

Enclosing the Mohawk Commons:
A history of use-rights, landownership, and boundary-making in
Kahnawá:ke Mohawk Territory

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ABSTRACT

This dissertation analyzes the history of land practices (landownership, land-use, and boundary-making) in the territory that today constitutes the reserve of Kahnawá:ke, a Mohawk community near Montreal. It traces the changes from the late eighteenth century, when Kahnawá:ke Mohawks governed their own territory with minimal outside interference, to the early twentieth century when, thanks to extensive state interference in local governance, local land customs were suppressed. The Department of Indian Affairs (DIA), driven by a liberal, assimilationist agenda, first attacked the communitarian land customs by undermining Mohawk leaders and system of governance. In the subsequent absence of a local governing body that was willing and able to enforce land laws, Kahnawá:ke experienced a period of unregulated resource exploitation and land appropriation. The centerpiece of the DIA plan to address this lawlessness of its own making was the Walbank Survey, an ambitious project to break up the reserve by transforming the vernacular Kahnawá:ke landscape into a grid of rectangular farms, and to scatter the community by assimilating Mohawks into Canadian society. Thanks to effective local resistance as well as to internal constraints on the high-modernist ambitions of the department, the survey and land redistribution remained unfinished. Despite its weaknesses, however, the DIA seriously undermined the ability of Mohawks to govern themselves and their land without providing a viable alternative. This dissertation suggests that enclosure is a useful way to understand historic Indigenous dispossession, and that the history of DIA policies and actions in western Canada should be understood in light of its experience with eastern Native communities like

Kahnawá:ke. Finally, it argues that despite the ways in which traditional forms of ownership and governance were undermined, attempts to impose a unilateral liberal land order failed at many levels, and that those historical failures can usefully inform contemporary politics.

PRÉCIS

Cette thèse est une analyse de l'histoire des pratiques foncières (de la possession et de l'usage des terres, ainsi que de la délimitation de leurs frontières), sur le territoire qu'est aujourd'hui la réserve de Kahnawá:ke, une communauté Mohawk proche de Montréal. Elle en reconstitue les transformations depuis la fin du XVIII^e siècle, alors que les Mohawks de Kahnawá:ke gouvernaient eux-mêmes leur territoire sans trop d'interventions extérieures, jusqu'au début du XX^e siècle, lorsque les coutumes locales furent supprimées par une plus grande ingérence de l'État. Porté par des politiques libérales et d'assimilation, le Département des affaires indiennes (DAI) s'attaqua d'abord aux coutumes foncières communautaires en portant atteinte aux autorités Mohawk et à leur système de gouvernance. N'ayant plus d'organe local de gouvernance voulant et pouvant faire respecter les lois foncières, l'exploitation des ressources et l'appropriation des terres à Kahnawá:ke restèrent non réglementée pendant une période significative. Afin de corriger cette absence de loi qu'il avait lui-même créé, le DAI mit sur pied le projet Walbank d'arpentage. Il s'agissait d'un programme ambitieux de division de la réserve par la transformation de la territorialité usuelle de Kahnawá:ke en un quadrillé de

fermes rectangulaires, et ainsi que de la dispersion de la communauté par assimilation à la société canadienne. Le projet d'arpentage et de redistribution des terres ne fut néanmoins jamais complété, grâce à une résistance locale efficace et à des obstacles internes aux ambitions hautement modernistes du Département. Malgré son insuccès, le DAI sapa sérieusement les capacités des Mohawks à se gouverner eux-mêmes et à gérer leurs terres, sans fournir d'alternatives fonctionnelles. Cette thèse suggère que le concept de cloisonnement est utile à une meilleure compréhension de la dépossession indigène. Elle propose aussi que l'histoire des politiques et des gestes de la DAI dans l'Ouest canadien devrait être appréhendée sous l'angle de l'expérience des communautés amérindienne de l'Est comme Kahnawá:ke. Finalement, elle présente l'argument que l'imposition d'un ordre foncier unilatéral et libéral échoua à plusieurs points de vue et que ces échecs devraient nourrir les réflexions sur les politiques actuelles.

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My interest in land practices is rooted in the agrarian tradition of my own family. My father's parents Heinrich and Regina (Sauerwein) Rück came from a long line of Lutheran and Baptist German farmers south of the Balaton Lake in Hungary. They, along with most of their relatives, lost their lands following the Second World War when they were deported to East Germany, and were not able to re-establish themselves as farmers after finding their way to Canada in 1956. My mother's parents, Theodore and Beulah (Joiner) Duckels, were ethnic English farmers in southern Illinois. Following a difficult start in the depression years they built a successful commercial farming operation only to find that their success did not bring them joy. They converted to evangelical Christianity, and eventually turned part of their farm into a summer camp for children. My parents, John and Faye (Duckels) Rueck, instilled in me a love of learning and an appreciation for geography, history, and cultural/national difference. They also passed along their hunger

for a harmonious world and spirit of indignation against injustice, both of which inform this dissertation.

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ABBREVIATIONS USED

Libraries and Archives

ADSJQL	Archives du Diocèse de Saint-Jean-de-Québec-à-Longueuil
BANQ	Bibliothèque et Archives nationales du Québec
CAC	Canadian Architecture Collection, McGill University
LAC	Library and Archives Canada
MM	McCord Museum
KORLCC	Kanien'kehá:ka Onkwawén:na Raotitióhkwa Language and Cultural Center, Kahnawá:ke

Other Abbreviations

CPR	Canadian Pacific Railway
DIA	Department of Indian Affairs
GIS	Geographic Information System
OIC	Order in Council

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CHAPTER 1 Introduction

In June of 1882, a young McGill-educated engineer and land surveyor named William McLea Walbank left his Montreal home and took the ferry to a village across the St-Lawrence River. He set up an office, hired assistants, and started surveying lot boundaries. Banal as it sounds, this was an extraordinary event in Quebec and Canadian history. The territory surveyed by Walbank was Kahnawá:ke, the largest Indigenous community in the St. Lawrence Valley and one of the most populous in Canada. Only a few kilometres from Canada's largest city, it was also one of the only places in the heavily populated valley that had never been systematically surveyed or mapped. Kahnawá:ke Mohawks (Kahnawakehró:non) had managed their own lands without a great deal of outside interference until the late nineteenth century, but in the late nineteenth century the Department of Indian Affairs (DIA) hired Walbank to transform Kahnawá:ke land into something that could be managed from Ottawa. He was tasked with determining the owners, boundaries, and value of existing lots so that land could be redistributed in a way the DIA found more rational and equitable. It is probably the only case in which a Canadian government attempted to extinguish the property rights of an entire community so that it could resurvey and redistribute the land. This dissertation shows that what the DIA attempted to do with the Walbank Survey was to eliminate the customary land tenure regime and the ecological commons it maintained, and that this survey was only a part of a longer trend of increasing outside interference in Kahnawá:ke governance.

This dissertation is built on the argument that Kahnawá:ke customary land practices upheld an ecological commons, an area in which individual land and resource rights (especially in regards to wood) were limited and of an explicitly non-commercial nature, and resources were collectively owned and managed.¹ Commercial activities were not prohibited, but the wood and the land of the territory were not to be bought and sold. While individual rights to land were circumscribed, the laws related to the commons were designed to give all Kahnawakehró:non access to adequate land and wood. The land practices that upheld this commons consisted of the rules, beliefs, and behaviours regarding land ownership, land use, and boundary-making. These included farming, grazing livestock, and woodcutting, but also practices related to ownership or use-rights. This dissertation shows that customary land practices persisted in Kahnawá:ke throughout the nineteenth century, but came under increasing attack from outside entities, particularly the DIA. I argue that a central strategy of the DIA in weakening customary land practices was to support those community members who opposed those practices, and to undermine Kahnawá:ke leaders' authority and ability to govern. The resulting crisis of authority in the 1870s in turn produced something resembling open access conditions, a situation in which customary laws were not enforced and individuals soon realized that land and wood were free for the taking. The DIA then argued, based on this crisis, that Kahnawá:ke was a lawless place that needed to be governed and reformed from the outside. The centerpiece of the DIA plan was the Walbank Survey, through which it intended to remake the existing landscape and eliminate the ecological

¹ In the context of her history of Manitoba wet prairies, historian Shannon Stunden Bower defines the ecological commons as an area where "the private property landscape is overlaid by elements of the natural world that are of common concern to all landowners." Shannon Stunden Bower, *Wet Prairie: People, Land, and Water in Agricultural Manitoba* (Vancouver: UBC Press, 2011), 13.

commons; to destroy the existing property boundaries and land ownership customs, replace them with a grid of rectangular thirty-acre lots, and to assign these new lots to individuals. The survey was not carried through in the way it had been planned, but it was nevertheless a major factor in the virtual elimination of the Kahnawá:ke commons by the end of the nineteenth century. Although many Kahnawakehró:non maintained beliefs and attitudes in line with those of their ancestors, the Walbank Survey and related DIA actions, along with higher population densities and numerous territorial incursions, forced Kahnawakehró:non into a new, less communal way of relating to their land.

