 239, LAC.

[35] Six Nations Confederacy Council to Lord Knutsford, Secretary of State for the Colonies of the United Kingdom, 1890. Department of Indian Affairs fonds, RG 10, volume 2284, file 57 169-1, page 117–20, LAC.

In 1867, the British North America Act (BNA) formalized the imperial withdrawal from North American Indian affairs. The BNA officially transferred to "the exclusive legislative authority of the Parliament of Canada" all matters pertaining to Indian subjects and lands.[36] But Haudenosaunee people considered themselves allies and not "subjects" of the British. As such, they argued, neither Canadian rule nor the Indian Act applied to them, and they were justified in resisting its imposition. This contention was uniformly shared by the nations' leadership and by much of the wider Haudenosaunee population. While visions of the specific political arrangements imagined to flow from their special status could differ, allyship was a shared and important component of Haudenosaunee political self-understanding. Such consensus is clear in the 1921 petition sent to King George V mentioned earlier, as well as in a 1919 letter to the Governor General of Canada, both of which were signed and supported by chiefs who later disagreed with the more stridently "sovereigntist" position.[37]

The sovereigntist movement was dynamic and its membership fluid. Following Andrea Catapano's use of the term, it is used here as a catch-all to describe people who advocated for full or fuller Haudenosaunee independence and for maintaining the Confederacy Council instead of a DIA-supervised elected council.[38] Some, such as Deskaheh Levi General, sought to uphold "traditional" Haudenosaunee values and Longhouse religion, rejected British imperial culture, including WWI enlistment and women's "patriotic" sewing groups, and opposed the Anglican influence in Grand River.[39] Yet support for Haudenosaunee political independence came from many quarters, often articulated in tandem with complex ideas about imperial identity. Evelyn Johnson (1856–1937), a well-known Haudenosaunee poet and a member of the Daughters of Empire club, for example, argued that precisely because Haudenosaunee people "gave [their] blood and

[36] "British North America Act 1867," Text (Statute Law Database), accessed December 4, 2022, https://www.legislation.gov.uk/ukpga/Vict/30-31/3/section/91. However, jurisdiction over Indian affairs within the province of Canada had been formally devolved to the local colonial government in 1855–1860. Thank you to a reviewer for emphasizing this important distinction.

[37] Newspaper clipping, title obscured, November 11, 1919. Department of Indian Affairs fonds, RG10, volume 2284, file 57 169-1, LAC. The delegation included Levi General, W.D. Loft, Asa Hill, Joseph Mentour, Samuel Lickers, Andrew Straits, and lawyer Chisholm to petition for maintenance of Haudenosaunee laws. Hill, Lickers, and Loft would shortly come out against General's efforts in Geneva.

[38] Weaver discusses how contestation for control over the Confederacy Council in the late nineteenth century led some Haudenosaunee men to form breakaway political groups and agitate for an elected council. Sally Weaver, "The Iroquois: The Grand River Reserve in the Late Nineteenth and Early Twentieth Centuries, 1875–1945," in *Aboriginal Ontario: Historical Perspectives on the First Nations*, Ontario Historical Studies Series, eds. Edward Samuel Rogers and Edward S. Rogers (Toronto: Dundurn Press, 1994).

[39] Allan Downey discusses the difficulty of characterizing this bundle of ideas and actions in his article on the relationship between sport and sovereignty in this period. See Allan Downey, "Playing the Creator's Game on God's Day: The Controversy of Sunday Lacrosse Games in Haudenosaunee Communities, 1916–24," *Journal of Canadian Studies* 49, no. 3 (August 2015): 111–43, https://doi.org/10.3138/jcs.49.3.111. Other historians have also pointed to the nuances of "assimilationist" social activities, see Thomas Lappas, "'For God and Home and Native Land': The Haudenosaunee and the Women's Christian Temperance Union, 1884–1921," *Journal of Women's History* 29, no. 2 (Summer 2017): 62–85, https://doi.org/10.1353/jowh.2017.0021.

[their] homes and [their] country for love of Great Britain" during WWI, they were owed more political independence from Canada after the war.[40] Similarly, Onondeyoh Frederick Ogilvie Loft (1861–1934), who led the WWI enlistment drive in Ohswe:ken—butting heads with General in the process—returned from the fighting in Europe to found the "League of Indians," the first national Indigenous organization in Canada.[41] He urged Indians to join together, writing that "[Indians] have performed dutiful service to our King, country, and empire," and as such they "have a right to claim and demand more justice and fair play." Loft's call for Indians to "free themselves from the domination of officialdom" by abolishing the DIA and pursuing direct diplomacy with Parliament received particularly enthusiastic response from Indigenous peoples in Western Canada.[42]

By the first decades of the twentieth century, a confluence of political developments—including the 1913 appointment of Duncan Campbell Scott, the new, stridently assimilationist Deputy Superintendent of the DIA, the outbreak of WWI, and generational changes within the Haudenosaunee leadership—brought long-simmering politics to a boil. By the summer of 1922, the sovereigntist movement had gained serious traction. It drew on the urgency of the period, emblematized by the DIA's wartime amendments to the Indian Act, which included new measures for expropriating Indian land. Tensions rose between sovereigntists and the Six Nations' Indian agent, as well as with local officials in the neighboring town of Brantford.[43] In response, the DIA proposed a Royal Commission to investigate the legal status of the Six Nations. Their mandate was to decide, once and for all, if the Haudenosaunee claim to special status held. The Commission would be composed of three Ontario Provincial Judges and their judgment would be final.[44]