This is the first in-depth historical study to examine the land practices of Kahnawakehró:non and the only such scholarly examination of the history of land tenure and resource management of a particular Indian reserve in Canada. As such, this dissertation contributes to larger conversations about Indigenous law and governance, especially as they relate to the management of Indigenous lands. It furthers an understanding of the ways in which common-property regimes were transformed into the kinds of property regimes permitted under the Indian Act. While this study demonstrates the power of the early Canadian nation-state to transform Indigenous communities and lands, it also reveals the disorganized, inconsistent, and contradictory ways in which that power was brought to bear. With its focus on the latter decades of the nineteenth century during which Kahnawá:ke survived, adapted, endured, and thrive despite incursions of all kinds, this dissertation thus contributes to the understanding of the challenges faced by a long-established Rotinohsionni (Haudenosaunee or Iroquois) community in the context of Canadian colonialism. Finally, this dissertation is a historically-based argument for a return to Indigenous self-government, and an indictment of the actions

and policies of the DIA which offered Indigenous communities little benefit and did much harm.

What Walbank and the DIA attempted to do in Kahnawá:ke is part of a larger story of the relationship of the Canadian state with Indigenous peoples. Historian Ian McKay has argued that the Canadian nation-building project sought to establish of a liberal order, "one that encourages and seeks to extend across time and space a belief in the epistemological and ontological primacy of the category 'individual.'"² One of the most important elements of this liberal order was the right of an individual to hold property: the ideal liberal individual was a self-possessed, property-owning, Euro-Canadian man. Women, Chinese and Japanese, and Euro-Canadian men lacking property were viewed with suspicion, labeled as Other, and not considered to be true liberal individuals. Indigenous people especially were seen to be imprisoned by their communistic beliefs and practices, and not ready for the freedoms and responsibilities of self-possessed individuals. Transforming the Canadian population into liberal individuals, and the related task of transforming the land into a property grid—these were daunting endeavours, but ones willingly undertaken by Canadian lawmakers. McKay suggests that the *pièce de resistance* of the Canadian liberal order was the Dominion Lands Survey of the Canadian Prairies, where the state was able to display its "Euclidean geometry and panoptical state power," and where the individually-owned quarter sections inscribed the liberal ideology into the land itself.³ McKay argues that the transformation of individual Native people and the land was part of the same project, and this

² Ian McKay, "The Liberal Order Framework: A Prospectus for a Reconnaissance of Canadian History," *Canadian Historical Review* 81, no. 4 (2000): 623.

³ *Ibid.*, 641.

dissertation bears out that argument. As McKay asserts, it was not a series of unfortunate misunderstandings that caused the relationship between the Canadian government and Indigenous peoples to be defined by disenfranchisement, impoverishment, and coercive assimilation. Instead, the colonial relationship was the "fulfillment of liberal norms, which required the subordination of alternatives."⁴ Liberalism could not tolerate the *Other* represented by practices of Indigenous peoples, be they traditional governance structures, the potlatch of West Coast nations,⁵ or customary land practices in Kahnawá:ke.

The technology of land surveying, coupled with legislation to abolish seigneurial land-holding and normalize free-hold land-tenure, was an integral part of the liberal nation-building project. Alternative ways of owning territory, such as the one examined in this dissertation, represented barriers to market forces and to state supervision and were thus opposed by the state. The surveyor Walbank was a paid agent of the state whose job it was to make the land and its inhabitants more easily known and controlled. Chapter 6 shows that Kahnawakehró:non recognized him as such and treated him accordingly. Anthropologist James Scott has argued that nation-states have always been the enemy of customary systems of tenure, and have sought to impose centrally-managed, standardized property grids in which each polygon (preferably a rectangle) corresponds to a line in a property register. In contrast to state laws, which under ideal conditions are applied across vast geographical spaces without great attention to local differences, local customary practices are "particular, and adaptable, their plasticity can be the source of

⁴ Ibid., 637.

⁵ Douglas Cole and Ira Chaikin, *An Iron Hand Upon the People: The law against the potlatch on the Northwest coast* (Vancouver, Seattle: Douglas & McIntyre; University of Washington Press, 1990).

micro-adjustments that lead to shifts in prevailing practice."⁶ Cadastral maps,⁷ while they were not usually requested by local people, are preferred by the state because they facilitate taxation and allow bureaucrats to monitor land transactions without leaving their offices. Since local people understood that cadastral maps and land surveys meant increased outside control over their lands and lives, they often resisted these changes as best they could, sometimes successfully.⁸

From the perspective of local people one of the biggest problems with government cadastral maps is that they omit so many things of local importance. For example, they do not demarcate places of spiritual significance nor places that produce goods for informal trade and subsistence. In addition, land surveys produce static maps and do no justice to the dynamism of local peoples' relationship with the land over time.

According to Scott:

The cadastral map is very much like a still photograph of the current in a river. It represents the parcels of land as they were arranged and owned at the moment the survey was conducted. But the current is always moving, and in periods of major social upheaval and growth, a cadastral survey may freeze a scene of great turbulence. Changes are taking place on field boundaries; land is being subdivided or consolidated by inheritance or purchase; new canals, roads, and railways are being cut; land use is changing; and so forth.⁹

Similarly, the Walbank Survey was a kind of snapshot of the land practices in the mid-1880s, and the boundaries of many lots in Kahnawá:ke today are still essentially those Walbank described. Nevertheless, the scale of state interference in the attempt to re-

⁶ James C. Scott, *Seeing Like a State: How certain schemes to improve the human condition have failed* (New Haven: Yale University Press, 1998), 34-35.

⁷ A cadastral map or cadastre is a map depicting the locations and boundaries of parcels of land. They are often used in conjunction with title registers.

⁸ Scott, *Seeing Like a State*, 34-47.

⁹ *Ibid.*, 46.

organize land in Kahnawá:ke was much smaller than the projects that most interest Scott. Although the Canadian state had the administrative and military capacity to complete the Walbank Survey and land redistribution, it was missing some of the other characteristics Scott identifies as necessary for the carrying out of full-fledged high-modernist (and inevitably disastrous) projects.¹⁰ While some parts of the Canadian state maintained a high-modernist ideology, DIA officials were guided by laws and principles that were remarkably anti-modernist in that they required Indigenous people to become self-actualized individuals and citizens through peasant agriculture.¹¹ Unlike Scott's quintessential high-modernist state, the Soviet Union, the Canadian state also lacked the determination to use the full weight of its coercive power to bring the Walbank Survey into fruition. The Dominion Lands Survey, on the other hand, could be seen as a high-modernist project: an administrative re-ordering of nature and society on an unprecedented scale that was made possible by the state's willingness to use all of its coercive powers to sideline the Indigenous proprietors of the land.¹² Unlike the Dominion Lands Survey, the Walbank Survey can be considered high-modernist only in its intentions, not in its execution.

Scott argues that the environmental and social calamities that result from high-modernist projects are rooted in the state's lack of local, practical knowledge, something he calls *mētis*. In the case of the Walbank Survey, the worst outcome may have been

¹⁰ Scott defines high-modernism as "a strong...version of the self-confidence about scientific and technical progress, the expansion of production, the growing satisfaction of human needs, the mastery of nature (including human nature), and, above all, the rational design of social order commensurate with the scientific understanding of natural laws." *ibid.*, 4.

¹¹ Sarah Carter, *Lost Harvests: Prairie Indian reserve farmers and government policy* (Montreal: McGill-Queen's University Press, 1990).

¹² Daniel Rueck, "Imposing a Mindless Geometry: Surveyors versus the Canadian Plains 1869-1885," (M.A. Thesis, McGill University, 2004).

averted due to local opposition and cost overruns. The considerable negative consequences of the project were not, however, the result of ignorance of local conditions and customs on the part of Walbank or the Indian agent. Historian Tina Loo and co-author Meg Stanley use sources produced by engineers, geologists, and construction workers involved in the building of dams on the Peace and Columbia Rivers to show that agents of high-modernism had what they call "high modernist local knowledge." Adding complexity to Scott's argument, Loo and Stanley show that these men employed knowledge gained from experience that was very much based in particular places and conditions, even while they destroyed and altered those places and conditions.¹³ In his study on Indigenous peoples and fishing in British Columbia, legal historian Douglas Harris likewise throws doubt on James Scott's model of colonialism as one characterized by internal coherence and planning. He shows that the DIA maintained two contradictory views concerning the purpose of the reserve system: one in which reserves were intended to protect Natives and allow them access to the fishing economy, and another in which reserves confined and excluded them from fishing. Lack of coordination between the federal government (responsible for fisheries) and the provincial government (responsible for laying out reserves) meant that Indigenous peoples in British Columbia were largely excluded from participation in commercial fishing while limited to tiny reserves intended as fishing stations.¹⁴

In line with Scott's argument about the planners of high-modernist projects, this dissertation shows that DIA officials were often woefully (although perhaps

¹³ Tina Loo and Meg Stanley, "An Environmental History of Progress: Damming the Peace and Columbia Rivers," *Canadian Historical Review* 92, no. 3 (2011).

¹⁴ Douglas Harris, *Landing Native Fisheries: Indian Reserves and Fishing Rights in British Columbia, 1849–1925* (Vancouver: UBC Press, 2008).

intentionally) ignorant of Kahnawá:ke customary law and landscape, and that this ignorance was sometimes the root of actions that caused great damage in the community. My findings also confirm those of Loo and Stanley by showing that Indian agents knew a great deal about Kahnawá:ke customs, but that they sometimes used this knowledge against Kahnawakehró:non. Walbank likewise gained considerable local knowledge by walking every lot and speaking to every claimant about the history, boundaries, and value of their lands. In the case of both Walbank and the Indian agents, they employed their local knowledge to further an effort to re-make the political and physical landscape of Kahnawá:ke in the image of the DIA.

This dissertation builds on the work of a number of scholars who have understood the history of colonization in North America as a history of enclosure. Economic historian Irene Spry was one of the first to frame the colonization of the Canadian Prairies as the enclosure of lands that had been an Indigenous commons. She argued that a landscape that had previously been governed according to Indigenous laws was transformed over a few short decades into a landscape of individually-owned lots over which Indigenous laws no longer held sway. First Nations initially attempted to force outsiders obtain permits and pay for the use of their lands, but a host of factors, including the presence of the Northwest Mounted Police and the demise of bison herds, circumscribed their ability to resist. In Spry's account, the intermediate phase between the Indigenous commons and private property was a short time during which open access conditions prevailed and Indigenous peoples were no longer able to control access to bison. Further closing them off land and resources, reserve life left Indigenous peoples in an uneasy limbo between the impossibility of continuing their way of life, and the new

institutions of private property from which they were largely excluded. Indian reserves, after all, were supposed to be spaces in which Indigenous peoples would be protected from the dangers of private property while being simultaneously educated as to its merits. The reserve system failed spectacularly on both counts as First Nations' economic activities were subject to irrational and draconian controls that led to starvation and despair.¹⁵ The enclosure of the Kahnawá:ke commons described in this thesis was based on the same liberal goals, occurred under the same legal rubric, and was accomplished during the same decades. It also followed the pattern in which common resources and land were first opened to exploitation under open-access conditions (Chapter 5) before becoming subject to the private property norms of the Indian Act.

Historian Allan Greer adds to Spry's argument by offering a hemispheric narrative of the enclosure of the North American lands in his 2012 article in the *American Historical Review*. In Spanish and English colonies, Indigenous commons were often replaced by colonial commons before they were enclosed and turned into individual private property. Common property was a fundamental feature of European landholding, and settlers quickly re-formed such institutions upon arriving in North America. Greer makes a distinction between two kinds of commons that could be found both in Europe and in Indigenous America: inner and outer commons. He defines inner commons as areas near cities and towns that were often cultivated and divided into lots. The outer commons were the areas beyond the fields that were used for hunting, fishing, and

¹⁵ Irene M. Spry, "The Great Transformation: The disappearance of the commons in Western Canada," in *Canadian Plains Studies 6: Man and Nature on the Prairies*, ed. Richard Allen (Regina, SK: 1976). Reprinted as Irene M. Spry, "The Tragedy of the Loss of the Commons in Western Canada," in *As Long as the Sun Shines and the Water Flows*, ed. (Vancouver: UBC Press, 1983).

gathering activities.¹⁶ In Rotinonhsiónni terms, the inner commons would be the equivalent of "the clearing," the village and fields under the jurisdiction of women, and the outer commons would be "the forest," the regions of hunting, war, and diplomacy, and the jurisdiction of men.¹⁷ Before the arrival of Europeans, North America was not the open-access commons many Europeans imagined it to be, but one whose common lands were governed according to Indigenous laws. Spanish and English settlers, in many cases, set up systems of tenure involving inner and outer commons. Their newly-established outer commons often overlapped with pre-existing Indigenous commons, but colonists tended to recognize only their own rules and ran roughshod over Indigenous land laws. In the case of the English and Spanish colonies, Indigenous peoples asserted their land rights, but lost out in the end to the colonial commons.¹⁸ Greer concludes that America:

...did not greet Europeans as an open-access universal commons, and settlers did not initially establish control of the land through procedures resembling enclosure. In the long run, of course, fences, surveys, registry offices, and other developments associated with private property made their appearance and stabilized new property regimes from which native people were largely excluded. But privatization of land was not the main mechanism by which indigenous territory came into the possession of colonizers; by the time that sort of enclosure occurred in many places, dispossession was already an accomplished fact, thanks in large measure to the intrusion of the colonial commons.¹⁹

¹⁶ Allan Greer, "Commons and Enclosure in the Colonization of North America," *The American Historical Review* 117, no. 2 (2012).

¹⁷ Deborah Doxtator, "What Happened to the Iroquois Clans? A study of clans in three nineteenth century Rotinonhsyonni communities," (PhD Thesis, University of Western Ontario, 1996).

¹⁸ Elinor G. K. Melville, *A Plague of Sheep: Environmental consequences of the conquest of Mexico* (Cambridge: Cambridge University Press, 1994); Virginia DeJohn Anderson, "King Philip's Herds: Indians, colonists, and the problem of livestock in early New England," *The William and Mary Quarterly* 51, no. 4 (1994); Virginia DeJohn Anderson, *Creatures of Empire: How domestic animals transformed early America* (Oxford: Oxford University Press, 2004).

¹⁹ Greer, "Commons and Enclosure in the Colonization of North America," 385.

This was a global colonial phenomenon that took place over the course of centuries depending on the setting, as Dutch pastoralists took control of water resources in South Africa and settler sheep-raisers monopolized land and water in Australia.²⁰ Douglas Harris describes a similar process of Indigenous dispossession through imposition of new common-property regimes in the waters of British Columbia. He argues that the state "loosened the fisheries from their prior moorings in Native custom and tradition and reconstructed them as common property," and used this right to deny the prior fishing rights of First Nations.²¹

In New France, due to harsh winters, unsuitability of Laurentian forests for forage, and dispersed human populations, cattle could not freely graze woodlands, which meant that outer commons were not a significant factor. "One searches in vain through the New France records," writes Greer, "for indications of settler commoning that affected indigenous subsistence."²² This absence of a colonial commons was one of the factors that made for better French-Indigenous relations in areas colonized by the French. Indigenous participation in the seigneurial system of land tenure may also have been a factor.²³ None of this is to say that colonized land in the St-Lawrence Valley was unenclosed. Most seigneurial farms outside the Montreal area were surrounded by fences,

²⁰ Ibid., 384-385.

²¹ Harris, *Landing Native Fisheries*, 189-190.

²² Greer, "Commons and Enclosure in the Colonization of North America," 383. One kind of commons that existed in the Montreal area was the tradition of *vaine pâture*. Since few fields were surrounded by fences, cattle could graze across all fields from October to May. This custom did not seem to cause tensions between Indigenous and non-Indigenous peoples. Allan Greer, *Peasant, Lord, and Merchant: Rural society in three Quebec parishes, 1740-1840* (Toronto: University of Toronto Press, 1985), 25.