The Confederacy Council was initially divided in response, but an outspoken group, led by General, argued that the Commission would be inherently biased. They refused to participate in anything less than an "international tribunal."[45] Others, self-styled moderates in communication with the DIA, pushed for the Commission. They were concerned that if they rejected the offer, they would lose a rare opportunity for legal redress. Community members took up the

[40] "Rapacity of the Whites Feared by Six Nations," Undated (1918–1922), newspaper article. Department of Indian Affairs, RG 10, volume 2285, file 57, 169-1A, Pt. 2, LAC.

[41] Evan J. Habkirk, "Militarism, Sovereignty, and Nationalism: Six Nations and the First World War," M.A. thesis, Canada—Ontario, CA, Trent University (Canada), accessed March 25, 2023, https://www.proquest.com/docview/733951222/abstract/DDAFDB0E1DE54930PQ/1.

[42] It seems that while Loft was inspired by internationalism—his letters emphasize that "unity is the outstanding impulse of men today"—the rising power of agriculture unions in Canada during the 1920s was another important source of inspiration for his "pan-Indian" organizing. Letter from Onondeyoh Frederick Ogilvie Loft, President of the League of Indians of Canada, to Chief Murray, Oka, Quebec. "Correspondence, memorandums and newspaper articles regarding the formation of the League of Indians of Canada by Onondeyoh Frederick Ogilvie Loft of the Six Nations Band, 1919–1935," Department of Indian Affairs fonds, RG 10, volume 3211, file 527,787, LAC.

[43] Downey, "Playing the Creator's Game on God's Day."

[44] DIA Super-intendent General Charles Stewart to Six Nations Council, June 13, 1922, Department of Indian Affairs fonds, RG 10, volume 3229 file 571, page 25, LAC.

[45] Gordon Smith to Minister Charles Stewart, July 7, 1922, Department of Indian Affairs fonds, RG 10, volume 3229 file 571, page 41, LAC.

question too; a group of anonymous women sent a note to the Council House insisting the chiefs reject the offer, while other Haudenosaunee women told reporters that they supported the Commission.[46] In November 1922, after weeks of extensive debate, the Confederacy Council splintered. The sovereigntists seized the upper hand, removing those who favored the DIA's offer from positions of power. With the Commission a dead letter and the DIA unwilling to negotiate further, General pursued a new phase of legal action in close collaboration with a Rochester-based lawyer, George Decker.[47] Aware that any claim to the League of Nations required the sponsorship of a member state, and that neither Canada nor Britain would provide one, General and Decker traveled to Washington to find a new ally. Citing seventeenth century imperial treaties between the Mohawks (a member nation of the Haudenosaunee Confederacy) and the Netherlands, they went knocking at the doors of the Dutch embassy. Their appeal worked: in the winter of 1923 Dutch Foreign Affairs Minister Van Karnebeck, while avowing the Netherlands took no position on the matter, forwarded the Haudenosaunee case to the League of Nations.[48]

To Geneva

The Canadian response to the Netherlands' involvement highlights the ambiguous status of Indigenous people in the international order. When Joseph Pope, the Canadian Under-Secretary for External Affairs, got wind of the Haudenosaunee maneuver, he wrote scathingly to the League of Nations General Secretary, Eric Drummond. "It would appear that it was [the Netherlands] obvious duty," he opined, "at least to inform itself as to be satisfied that it did in reality *involve the relations between recognized States*..."[49] Unlike populations in Mandate territories who could formally petition the League for redress through the Permanent Mandates Commission (PMC), "natives" in settler colonies without Mandate oversight had no formal structures within which they might articulate their demands.[50] The normative infrastructure of

[46] "Women and Warriors" to Six Nations Council, July 5, 1922, Department of Indian Affairs fonds, RG 10 volume 3229 file 571 page 43; excerpts from Brantford Expositor page 58–59, LAC.

[47] Decker was a relatively prominent lawyer in Rochester and known for his work with the Oneida nation (one of the six nations in the Confederacy) on the New York side of the border. In 1920, he won an important federal appeals case, *United States v. Boylan*, which recognized the ongoing existence of the Oneida nation in New York state and prevented the removal of Oneida families from a small tract of land. As he was hired by the Confederacy Council shortly thereafter, it is likely that this recent success spurred his selection. Laurence M. Hauptman, "The Idealist and the Realist," in *Seven Generations of Iroquois Leadership: The Six Nations Since 1800* (Syracuse, NY: Syracuse University Press, 2008), 28–30.

[48] Van Panhuys to Eric Drummond, Berne, April 24, 1923. Indigenous Peoples' Centre for Documentation, Research and Information (DOCIP), The Iroquois Six Nations Collection, file R612-11-28075-28075-6, https://www.docip.org/en/our-services-solutions/documentation-center/.