²³ A comprehensive narrative of Indigenous participation in the seigneurial system has yet to be written. For some works that discuss aspects of this story, see Michel Morin, *L'usurpation de la souveraineté : Le cas des peuples de la Nouvelle-France et des colonies anglaises de l'Amérique du Nord* (Montréal: Boréal, 1997); Michel Lavoie, "'C'est ma seigneurie que je réclame': La lutte des Hurons de Lorette pour la seigneurie de Sillery, 1760-1888," (Ph.D. Thesis, Université Laval, 2006); Alain Beaulieu, "Les garanties d'un traité disparu : le traité d'Oswegatchie, 30 août 1760," *Revue juridique Thémis* 34, no. 2 (2000).

and agriculture in New France appears to have been more of an exclusively family affair than it was in Upper Canada and the U.S. Midwest where farmers often helped each other to accomplish large tasks.²⁴ Nevertheless, seigneurial tenure was considered by the Anglophone elite to be an imperfect form of tenure, a throwback to the feudal era. It was only after the abolition of the seigneurial system in 1854 that individual fee-simple private property ownership became the norm. Although the seigneurial system incorporated features of both common-property ownership and individualized property, the abolition of seigneurial tenure could be interpreted as a kind of enclosure that eliminated the communal elements of the system. In Kahnawá:ke, abolition was responsible for transforming the majority of the Seigneurie of Sault Saint-Louis into private property, eliminating rental income to the community and establishing the much-diminished extent of the current reserve. The attacks on the customary system of land tenure described in this dissertation can thus be seen in light of the attacks on seigneurial tenure occurring around the same time.

This dissertation fits awkwardly into grand narratives of Indigenous dispossession such as John Weaver's sweeping comparative work on the European appropriation of lands around the world, and James Belich's 2009 study of the nineteenth-century largely-Anglophone "Settler Revolution."²⁵ Weaver's account does not concern itself with Indigenous forms of land tenure but focuses on the great creativity of settler societies in inventing justifications and techniques for turning Indigenous lands into settler-owned

²⁴ Greer, *Peasant, Lord, and Merchant*, 25.

²⁵ James Belich, *Replenishing the Earth: The Settler Revolution and the Rise of the Anglo-World, 1783-1939* (Oxford: Oxford University Press, 2009).

properties, as well as the conflicts that ensued.²⁶ Belich attempts to explain how and why Britain and the "neo-Britains" around the world experienced unprecedented, fantastic demographic and economic growth in the nineteenth century. The overall story of Indigenous peoples in both accounts is one of initial resistance followed by dispossession and pacification. Although nineteenth-century Kahnawá:ke was not in the geographic proximity of what most people understood as "the frontier" between settlers and Indigenous peoples, or the areas most affected by what Weaver calls "the great land rush," it was still subject to similar forces of colonization and dispossession. Both Weaver and Belich show that the process of colonialism was inextricably connected with the transformation of Indigenous lands into forms of property that settler societies recognized,²⁷ and this dissertation shows that this transformation was ongoing in areas that had long ceased to be considered frontiers or borderlands.²⁸ Furthermore, it suggests that the colonization of Indigenous lands and peoples was not as complete as the meta-narratives make it out to be.

²⁶ John C. Weaver, *The Great Land Rush and the Making of the Modern World, 1650-1900* (Montreal: McGill-Queen's University Press, 2003).

²⁷ Professor of globalization studies Anthony Hall has referred to this process as the "earth's transformation into property," but such a formulation would seem to imply that Indigenous peoples did not have forms of property. Anthony Hall, *The Bowl With One Spoon, Volume 2: Earth into Property: Colonization, decolonization, and capitalism* (Montreal & Kingston: McGill-Queen's University Press, 2010), 9. Greer succinctly states that, "apart from cultivated areas, America was a quilt of native commons, each governed by the land-use rules of a specific human society. The notion of a universal commons—Locke's America—existed mainly in the imperial imagination." Greer, "Commons and Enclosure in the Colonization of North America," 372.

²⁸ For works in the North American context that describe the "closing of the frontier" in terms of colonial appropriation of territory at the expense of Indigenous peoples, see Gregory H. Nobles, *American Frontiers: Cultural encounters and continental conquest* (New York: Hill & Wang, 1997); Nicholas Blomley, "Law, Property, and the Geography of Violence: The frontier, the survey, and the grid," *Annals of the Association of American Geographers* 93, no. 1 (2003). Also see the essay by Frederick Jackson Turner who first suggested that America was defined by its frontier: Frederick Jackson Turner, "The Significance of the Frontier in American History," in *The Frontier in American History*, ed. (Bremen, Germany: Europaeischer Hochschulverlag, 2010 [1893]).

In her monograph on Manitoba wet prairies, environmental historian Shannon Stunden Bower critiques Spry for portraying the commons and private property as mutually exclusive. She shows that in the Red River settlement the two coexisted for decades and complemented each other. Stunden Bower also shows that customary laws and practices were flexible in the face of changing climatic conditions, and differed from parish to parish since practices were adapted to local environmental conditions.²⁹ The territory of Kahnawá:ke, in comparison to Manitoba, is small, and climatic conditions do not vary greatly from one part of the territory to another. More comparative study on customary land practices in other Rotinonhsiónni communities is needed to find variations between them based on climatic, geographical, and other factors. Based on recent interviews with elders, however, many of the basic principles are consistent from community to community.³⁰ In nineteenth-century Kahnawá:ke, forms of private property coexisted with customary land tenure, but not in the harmonious way described by Stunden Bower in which Manitoba farmers were able to take advantage of fee-simple property for cultivated land and common property for pasture and haying. In Kahnawá:ke, those deviating from the customary laws by, for example, furnishing themselves with deeds, were often directly at odds with those attempting to live according to customary laws.

By using the term "enclosure" to describe the decline of the ecological commons in Kahnawá:ke I am making implicit comparisons with the enclosures in the British

²⁹ Shannon Stunden Bower, "The Great Transformation? Wetlands and land use in Manitoba during the late nineteenth century," *Journal of the Canadian Historical Association* 15, no. 1 (2004).

³⁰ Melvin Tekahonwen:sere Diabo, *Comprehensive Land Report: Restoring Kanien'kehaka approach to land holding and land use* (Kahnawá:ke: Unpublished Report submitted to the Office of the Council of Chiefs, 2004).

countryside. These were the various ways in which peasants lost lands owned by customary tenure, as well as ancient rights to common lands and resources, and were thus forced off their lands to become wage labourers. The customary rights of English peasants were based on unwritten rules that were in turn the result of centuries of local traditions, practices, beliefs, and norms. In the words of the eminent historian E.P. Thompson, agrarian custom "was never a fact. It was an ambiance;"³¹ meaning that customary rights were never static but constantly negotiated. Thompson noted that the first attacks on English commons did not come from legal enclosures, but were related to the growth of towns and cities, which caused increased demand for fuel and building materials as well as rapid increases in the value of quarries, peat bogs and gravel pits.³² He also emphasized that commons were highly regulated by the users themselves, and that if there was a "tragedy of the commons" in eighteenth-century English forests it was due only to the fact that customary laws were no longer being applied.³³ Historian Jeannette Neeson has shown the innumerable ways English peasants used their rights to common lands including for gathering fuel, foods, reeds, and dung.³⁴ She describes access to commons as a kind of safety valve for peasants in bad times: a source of wild food, for example, when crops failed. Through the efforts of landowners who wished to remove peasants from what they considered to be their lands, common right was extinguished by parliamentary enclosure between 1750 and 1850.³⁵ English peasants

³¹ E. P. Thompson, *Customs in Common* (New York: The New Press, 1991), 102.

³² *Ibid.*, 106.

³³ Thompson shows that Garrett Hardin's thesis concerning the inevitable chaos brought on common land tenure is historically incorrect. *Ibid.*, 107. Garrett Hardin, "The Tragedy of the Commons," *Science* 162, no. 3859 (1968).

³⁴ J.M. Neeson, *Commoners: Common right, enclosure and social change in England, 1700-1820* (Cambridge, U.K.: Cambridge University Press, 1993), 158-184.

³⁵ *Ibid.*, 17.

were disparaged with rhetoric that was similar to the way they spoke about North American Indians: they were characterized as lazy, wild, uncontrollable, poverty-stricken, and inexplicably content with their situation. These characterizations were then used to justify the theft of their lands and termination of their common right.³⁶ I do not argue that what happened in Kahnawá:ke was exactly the same as what happened to English peasants, but I point out that enclosures on both sides of the Atlantic and in other parts of the world shared a number of characteristics and were the result of similar cultural, political, and economic forces.

The words "commons" and "enclosure" are European in origin, and are useful for describing realities on both sides of the Atlantic. It is important to note, however, that these words are widely employed by Indigenous North Americans to describe their own realities and histories. A metaphor for commons used by Indigenous peoples throughout Eastern North America in the seventeenth and eighteenth century, and still today, is that of a bowl, a dish, or a bowl with one spoon. The Rotinonhsiónni Confederacy itself was founded on the principle that all of the founding nations would share the bowl of their fields and hunting territories equally and peacefully. Peace agreements between the Confederacy and other Indigenous nations also used this metaphor to express the way in which they would peacefully share a territory containing limited resources.³⁷ The Kaianere'kó:wa, the Great Law of the Confederacy, was based on the principle of common ownership of a territory in which the inhabitants of each nation had the right to

³⁶ Ibid., 30-42.

³⁷ Nancy Shoemaker, *A Strange Likeness: Becoming Red and White in Eighteenth-Century North America* (New York: Oxford University Press, 2004), 86-90.

use land and resources of areas they occupied.³⁸ In Iroquoian thought, jurisdiction over land and resources was always communal first. Families and individuals had significant rights as well, but these were to be subordinate to the needs of the nation.

Historiography

One of the reasons it is difficult for historians to find coherence and consistency in the actions of the DIA is that, while it ostensibly operated according to the rules of the Indian Act, it lacked a unified purpose and well-defined goals. The department based its actions on official ideologies and common beliefs, often learning through trial and error, and rarely making the effort to create a carefully-considered plan.³⁹ Although officials were absolutely certain about the superiority of their own way of thinking, they were nevertheless unwilling to apply laws that would bring strong backlash from Indigenous peoples.⁴⁰ Historian Sidney Harring describes DIA operations as a kind of "benevolent despotism" that was adaptable to situations in which it was decided that enforcing the law was poor policy.⁴¹ In addition, this flexible legal order meant that the department made up and enforced rules that actually ran counter to the Indian Act, what Harring calls "official lawlessness."⁴² The pass system of the early twentieth century was a classic case of official lawlessness. It was an extralegal regulation that required Native people on the Prairies to obtain permission from their Indian agent before leaving the reserve.

³⁸ *The Great Law of Peace of the Longhouse People - Kaianerekowa Hotinonsionne*, (Mohawk Nation via Roosevelttown, NY: Akwesasne Notes, 1975), Laws 72-73.

³⁹ Robin Jarvis Brownlie, *A Fatherly Eye: Indian agents, government power, and Aboriginal resistance in Ontario, 1918-1939* (Don Mills, ON: Oxford University Press, 2003), xiv.

⁴⁰ *Ibid.*, xv; Carter, *Lost Harvests*, 114-115.

⁴¹ Sidney L. Harring, "'There Seemed to Be No Recognized Law': Canadian Law and the Prairie First Nations," in *Laws and Societies in the Canadian Prairie West, 1670-1940*, ed. Louis A. Knafla and Jonathan Swainger (Vancouver: UBC Press, 2005), 114-115.

⁴² *Ibid.*, 117.

Proponents said that limiting their mobility in this way would protect Indian men from alcohol, and Indian women from prostitution.⁴³ According to Haring, "the fact that it was not even necessary to get legislation to cover such a wholesale and widespread illegality reflects the extralegal nature of 'Indian Act' law on the Prairies."⁴⁴ The DIA could not act with quite the same impunity in Kahnawá:ke where the population was more affluent, educated, and connected to non-Native networks, but this dissertation shows that the department frequently acted according to the same principles and used many of the same techniques.

One thing the DIA consistently opposed (not, however, in consistent ways) was Indigenous custom. The suppression of Kahnawá:ke land customs described in this dissertation is only one example. From east to west, the DIA attacked whatever Indigenous custom it found most threatening in that time and place. Historians Douglas Cole and Ira Chaikin have shown, for example, that potlatching was targeted because it reinforced communitarian values, prevented the kind of material accumulation of which they approved, and thus ran counter to the goals of the department.⁴⁵ The growing legal powers of the DIA in the latter decades of the nineteenth century were frequently used to attack such customs. Historian Lesley Erickson demonstrates that the increasingly intrusive role of the DIA and Indian agent, and the department's lack of foresight, led to great confusion, uncertainty, and tension within Indigenous communities. She cites the example of the departmental acceptance of Indian customary marriage, but not divorce.⁴⁶

⁴³ Lesley Erickson, *Westward Bound: Sex, Violence, the Law and the Making of a Settler Society* (Vancouver and Toronto: UBC Press for the Osgoode Society for Canadian Legal History, 2011), 46-47; Carter, *Lost Harvests*, 151-156; Keith D. Smith, *Liberalism, Surveillance, and Resistance: Indigenous Communities in Western Canada, 1877-1927* (Edmonton: Athabasca University Press, 2009), 99-103.

⁴⁴ Haring, "'There Seemed to Be No Recognized Law'," 115.

⁴⁵ Cole and Chaikin, *An Iron Hand Upon the People*, 1-24.

⁴⁶ Erickson, *Westward Bound*, 68-77.

Historian Sarah Carter has shown that an unexpected outcome of this enforced monogamy was the widespread emergence of impoverished single mothers.⁴⁷

This dissertation also sheds some light on the role of Indian agents, who were the human face of the DIA in Indigenous communities across Canada. Historian Keith Smith has shown that Indian Agents often operated with tyrannical authority, citing cases of agents who manipulated band accounts in their own favour, passed laws forbidding unmarried couples from living together, and withheld employment or rations from those who were uncooperative.⁴⁸ Historian Robin Jarvis Brownlie's monograph based on case studies of two Indian agents during the interwar period reveals how Indian policy was applied on the ground; that the beliefs and priorities of individual Indian agents had a significant influence on how Ottawa dealt with particular communities and how laws were enforced.⁴⁹ This dissertation bears out Brownlie's argument.

Sarah Carter's *Lost Harvests* is a landmark study in the relationship between the Canadian government and Indigenous peoples of the Prairies. Refuting the deeply-entrenched idea that Native people were inherently opposed to (or incapable of) farming, Carter shows that a number of communities understood the transition to agricultural vocations as their best chance to survive the collapse of the bison herds and the enclosure of their lands. Although there were some early successes, the efforts of Indigenous farmers were largely undermined by the failure of the Canadian government to live up to its treaty obligations. The DIA appointed incompetent farming instructors, failed to

⁴⁷ Sarah Carter, "Creating 'Semi-Widows' and 'Supernumerary Wives': Prohibiting Polygamy in Prairie Canada's Aboriginal Communities to 1900," in *Contact Zones: Aboriginal and Settler Women in Canada's Colonial Past*, ed. Katie Pickles and Myra Rutherdale (Vancouver: UBC Press, 2005).

⁴⁸ Smith, *Liberalism, Surveillance, and Resistance*, 105-113.

⁴⁹ Brownlie, *A Fatherly Eye*.

deliver draught animals, tools, and seeds in time for spring planting, and was preoccupied with cost reduction. When Native farming efforts met with modest success, non-Native settlers and their many advocates grumbled about an unlevel playing field and agitated for greater restrictions on their Indigenous competitors. Carter shows that DIA officials capitulated to settler pressure and began to promote a kind of peasant agriculture for Indigenous people that would make them less competitive and allow the department to forego the purchase of expensive mechanized agricultural tools.⁵⁰

The DIA policy of forbidding commercial agriculture had a devastating effect on Indigenous communities, but department officials interpreted the resulting poverty and despair as typical Indian sloth and disinterest. The only way forward, according to DIA officials, was through private property. Following the Northwest Uprising of 1885, the department began to pursue a policy of reserve subdivision, which aimed to break up reserves into individually-owned farms and make "surplus" land available to non-Native settlers. The department set about subdividing a number of Saskatchewan reserves into forty-acre lots in 1889, but the program was ended in 1896 when it became clear that the project was unfeasible. Subdivision foundered because of a change in government, Indigenous people's refusal to move onto designated lots, as well as the specification of the Indian Act that reserve land could not be alienated without the approval of the band.⁵¹ It is likely that the experience of the department with the failed Kahnawá:ke subdivision, described in Chapter 6, informed subdivision efforts on the Prairies. For example, Carter points out that in 1891 Edgar Dewdney, the Minister of the Interior and Superintendent of

⁵⁰ Carter, *Lost Harvests*.