[49] Letter from Joseph Pope to Eric Drummond, May 25, 1923. DOCIP file R612-11-28075-29185-11. https://www.docip.org/en/our-services-solutions/documentation-center/.

[50] Susan Pedersen, "Samoa on the World Stage: Petitions and Peoples before the Mandates Commission of the League of Nations," *The Journal of Imperial and Commonwealth History* 40, no. 2 (June 1, 2012): 231–61, https://doi.org/10.1080/03086534.2012.697612.

Indigenous rights had not yet been made; rather, the discursive tools available were the flimsy language of small peoples against big powers and of right versus might.

The Haudenosaunee turn to Geneva broke with a long-standing precedent of Indigenous claims by displacing the imperial metropole as the mediator in settler–Indigenous politics. Relationships with imperial powers were put to the service of a claim to legal statehood under international law, rather than as a reminder of bilateral mutual obligation.[51] One memorandum prepared by Decker and General explained why they brought their claim to the League, rather than to the British or the Canadians. As the British Crown had abandoned its moral responsibility to protect its Haudenosaunee "allies," the memo read, the Haudenosaunee were forced to look elsewhere for mediation with the Canadian Dominion. "Whatever contention may be advocated on the part of either Great Britain or Canada in support of their sovereignty over our National territory" the memo continued, "is inconsistent and incompatible with its past actions, verbal promises, signed treaties, and other documents." The memo contended that the Six Nations had never "relegate[d] or explicitly renounce[d] its sovereignty," and thus it "must be considered and treated as an Independent, Free and Sovereign State." Given that "the Canadians' ultimate object is to swallow [the Six Nations] within the rest of the Dominion," DIA policies—and British inaction—ought to be understood as aggressive and illegal. If the League of Nations did not intervene, the memo claimed, then the international order would once again validate the "doctrine that MIGHT is GREATER THAN RIGHT."[52]

These themes were reprised in the "Red Man's Appeal for Justice," a pamphlet emblazoned with a portrait of Levi General and diligently circulated to League delegates through informal channels (including simply dropping it off at their hotel rooms).[53] The Appeal itself was a polished document, written in legal jargon and organized into numbered articles. Unlike more polemical earlier memoranda, it aimed to substantiate the Six Nations' claims to legal statehood through the application of the League's stated principles. "The Six Nations," Article One began, "being a state within the purview and meaning of Article 17 of the Covenant of the League of Nations," seek to bring before

[51] Jonathan Crossen, "Another Wave of Anti-Colonialism: The Origins of Indigenous Internationalism," *Canadian Journal of History* 52, no. 3 (Winter 2017): 533–59, https://doi.org/10.3138/CJH.ACH.52.3.06; Anaya, *Indigenous Peoples in International Law*. There are some interesting parallels here to Cherokee constitutionalism in the early nineteenth century, but the existence of the League is an important difference. Jill Norgren, "Lawyers and the Legal Business of the Cherokee Republic in Courts of the United States, 1829–1835," *Law and History Review* 10, no. 2 (1992): 253–314, https://doi.org/10.2307/743762.

[52] "Memorandum of Facts," undated. George P. Decker Collection, Six Nations Appeal to the League of Nations. Box 3, File 3.3.09. Lavery Library, St. John Fisher University, Rochester, New York. https://fisherpub.sjf.edu/georgepdecker/.

[53] The Bureau pour la Défense des Indigènes maintained an annotated list of League delegates which included their hotels, sometimes down to the room number, and addresses in Geneva. Bibliothèque de l'Université de Genève, Papiers René Claparède, Notes et Travaux, File Ms. fr. 3993. https://archives.bge-geneve.ch/archive/fonds/claparede_rene.

the League a "dispute and the disturbance of the peace" that had arisen "between the State of the Six Nations of the Iroquois on the one hand and the British Empire and Canada on the other."[54] Invoking Article 17 of the Covenant was a clever way to force the Canadians to renegotiate. It established that:

> In the event of a dispute between a Member of the League and a State which is not a Member of the League, or between States not Members of the League, the State or States not Members of the League shall be invited to accept the obligations of membership in the League for the purposes of such dispute, upon such conditions as the Council may deem just. [...] Upon such invitation being given the Council shall immediately institute an inquiry into the circumstances of the dispute and recommend such action as may seem best and most effectual in the circumstances.[55]

Ironically, the dispute that precipitated the Haudenosaunee use of Article 17 centered on the relative independence of the Six Nations from Canada on the basis of their prior relationship with Great Britain; in other words, the claim to modern statehood was made through an enduring alliance with empire. Positioning themselves as an independent state on par with existing member states of the League, the Six Nations argued that their status as such had long been recognized "by European states which established colonies in North America." They cited "the treaties between the Six Nations and the Dutch; the treaties between the Six Nations and the French; the treaties between the Six Nations and the British," as well as a 1912 arbitration case involving Great Britain and the United States. In doing so, General and his lawyers actualized a discomfiting problem of international legal theory: that imperial treaties may implicitly recognize the inherent sovereignty of the non-European peoples with whom they negotiated.[56]

Having laid out the basis of their claim to statehood, the Appeal went on to enumerate a series of grievances with the Dominion government. Long-standing and complex political issues were remodeled, compressed into proofs that Canada was violating Six Nations sovereignty. The articles fell into three broad thematic areas: fiscal, penal, and political intervention. It is worth noting, however, that the huge scope of the Indian Act collapsed all of these seemingly discrete areas into one statutory regime. The Appeal thus articulated a rejection of the Canadian government's attempts to unilaterally apply a novel legal framework for defining and regulating Indian life. Understood in this light, it is clear that its content was consistent with the kinds of arguments made by Haudenosaunee people in letters, petitions, and delegations to Crown and Canadian authorities throughout the nineteenth

[54] "The Red Man's Appeal for Justice."