⁵¹ *Ibid.*, chapter 6.

the DIA, urged the government to follow through on the subdivisions by invoking the specter of endless disputes over land in eastern Indian reserves.⁵²

The Canadian project to subdivide western reserves paralleled the 1887 Dawes Act in the United States, which introduced private property ownership to Indian reservations, with disastrous consequences for Indigenous peoples. In a 2010 text advocating for a new law allowing the privatization of reserve lands in Canada, political scientist Thomas Flanagan anticipated the comparison of his plan to the Dawes Act.⁵³ He includes an entire chapter dedicated to explaining the failures of the act, presenting excuses for the drafters of the act, and claiming that the Conservative legislation would be nothing like it.⁵⁴ Flanagan points out that by the 1880s many Indians on U.S. reserves were farming land they held with various kinds of customary tenure, and so, "with the benefit of hindsight, we can now see that it would probably have been better to let this gradual evolution proceed."⁵⁵ In fact, U.S. lawmakers were less concerned about the details of Indigenous land tenure than they were about the fact that Native peoples held land that could be in the hands of non-Native settlers. The drafters of the act intended it to break up Indigenous communities, reduce cost of Indian administration, and reduce the size of reservations in order to make land available to Euro-American settlers.⁵⁶ One of many in a series of U.S. laws with the same goals, the Dawes Act allowed for the allotment of agricultural lands on reservations according to a formula of 160 acres per

⁵² Ibid., 209.

⁵³ The book is co-authored with Christopher Alcantara and André Le Dressay, but the parts referred to here were written by Flanagan.

⁵⁴ For more on the planned legislation, see the conclusion of this dissertation.

⁵⁵ Thomas Flanagan, Christopher Alcantara, and André Le Dressay, *Beyond the Indian Act: Restoring aboriginal property rights* (Montreal & Kingston: McGill-Queen's University Press, 2010), 42-43.

⁵⁶ Leonard A. Carlson, *Indians, Bureaucrats and Land: The Dawes Act and the decline of Indian farming* (Westport, Conn.: Greenwood Press, 1981), 79.

male head of household, and 40-80 acres for single persons, with some variation based on the quality of the land. Once the reservations were subdivided, individuals were assigned particular lots and given U.S. citizenship. The new owners were prohibited from selling their lot for twenty-five years, a period that was intended to protect them from the temptation of selling while they made the transition to becoming farmers. Subsequently the lot would be held under legal title that was indistinguishable from other individually owned lands in the state, and could be bought and sold to anyone. "Surplus lands" were sold, often without the approval of Indigenous communities, with disastrous consequences. Not only did they lose much of their communal land base; they also sank deeper into poverty and cultivated fewer and fewer acres than they had before allotment.⁵⁷

Economist Terry Anderson points out that prior to the Dawes Act, Indigenous communities had been working out their own ways of organizing agricultural production and land tenure, without necessarily resorting to individual land parcels or the formalities of private property. "When allotment was imposed on the reservations," observes Anderson, "it made no consideration for traditional management schemes that may have embodied abundant knowledge and experience; it assumed that rectangularly surveyed property rights were the only way to get the incentives right."⁵⁸ Jennifer Roback similarly argues that allotment failed to achieve its assimilationist and agricultural goals because the Dawes Act failed to take pre-existing political institutions and property rights into consideration. In her account, the Department of the Interior consciously set out to

⁵⁷ Ibid., 10; Jennifer Roback, "Exchange, Sovereignty, and Indian-Anglo Relations," in *Property Rights and Indian Economies*, ed. Terry L. Anderson (Lanham, MD: Rowman & Littlefield, 1991), 23.

⁵⁸ Terry L. Anderson, *Sovereign Nations or Reservations? An Economic History of American Indians* (San Francisco: Pacific Research Institute for Public Policy, 1995), 165.

destroy those institutions, and thus destroyed communities' ability to maintain order and generate wealth. These destructive state actions, however, did not lead Indigenous communities to transfer their loyalty to Euro-American institutions and culture.⁵⁹ The narrative of this dissertation echoes many of the same themes, around the same time, in a Canadian context, and on the scale of a single community: assimilationist legislation, attacks on Indigenous land custom, unintended consequences, destruction of cultural assets and functioning political systems, land loss, attempted allotment, and the persistence of the Indigenous communities against all odds.

The historiography of Rotinonhsiónni peoples, like that of Indigenous peoples in the St. Lawrence Valley in general, is weighted towards the seventeenth and eighteenth centuries, although this is starting to change. Among the scholars who have written important works on the earlier period are Bruce Trigger, Matthew Dennis, Daniel Richter, and Jon Parmenter. Probably the most important contribution of the works produced by these authors in the recent decades has been to attribute rationality and agency to Indigenous historical actors. Bruce Trigger's *The Children of Aataentsic* is a widely-admired, foundational work on the ethnohistory of Huronia in the seventeenth century. This exhaustive history seamlessly integrates insights from linguistics, archaeology, geography, history, and ethnology to render a remarkable picture of Huron-Wendat society, politics, livelihoods, diplomacy, and warfare.⁶⁰ Matthew Dennis' *Cultivating a Landscape of Peace* is an important contribution in terms of offering a Rotinonhsiónni perspective on European-Indigenous relations during the colonial period,

⁵⁹ Roback, "Exchange, Sovereignty, and Indian-Anglo Relations," 23.

⁶⁰ Bruce G. Trigger, *The Children of Aataentsic: A history of the Huron people to 1660* (Montreal and Kingston: McGill-Queen's University Press, 1976).

and presenting a glimpse of the unifying potential of Rotinonhsiónni political philosophy.⁶¹ Daniel Richter's widely-praised *The Ordeal of the Longhouse* imagines colonial history from the perspective of Iroquoia, and discusses the Rotinonhsiónni polity in terms of the Rotinonhsiónni origin story and the Deganawidah story on the origin of the Iroquois League. More than Dennis, however, Richter explains Iroquois actions and social change in terms of political and economic motives.⁶² Allan Greer has criticized a number of historians who write on Iroquoia, including Richter, for neglecting French-language sources and failing to get beyond the Canada-U.S. border when telling the histories of a time when the border did not exist.⁶³ Jon Parmenter's 2010 *The Edge of the Woods* is an important study by an American scholar who has taken full advantage of French-language sources. His main contribution has been to document the vast geographical range of Rotinonhsiónni exploits, and the importance of this remarkable mobility from the perspective of Rotinonhsiónni political philosophy and tradition.⁶⁴

Within the field of Iroquoian history, there are relatively few scholarly works that focus on particular communities, especially for the nineteenth century, and this dissertation makes a significant contribution by adding another community history to a small field. One of the existing studies is the doctoral dissertation of the late Deborah Doxtator on politics, subsistence, land use, trade, and livelihoods in the three Rotinonhsiónni communities of Tyendinaga, Tonawanda, and Six Nations of the Grand

⁶¹ Matthew Dennis, *Cultivating a Landscape of Peace: Iroquois-European encounters in seventeenth-century America* (Ithaca, N.Y.: Cornell University Press, 1993).

⁶² Daniel K. Richter, *The Ordeal of the Longhouse: The peoples of the Iroquois League in the era of European colonization* (Chapel Hill: Institute of Early American History and Culture and University of North Carolina Press, 1992).

⁶³ Allan Greer, "National, Transnational, and Hypernational Historiographies: New France Meets Early American History," *The Canadian Historical Review* 91, no. 4 (2010).

⁶⁴ Jon Parmenter, *The Edge of the Woods: Iroquoia, 1534-1701* (East Lansing: Michigan State University Press, 2010).

River. Her work shows that Rotinonhsiónni people in each of the three communities found innovative ways to adapt in response to dramatically diminishing land bases and colonial incursions into their territories and lives.⁶⁵ The other scholarly community history is the dissertation of Alyssa Mt. Pleasant which focuses on Buffalo Creek (today's Buffalo, New York) of 1780 to 1825 to reveal it as a place that was recalled, re-established, and maintained as a Rotinonhsiónni place.⁶⁶ Like Doxtator and Mt. Pleasant, I have attempted to foreground the peculiarities of a particular Rotinonhsiónni community in order to contribute to the larger story of Indigenous dispossession, survival, adaptation, and continuity.