[55] "Avalon Project—The Covenant of the League of Nations," accessed March 22, 2023, https://avalon.law.yale.edu/20th_century/leagcov.asp#art17. Emphasis mine.

[56] Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law, 1870–1960* (Cambridge, UK; New York: Cambridge University Press, 2002); Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law*, Cambridge Studies in International and Comparative Law (Cambridge, UK; New York: Cambridge University Press, 2005).

century. Yet fitting the complex history of Haudenosaunee land tenure and relationships with settler society into the language of separate, territorial sovereignty required discursive and historical contortion. These acrobatics would not have been unfamiliar to other claimants at the League who sought to make their polities legible.

The Appeal argued that the British Crown had illegitimately passed the Six Nations off to the Dominion Parliament, and that Canada had taken advantage. Following Confederation in 1867, the "Imperial Government of its sole accord handed over to the Dominion Government" the responsibility of administering interest payments from land sales through the Crown. But administrators failed to make timely payments and withheld money owed as a punitive measure, ensnaring Haudenosaunee people in debt and forcing property surrenders. Of course, embedded in such accusations of financial intervention were political ones: the difficulty in protecting the economic well-being of Haudenosaunee community members undermined the legitimacy of the Confederacy Council. As Susan Hill has shown, records of Confederacy Council meeting minutes indicate a serious concern with the political implications of the Six Nations' solvency problem, and speak to a deep frustration with the Dominion's reluctance to fairly compensate them for a series of disastrous investments undertaken with their funds but without their consent.[57] Not only did the Imperial government abandon its responsibilities to its longtime ally, the Red Man's Appeal argued, but the British also handed the Canadians key tools of financial control while closing avenues for redress.

Other articles of the Appeal focused on specific components of the legal apparatus of Dominion rule, beginning with the controversial Enfranchisement Act (Bill 14). As described in the Appeal, the Enfranchisement Act imposed "or purported to impose Dominion rule over the neighboring Red Men," while the "administrative departments undertook to enforce it upon citizens of the Six Nations."[58] In brief, Bill 14 empowered the DIA to revoke an individual's Indian status and replace it with Canadian citizenship, without the individual's consent. Deputy Superintendent Campbell Scott explained the purpose of the Act to the House of Commons in 1920: "our object is to continue," he stated, "until 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, that is the whole object of this Bill."[59] In response to public outcry, the incoming Liberal government quickly repealed the Enfranchisement Act in 1922—almost a full year before the Red Man's Appeal was circulated at the League.[60] As far as records indicate, not a single individual was successfully enfranchised under

[57] Susan Hill, "Te Yonkhi'nikònhare Tsi Niyonkwarihotenhs—They Are Interfering in Our Matters," in *The Clay We Are Made Of: Haudenosaunee Land Tenure on the Grand River* (Winnipeg, MB: University of Manitoba Press, 2017), 212–38.

[58] "The Red Man's Appeal for Justice."

[59] Evidence of Duncan Campbell Scott to the Special Committee of the House of Commons, Parliament of Canada, Vol. 6810, file 470-2-3, Vol. 7, page 55, LAC.

[60] Note, however, that the bill was reinstated in the 1930s, and citizenship continued to be a fraught issue in Indigenous–settler relations throughout the twentieth century. See: *The Historical Development of the Indian Act*, second edition, eds. John Leslie and Ron Maguire, Treaties and

its auspices, although the DIA did initiate proceedings to force Onondeyoh Frederick Ogilvie Loft into Canadian citizenship in a deliberate effort to undermine his political organizing.[61]

The inclusion of the Enfranchisement Act beyond its legislative lifespan illuminates the difficulty of making the Haudenosaunee's political status legible to unfamiliar audiences. It encapsulated the ambitions of Canadian policy without delving into the despised but dense intricacies of property law, land tenure, and membership regulation. The Enfranchisement Act also highlighted the separate legal status of Haudenosaunee people (and all Indians), which resonated thematically with their larger argument of political difference. In other words, the Act was included because it showed a violation of Haudenosaunee sovereignty without its complete extinguishment. The argument went something like this: the Canadians tried to force enfranchisement, but they have *not yet* completed it. This delicate two-step gets at the central paradox of the Red Man's Appeal. It had to establish the existence of Haudenosaunee sovereignty and show Canadian infringements upon it, but without giving the impression that the extent of external intervention effectively dismantled the sovereignty they claimed to be defending.

The Canadians, for their part, were eager to gloss the particularities of Haudenosaunee history into prejudicial generalizations about Indians. When Prime Minister Mackenzie King was warned in late 1923 that "it will be necessary to pay some attention" to the Six Nations claims, lest Canada's "excellent reputation [in Geneva] suffer," the Canadian Department of External Affairs circulated a thirty-page, line by line repudiation of the "Red Man's Appeal" to League member states.[62] On their end, the British worked to deter prospective Six Nations supporters. Allowing the Six Nations case to be discussed in a General Assembly meeting, the British Foreign Office suggested, would set an uncomfortable precedent for other colonial powers, including the Dutch themselves. If any "discontented community" was empowered to address the League, one British ambassador noted, then the Dutch might just "find themselves arraigned before the Council by some of their East Indian subjects."[63] Similarly, a Foreign Office telegram warned Panamanian representatives that their initial support for the Six Nations was "resented as important interference

Historical Research Centre, Indian and Northern Affairs, Government of Canada Publications. https://publications.gc.ca/collections/collection_2017/aanc-inac/R32-342-1984-eng.pdf.

[61] For more on Loft's activism and other Indian organizing in the period, see Peter Kulchyski, "'A Considerable Unrest': F.O. Loft and the League of Indians," *Native Studies Review* 4, no. 2 (1988): 95–117; Steven Crum, "Almost Invisible: The Brotherhood of North American Indians (1911) and the League of North American Indians (1935)," *Wicazo Sa Review* 21, no. 1 (2006): 43–59. It is also important to note that in 1927, the Indian Act was amended to prohibit the use of band funds to hire legal representation. Joshua Nichols and other legal scholars in Canada are currently working on an important research project about this "blackout" period in Indigenous legal history in Canada.

[62] Herbert Ames to the Prime Minister, Canada, December 28, 1923, R612-11-28075-32700-54 DOCIP; League of Nations Secretary General to Sir Joseph Pope, March 6, 1924, R612-11-28075-34286-17 DOCIP. https://www.docip.org/en/our-services-solutions/documentation-center/.

[63] G. W. Villiers to Auckland Geddes, March 20, 1923, Department of External Affairs fonds, RG 25, volume 1330, file 1922-1362-C, part 1-2, LAC.

in the internal affairs of the British empire."[64] Panama quickly dropped its support, as did Ireland, Estonia, and, lastly, Persia. Without the support of a member state, the issue of "Iroquois Independence" could not be placed on the General Assembly's agenda and was thus never formally debated.

Instead, the Canadians published their response in the League of Nations Official Journal, following its solicitation from League Secretary General Eric Drummond.[65] It stated categorically that "the Six Nations are not now, and have not been for 'many centuries,' a recognised or self-governing people," but are rather "subjects of the British Crown residing within the Dominion of Canada." The response characterized the Six Nations Grand River territory as deriving from "simply a grant of land, under certain restrictions, and not involving any political recognition whatsoever." As such, the Six Nations "are not competent to apply for or to receive membership in the League."[66] From its first page, the Canadian rebuttal consciously obfuscated two issues raised by the Red Man's Appeal: first, the multi-layered nature of Six Nations territorial claim and second, that the League's own Covenant included no clear conditions for what exactly constituted legal statehood. As Megan Donaldson has argued in relation to Ethiopia's membership, there was not so much "a coherent interwar reformulation of statehood as an absence of any compelling formulation," with admission to the League functioning, in some cases, as the beginning of a process of state-making.[67] Nevertheless, in the Canadians' framing, it was inconceivable that Indians could be anything but subjects.

The Canadian response argued that all actions undertaken by the DIA, including the management of Haudenosaunee finances and membership, were undertaken "solely for the benefit of the Indians themselves." It explained that the Enfranchisement Act was designed to "stimulate progress among the Indians and to afford them an opportunity for self-development and advancement."[68] Visible here is the normative bent of the Indian Act, as well as its malleability, put to work for a vision of progress through assimilation.[69] In this

[64] Code Telegram to Mr. Wallis (Panama), 1924. Department of Indian Affairs, RG 10, volume 2286, microfilm reel number: C-11195, file number: 57,169-1C, file part: 4, LAC.

[65] United Nations Archives Geneva, R612/11/29185/28075, League of Nations Secretariat, Political Section, Complaint of the Six Nations Indians against the Government of Canada, Eric Drummond, Secretary General of the League of Nations, to Van Panhuys, 1923. https://archives.ungeneva.org/complaint-of-the-six-nations-indians-against-the-government-of-canada.

[66] UNAG, C-154-M-34-1924-VII_EN, League of Nations Secretariat, Relations with Member States, Communications Addressed to Members, Documents Distributed to Council and Member States. Tribe of the Six Nations, Department of Indian Affairs, Ottawa, Canada, "Statement Respecting the Six Nations Appeal to the League of Nations." https://archives.ungeneva.org/tribe-of-the-six-nations-department-of-indian-affairs-ottawa-canada-statement-respecting-the-six-nations-appeal-to-the-league-of-nations.

[67] Donaldson, "The League of Nations, Ethiopia, and the Making of States," 7.

[68] UNAG, "Statement Respecting the Six Nations Appeal to the League of Nations."