An important aspect of this dissertation is the exploration of the role of land surveyors, land surveying, and cartography in the enclosure of Indigenous lands. Until recent decades, the historiography was characterized by a narrative bias that privileged land surveyors and their patrons. Historians like Don Thomson⁶⁷ and James MacGregor⁶⁸ tended to celebrate the achievements of surveyors just as they tended to uncritically celebrate the achievements of empire, the nation-state, and capital. While their enthusiasm for liberal progress obfuscated the role of surveyors in dispossessing Indigenous peoples, they were correct in identifying the central role played by surveyors in history. Given that nearly all inhabited landscapes were delineated and profoundly shaped by their work, the historical importance of surveyors is not widely recognized outside of academia. A number of recent scholarly studies have acknowledged the

⁶⁵ Doxtator, "What Happened to the Iroquois Clans?."

⁶⁶ Alyssa Mt. Pleasant, "After the Whirlwind: Maintaining a Haudenosaunee Place at Buffalo Creek, 1780-1825," (Ph.D. Thesis, Cornell University, 2007).

⁶⁷ Don W. Thomson, *Men and Meridians: The history of surveying and mapping in Canada*, 3 vols. (Ottawa: R. Duhamel Queen's printer, 1966).

⁶⁸ James Grierson MacGregor, *Vision of an Ordered Land: The story of the Dominion Land Survey* (Saskatoon: Western Producer Prairie Books, 1981).

culturally-relative, often coercive character of surveying and mapping. Two of the most comprehensive books that explore surveying in this way in the Canadian context are Cole Harris' *Making Native Space*⁶⁹ and Daniel Clayton's *Islands of Truth*.⁷⁰ In an international context important works are Giselle Byrnes' *Boundary Markers* (New Zealand)⁷¹, Graham Burnett's *Masters of All They Surveyed* (Guyana),⁷² Raymond B. Craib's *Cartographic Mexico*,⁷³ Matthew Edney's *Mapping an Empire* (India),⁷⁴ and Paul Carter's *The Road to Botany Bay* (Australia).⁷⁵

Cole Harris' *Making Native Space* is a landmark text in the historiography of Indigenous-state relations in Canada. In this comprehensive history of the origins of the Indian reserves of British Columbia, Harris explains why British Columbia reserves are so numerous and small, and why the provincial government eschewed treaties. He also shows how the personalities and beliefs of provincial Indian Reserve Commissioners could drastically affect the way reserves were laid out and how policy was implemented. However, the story of Reserve Commissioner Gilbert Malcolm Sproat, who became more sympathetic toward Indigenous peoples over time and was relieved of his duties as a result, speaks to the power and momentum of colonialism that went far beyond the

⁶⁹ R. Cole Harris, *Making Native Space: Colonialism, resistance, and reserves in British Columbia* (Vancouver: UBC Press, 2002).

⁷⁰ Daniel Wright Clayton, *Islands of Truth: The imperial fashioning of Vancouver Island* (Vancouver: University of British Columbia Press, 2000).

⁷¹ Giselle Byrnes, *Boundary Markers: Land surveying and the colonisation of New Zealand* (Wellington, NZ: Bridget Williams Books, 2001).

⁷² D. Graham Burnett, *Masters of All They Surveyed: Exploration, geography, and a British El Dorado* (Chicago: University of Chicago Press, 2000).

⁷³ Raymond B. Craib, *Cartographic Mexico: A history of state fixations and fugitive landscapes* (Durham, NC: Duke University Press, 2004).

⁷⁴ Matthew H. Edney, *Mapping an Empire: The geographical construction of British India, 1765-1843* (Chicago: University of Chicago Press, 1997).

⁷⁵ Paul Carter, *The Road to Botany Bay: An exploration of landscape and history* (New York: Knopf, 1988).

individuals involved.⁷⁶ Matthew Edney's *Mapping an Empire* challenges the understanding of scientific surveying and cartography in nineteenth-century as a successful assertion of imperial superiority and control. The Great Trigonometrical Survey of early nineteenth-century India had been widely portrayed as a triumph of rational imperialism, but Edney shows that it was incomplete and chaotic, plagued by budget shortfalls, rooted in patronage, and characterized by constant negotiation between interested parties. In contrast to James Scott's depiction of high-modernist nation-states as singular entities with identifiable objectives, Edney's British Empire, not unlike the DIA in this dissertation, was marked by contradiction, weakness, and failure while at the same time realizing a number of its colonial objectives.⁷⁷

Environmental historians have often emphasized the agency of nature in shaping the decisions of human beings.⁷⁸ This dissertation focuses instead on the role of human beings in shaping nature in ways that were both planned and unplanned. Kahnawá:ke, like many Indian reserves, is a kind of bio-geographical island in that its ecological communities are rather different from those outside of its borders (Figure 1.1). This is not due to geographical factors as much as cultural and political ones. There is no environmental reason why the Châteauguay suburbs stop abruptly on the Kahnawá:ke border, nor why farmlands turn into forests when they reach the eastern boundary of the reserve. In the case of Manitoba agricultural lands, Stunden Bower has convincingly argued that the recurring floods represented a kind of agency of nature that had a great impact on provincial-federal relations, and led to a great degree of inter-ethnic

⁷⁶ Harris, *Making Native Space*.

⁷⁷ Edney, *Mapping an Empire*.

⁷⁸ Carolyn Merchant, *Ecological Revolutions: Nature, gender, and science in New England* (Chapel Hill: University of North Carolina Press, 1989), 7.

cooperation among settlers. In the case of Indian reserves, however, Stunden Bower suggests that the agency lay with political and cultural forces which shaped the landscape. In Manitoba "Aboriginal and non-Aboriginal lands were distinguished not only by the boundaries established at the moment of reserve creation but also by how land change in these areas occurred under substantially different political conditions."⁷⁹ Indigenous communities simply could not access funding for drainage projects in the way that non-Indigenous communities could. Stunden Bower argues that although the land was essentially the same before the establishment of reserves, the political history of Canada has "inscribed notions of race onto the landscape."⁸⁰ Thus, thanks to the Indian Act and the widespread assumption that Indigenous peoples would not use their land productively even if it were drained, Indian reserves remained highly susceptible to flooding while surrounding lands did not. Likewise, the boundaries of the Kahnawá:ke reserve that are visible from the air are testament, not to different climatic or soil conditions, but of differences in governance, culture, and history.

A number of historical works have focused on Kahnawá:ke, and most of these concerned the village under the French regime. As in other First Nations communities whose histories are intertwined with Catholic missions there are several historical texts written by clerics who themselves relied heavily on the writings of early missionaries. Not surprisingly, these works emphasized the Christian character of the community, the positive leadership roles of missionaries, the cultural and political isolation of Kahnawá:ke from the Iroquois Confederacy, and its submission to colonial authority. The most comprehensive and readable of such works was written in 1922 by a Jesuit priest

⁷⁹ Stunden Bower, *Wet Prairie*, 48.

⁸⁰ *Ibid.*

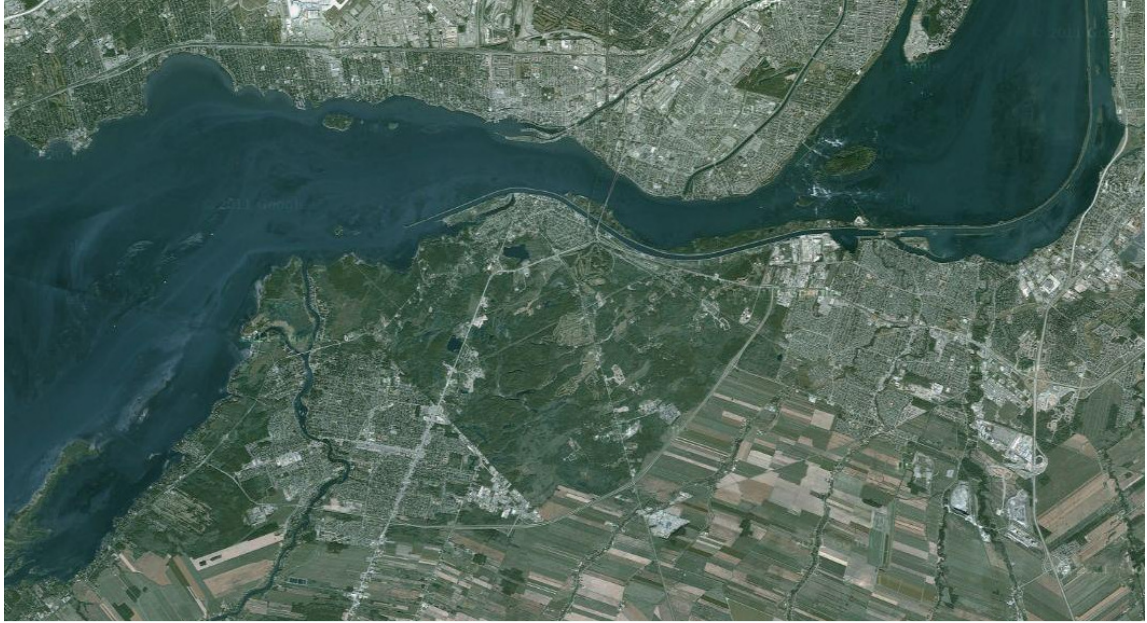


Figure 1.1 A satellite image of Kahnawá:ke clearly shows the boundaries of today's reserve, a triangle-shaped territory amid suburbs and farmland.