[69] As Joanne Barker and others have shown, central to Canadian Indian policy are ideas about gender and family that served to displace women from political influence. In part, the DIA legitimated its effort to discredit and replace the Haudenosaunee Confederacy Council by reference to the important role of women in its formation. Joanne Barker, "Gender, Sovereignty, Rights:

sense, the Canadian explanation was in keeping with widely circulating discourses of colonial responsibility to "underdeveloped peoples" in the early twentieth century, well-exemplified in the Mandate system's structure of civilizational hierarchy and tutelage.[70] DIA policy both conformed with and confirmed a broader kind of "colonial common sense" shared by many League members.[71]

The Canadians devoted significantly more attention to the issue of the Dominion's jurisdiction over Haudenosaunee people and territory. Their response sought to prove that, as it quoted from Justice Riddell's findings in the Ontario Supreme Court case *Sero v. Gault* (1921), that there can be "no justification for the supposition that any Indians in the Province are exempt from the general law or ever were."[72] In fact, the Canadian response effectively spliced up and copied Riddell's judgment in *Sero v. Gault*, reusing his framing of Ontario law. As Constance Backhouse has shown in her review of the case, which concerned Haudenosaunee woman Eliza Sero's right to fish within Tyendinaga territory without a provincial game license, Justice Riddell's decision drew on a highly selective reading of both legal precedent and historical practice.[73] Riddell (and the Canadian response, which quoted him) collapsed the specificity of the Six Nations claim to jurisdictional exemption into a teleological argument about British jurisdiction over all Indians. Backhouse also reveals that Riddell and Deputy Superintendent Scott corresponded sympathetically about *Sero v. Gault*, highlighting a collegiality between the Canadian courts and the DIA and underscoring why the Confederacy Council rejected a Royal Commission run by Ontario judges.[74] It is likely that had the commission gone forward, Riddell would have been on the bench.

Curious, though, is just how much of the Canadian reply focused on reiterating the legitimacy and proving the existence of Canadian criminal jurisdiction on Haudenosaunee territory. Perhaps this was because, at the time of writing, the DIA was struggling to shore up Canadian jurisdiction in practice. Internal correspondence reveals that local police officers were often unsure of their rights to enforce laws and, fearful of community resistance, avoided making arrests. One letter from Royal Canadian Mountain Police (RCMP) Captain Robertson to Deputy Superintendent Duncan Campbell Scott worried that although his policemen had been attempting to "bring in Indians" in the Grand River territory, the policemen had "not had the support they might have had [...] from the local authorities." As a result, cases were dropped or dealt with "leniently," and Robertson expressed concern about the efficacy

Native Women's Activism against Social Inequality and Violence in Canada," *American Quarterly* 60, no. 2 (2008): 259–66.

[70] Pedersen, *The Guardians*.

[71] Ann Laura Stoler, "Epistemic Politics: Ontologies of Colonial Common Sense," *The Philosophical Forum* 39, no. 3 (2008): 349–61, https://doi.org/10.1111/j.1467-9191.2008.00303.x.

[72] UNAG, "Statement Respecting the Six Nations Appeal to the League of Nations."

[73] The case arose from a dispute on Tyendinaga territory, not the Grand River territory itself.

[74] Constance Backhouse, "'They Are a People Unacquainted with Subordination'—First Nations' Sovereignty Claims: Sero v Gault, Ontario, 1921," in *Colour-Coded: A Legal History of Racism in Canada, 1900–1950* (Toronto; Buffalo: University of Toronto Press, 1999), 103–32.

of his work.[75] Constable Fred Kerr reported that although his department had over "30 summons [...] for Indians," they "cannot go and get them because they say the [Six Nations] Reserve is out of our jurisdiction."[76] Moreover, as Allan Downey has shown, although an aggressive temperance organization called the Lord's Day Alliance lobbied the RCMP to tamp down on illegal Sunday lacrosse tournaments hosted on Haudenosaunee territory, there was little to no enforcement. Six Nations people continued to play "the creators' game on God's Day" and hosted widely publicized, lucrative events.[77] Downey suggests that the lacrosse tournaments were a conscious assertion of "not only Haudenosaunee autonomy, but also their complete sovereignty."[78]

Post-Settler Sovereignty

The Canadian response and the Red Man's Appeal both exaggerated the robustness of their polities' respective statehoods. The Canadians explained that Dominion sovereignty over Indian people and territory was rooted in the 1763 Royal Proclamation, which held that the Crown had reserved "under [its] sovereignty, protection, and dominion" all of North America not yet occupied by settlers. Of course, as Lauren Benton and other historians of imperial law have argued, such sweeping declarations were aspirational at best.[79] But here, the 1763 Proclamation was deployed to justify the DIA's position that treaties or agreements with Indians do not share "the meaning comprehended by international law." Instead, the DIA argued that treaties refer only to a strategy of negotiation for "dealing with *the usufructuary rights* which the aboriginal peoples have been recognized in possessing in the land from the inception of British rule." If treaties functioned as recognition of sovereignty, the response speculated, then "the entire Dominion would be dotted with independent or quasi-independent Indian states," allied with but not subject to the British Crown. The DIA submitted that such a condition would be "untenable and inconceivable."[80]

The Haudenosaunee claim drew on the language of state sovereignty to articulate their unique historical status and to gain access to international arbitration under Article 17 of the League of Nations' Covenant. Their engagement with the League was political; the goal was to drag Canada back to negotiations, but at a different table and with better terms. But the connection between statehood and sovereignty was a pernicious one, and the consequences of suturing the two together were high for Indigenous claimants. While statehood might be like a coat, to be put on and taken off, Haundeosaunee people

[75] Captain Robertson to Duncan Campbell Scott, February 7, 1923. Department of Indian Affairs, RG 10, volume 3229, file 571, page 150–53, LAC.

[76] Excerpts from Brantford Expositor, September 5, 1922. Department of Indian Affairs fonds, RG 10, volume 3229, file 571, page 58–59, LAC.

[77] Downey, "Playing the Creator's Game on God's Day".

[78] Downey, "Playing the Creator's Game on God's Day," 121.

[79] Lauren A. Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge; New York: Cambridge University Press, 2010).

[80] UNAG, "Statement Respecting the Six Nations Appeal to the League of Nations."

understood their sovereignty to be inherent and enduring. They knew from experience that Canadian justice could not be trusted; they rejected the proffered Royal Commission for good reason. They also realized that the older relational mode of calling on British imperial intervention to restrain local settlers no longer held. In order to access the "international tribunal" that they needed, they had to be seen as a state.

The Red Man's Appeal thus presented arguments along axes likely familiar to European readers. The Grand River territory was framed as a bounded state under threat of foreign intervention, with a fixed membership, a particular culture, and a deep history. In some places, this language fit more awkwardly than others. It is unlikely that anyone took seriously the argument in Article 15, for example, that Canadian police presence in Ohswe:ken constituted an armed invasion and an "act of war" which constituted a "threat to international peace."[81] Other elisions were less apparent. Though the chosen speaker of the Confederacy Council in this particular venture, General's role depended on collaboration and consensus: he was not, as Appeal claimed, the sole authority of his people. In foregrounding this masculine and individualized conception of political leadership, the Appeal obscured the role of Haudenosaunee women in shaping the membership and regulating the legitimacy of the Confederacy Council.[82] It also glossed over live internal debates within the Haudenosaunee nation. While the sovereigntist movement was popular, it was not unanimous: Loft's pro-empire and pan-Indian organizing, as well as the resistance to the sovereigntist position with the Confederacy Council, highlights other strands of Haudenosaunee thought during this period.

Recall, however, that the League of Nations, and the city of Geneva in which it sat, was an inherently performative place. It was the central hub of a particular kind of interwar politics: one oriented by hierarchical ideas about race, gender, and civilization.[83] This helps explain how General, Decker, and a small cadre of supporters led by the Bureau International de Défense des Indigènes managed to ratchet up enough attention to compel the Canadian response in the first place.[84] European journalists were thrilled to report on "Chief Des-Ka-Heh" and his "picturesque pilgrimage [...] to the Great White Father," marveling at how the "Big Indian Chief" came "stalking

[81] "The Red Man's Appeal for Justice."

[82] General wrote home to the Confederacy Council frequently, to keep them abreast of his progress and to ask their opinions on decision-making. Several of these outgoing letters are held in the Papiers René Claparède collection. There is also an argument to be made, however, that by the early twentieth century the influence of Haudenosaunee women in politics was declining as a result of DIA policies and male opportunism. Nevertheless, General was never the only leader—and in fact was regarded by some Haudenosaunee people as an absolute rogue.

[83] Robert Vitalis, *White World Order, Black Power Politics: The Birth of American International Relations*, The United States in the World (Ithaca, NY: Cornell University Press, 2015).

[84] Emmanuelle Sibeud, "Entre geste impériale et cause internationale: défendre les indigènes à Genève dans les années 1920," *Monde(s)* 6, no. 2 (2014): 23–43, https://doi.org/10.3917/mond.142.0023.

out of a long-forgotten page of American history."[85] Decker and General attempted to turn racist ideas about Indians into tangible support, speaking to archaeological societies, anthropologists, and European humanitarian associations. For one fundraiser, the Bureau International printed 1000 postcards emblazoned with an unsmiling photograph of Levi General in feathered regalia and sold them around Geneva.[86] The approach seemed to work, at first: delegates from Ireland, Panama, Persia, and Estonia called for the League General Assembly to discuss the Red Man's Appeal. They did so on the grounds of "the universal interest in the conservation of the ancient race of the Red Indians."[87] A radio address given shortly after his return to North America suggests that General consciously drew on such tropes as a political strategy. Many people "supposed that we were all long gone to our Happy Hunting Grounds," he stated. But "no!" General told listeners. "There are as many of us as there were a thousand winters ago." And now, moreover, "we know your language and can understand your words for ourselves and we have learned to decide for ourselves what is good for us."[88]

The racialized political space of the League and the language of territorial sovereignty shaped how the Red Man's Appeal articulated Haudenosaunee sovereignty. Within those frameworks, there was little room for ontologically different understandings of Haudenosaunee history, land tenure, or political organization. In fact, General and his advisors omitted explicitly Haudenosaunee forms of knowledge from their formal appeal. Though they cited treaties with the Dutch, which would theoretically also include those made in wampum, the Appeal makes no direct mention of kaswentha.[89] Moreover, while rejecting the DIA's laws, the Appeal did not describe the legal structure of Haudenosaunee self-governance, as enshrined in Kayanerenkó:wa, the Great Law of Peace.[90] It did not mention that General owed his seat on the Confederacy Council to his clan mother, Louise Miller, who appointed him in 1917.[91] Yet these things mattered to General: he went head-to-head with other Confederacy Council members to defend them, and in his 1925 radio address he spoke at length about their importance. On at least one occasion, at a public event in Geneva, General railed against the negative impact of the Indian Act on

[85] File 6.7.218: "Grand River Clips" Scrapbook-Document 1, George P. Decker Collection. Special Collections, Lavery Library, St. John Fisher University, Rochester, NY. https://fisherpub.sjf.edu/georgepdecker_landclaims/2/.

[86] Bibliothèque de l'Université de Genève, Papiers René Claparède, Lettres et correspondence, Ms. fr. 3993.

[87] Président de la 4eme Assemblée to the Délégantes—September 28, 1923, R612-11-28075-31340-4, DOCIP. https://www.docip.org/en/our-services-solutions/documentation-center/.

[88] Levi General, "The Last Speech of Deskaheh," in *Basic Call to Conciousness*, ed. Akwesane Notes and Records (Summertown, TN: Native Voices, 1991), 48–54. For more details on the radio address, see https://scholarblogs.emory.edu/notesonthepath/deskahehs-last-speech/.

[89] Interestingly, General did request that the Confederacy Council mail wampum and a peace pipe to him in Europe. His intention seems to have been to show these to journalists. 6.7.218: "Grand River Clips" Scrapbook-Document 1, George P. Decker Collection. Special Collections, Lavery Library, St. John Fisher University, Rochester, NY.

[90] For more on the Great Law, see Williams, *Kayanerenkó:Wa*.

[91] Smith, "Deskaheh".

Haudenosaunee women's inheritance and membership rights, prompting the International Women's Suffrage Alliance to write the Canadian government in protest.[92] But the legal strategy he bet on at the League took a different path. The irony here is that essentialist ideas about Indians, their location in what Jean O'Brien has elsewhere called a "racial temporality," helped propel the case forward, even as the content of the Red Man's Appeal argued that an Indian polity was not so different, in fact, than any other state.[93]

Although Canada claimed jurisdiction over Haudenosaunee people and territory, local records show that the Dominion's ability to actually enact its rules was uneven. Policemen complained to higher-ups about the difficulty of compelling Haudenosaunee people to cooperate with their investigations, never mind providing witness accounts or testifying in court. Tee-totallers fumed that lacrosse tournaments continued to be held, sometimes with liquor for sale on site, in flagrant violation of Ontario law. When Duncan Campbell Scott and the DIA conspired to block Haudenosaunee leaders from traveling by refusing them passports, the Confederacy Council simply made their own and traveled freely over international borders.[94] Yet Haudenosaunee life *was* significantly impacted by settler law. In 1924, when it became clear that the League of Nations would not take up the Haudenosaunee case, the DIA unilaterally dissolved the Confederacy Council. They put up the Union Jack in front of the Ohswe:ken Council House again, the same flag that the sovereigntists had taken down a few years earlier.[95] Nevertheless, the majority of eligible voters refused to participate in the DIA elections. The authority of the Confederacy Council did not disappear; to this day, both councils exist.[96] Neither Haudenosaunee nor Canadian political authority was quite complete.

General himself left Europe a year or so after he arrived. The Canadian government refused him re-entry to Canada. Instead, General went to stay with friends and relations in the Tuscarora Reservation in upper New York State, as close to the border as one can get without going over Niagara Falls. Sick and tired, he died there in 1925.[97] His campaign had attempted to bundle a series of endemic contradictions—erratic jurisdiction, competing historical visions, conflicting authority—into a framing that would make sense to European policymakers. We might understand these contradictions as core features of settler states, and we might recognize some of the language of the Haudenosaunee campaign in contemporary Indigenous activism. While General's claims may have

[92] Letter from International Women's Suffrage Alliance, 1924. RG 10, Volume number: 2286, Microfilm reel number: C-11195, File number: 57,169-1C, File part: 4. LAC.

[93] Jean O'Brien, *Firsting and Lasting: Writing Indians out of Existence in New England*, Indigenous Americas (Minneapolis, MN: University of Minnesota Press, 2010).

[94] Memorandum to James Lougheed, Superintendent General of Indian Affairs, from J. McLean, Acting Deputy Superintendent General, Ottawa, July 26, 1921. Indian Affairs, RG 10, Volume 1227, File 552, 285, LAC. See also, Six Nations passport in the George Decker collection: https://fisherpub.sjf.edu/georgepdecker_citizenshiplegalstatus/2/.

[95] Asa Hill to Duncan Campbell Scott, November 10, 1922. Department of Indian Affairs, RG 10, volume 3229, file 571, LAC.

[96] Catapano, "The Rising of the Ongwehònwe," 272–85.

[97] Smith, "Deskaheh".

seemed out of time, out of touch, to League representatives, they nevertheless forced forward a set of destabilizing questions about the nature and extent of settler colonial authority. These questions continue to hang in the balance. They hold Ottawa and Ohswe:ken together and apart.

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