named E.J. Devine in which he traces the history of Kahnawá:ke from the seventeenth to the twentieth century. Although he relies mostly on church records and has an obvious interest in defending the legacy of the church, this is a very useful starting point for researchers.⁸¹ Fifty years later when the influence of Christianity at Kahnawá:ke was on the wane, another Jesuit missionary named Henri Bécharde wrote an account of the supposedly radical Christian character of the community in the seventeenth century.⁸² Allan Greer's 2005 *Mohawk Saint* takes a more scholarly, secular perspective on the same period. He uses the primary accounts of Jesuit missionaries, as well as other historical and anthropological sources to show that while the inhabitants of Kahnawá:ke adopted

⁸¹ E. J. Devine, *Historic Caughnawaga* (Montreal: Messenger Press, 1922).

⁸² Henri Bécharde, *The Original Caughnawaga Indians* (Montreal: International Publishers' Representatives, 1976).

Christianity, they did so by integrating certain Christian beliefs and practices on their own terms, while ignoring those that did not fit with their own.⁸³

Gretchen Green's 1991 doctoral dissertation is another important work on the early history of Kahnawá:ke. Green takes on the long-standing assumption that Kahnawakehró:non were subject to the French, arguing that Kahnawá:ke was never truly under the thumb of the colonial government. She shows that Kahnawá:ke had a great deal of agency in its dealings with the French regime, and had the political, economic, and military power to chart its own path. She details, for example, the impunity with which Kahnawakehró:non engaged in supposedly-forbidden trade with Albany, and counters the assumption that Christianity replaced traditional beliefs and practices among Kahnawá:ke Mohawks.⁸⁴ Another important work on the French period is Jan Grabowski's doctoral dissertation on French-Amerindian relations in the Montreal area. In a study that draws on a number of Kahnawá:ke case studies, Grabowski shows that French colonial law, not in theory but in practice, treated Indigenous people much more leniently than it did French settlers.⁸⁵

The heavy emphasis in the seventeenth and eighteenth centuries in the historical literature on Kahnawá:ke means that there has been a relative dearth of historical work on the nineteenth and twentieth centuries. A practical outcome of this relative absence has meant that recent non-historical studies have often included historical overviews that treat the nineteenth century as if nothing happened. A good example of this is Gilles Vincent's

⁸³ Allan Greer, *Mohawk Saint: Catherine Tekakwitha and the Jesuits* (New York: Oxford University Press, 2005).

⁸⁴ Gretchen Green, "A New People in an Age of War: The Kahnawake Iroquois, 1667-1760," (Ph.D. Thesis, College of William and Mary, 1991).

⁸⁵ Jan Grabowski, "The Common Ground: Settled Natives and French in Montreal, 1667-1760," (ibid. Thesis, Université de Montréal, 1994). See also, Jan Grabowski, "French Criminal Justice and Indians in Montreal, 1670-1760," *Ethnohistory* 43, no. 3 (1996).

1983 study on the flora of the Kahnawá:ke seaway island which includes a historical summary until 1827 and then jumps straight to the construction of the St. Lawrence Seaway in the 1950s.⁸⁶ The same tendency can be seen in the 1948 report by government surveyor C. H. Taggart, who gives an extended survey of early Iroquois military history but offers no historical context for the issue of land surveying and ownership which he was hired to address.⁸⁷ The emphasis on the early period in Kahnawá:ke historiography is typical also of the historiographies of other Indigenous communities of the St. Lawrence Valley.

When compared to the early history of Kahnawá:ke, the literature on Kahnawá:ke for the British and Canadian periods is sparse but growing. For the period around the turn of the nineteenth century some of the key works are Alain Beaulieu and Jean-Pierre Sawaya's research on the Seven Nations Confederacy during the British period, Denys Delâge and Étienne Gilbert's work on the relationship of Indigenous peoples to colonial courts, and Arnaud Decroix's legal analysis of the Gage Decision (Chapter 2).⁸⁸ The master's thesis of ethnohistorian Matthieu Sossoyan concerns the roles played by Kahnawakehró:non in the 1837-1838 rebellions. It is particularly relevant for this dissertation because it explains the actions of a number of Kahnawakehró:non during

⁸⁶ Gilles Vincent, "Étude floristique de la portion de la réserve amérindienne de Caughnawaga située au nord de la voie maritime du Saint-Laurent " (M.Sc. Thesis, Université de Montréal, 1983).

⁸⁷ C. H. Taggart, *Caughnawaga Indian Reserve: Report, General and Final* (Ottawa: Department of Mines and Resources, 1948).

⁸⁸ Alain Beaulieu and Jean-Pierre Sawaya, "Qui sont les Sept-Nations du Canada? Quelques observations sur une appellation ambiguë," *Recherches amérindiennes au Québec* 27, no. 2 (1997); Alain Beaulieu and Jean-Pierre Sawaya, "L'importance stratégique des Sept-Nations du Canada (1650-1860)," *Bulletin d'histoire politique* 8, no. 2-3 (2000); Denys Delâge and Étienne Gilbert, "La justice coloniale britannique et les Amérindiens au Québec, 1760-1820 - I. En terres amérindiennes," *Recherches amérindiennes au Québec* 32, no. 1 (2002); Denys Delâge and Étienne Gilbert, "La justice coloniale britannique et les Amérindiens au Québec, 1760-1820 - II. En territoire colonial," *Recherches amérindiennes au Québec* 32, no. 2 (2002); Arnaud Decroix, "Le conflit juridique entre les Jésuites et les Iroquois au sujet de la seigneurie du Sault Saint-Louis : analyse de la décision de Thomas Gage (1762)," *Revue Juridique Themis* 41 (2007).

those momentous years through an analysis of internal disputes over property. Sossoyan also emphasizes the agency of Kahnawá:ke as a political entity, contradicting historical sources that portrayed Kahnawá:ke as little more than a tool of the British colonial government during the rebellions.⁸⁹

Ethnohistorian Gerald Reid's *Kahnawà:ke* is the most relevant historical account of Kahnawá:ke for this dissertation. It explores the origins and manifestations of the political factions that have been a feature of Kahnawá:ke since the nineteenth century. Reid argues that disagreements and tensions related to land and resources lay at the root of nineteenth-century factionalisms. He cites inequalities of land ownership and wood shortages on the reserve, along with the Walbank Survey as important contributing factors.⁹⁰ Reid's work is well-researched and compelling, and although I have disagreed with it on small points in this dissertation, I see my work as complementing rather than contradicting his. Carl Benn's *Mohawks on the Nile* is another important recent contribution to the historiography of nineteenth-century Kahnawá:ke. Benn provide an authoritative account of sixty Mohawks' participation in the Sudan War, and places their exploits into the context of broader patterns of Mohawk men's livelihoods and the history of Rotinonhsiónni diplomatic and military relations with the English and French.⁹¹ Taiaiake Alfred's *Heeding the Voices of Our Ancestors*, based on his historically-informed political science dissertation, argues that the Kahnawá:ke band council (at the time of writing) best represents the dynamism and true traditions of the community

⁸⁹ Matthieu Sossoyan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions, 1837-1838," (MA Thesis, McGill University, 1999).

⁹⁰ Gerald Reid, *Kahnawà:ke: Factionalism, traditionalism, and nationalism in a Mohawk community* (Lincoln: University of Nebraska Press, 2004).

⁹¹ Carl Benn, *Mohawks on the Nile: Natives among the Canadian voyageurs in Egypt, 1884-1885* (Toronto: Natural Heritage Books, 2009).

whereas longhouse traditionalists were purists and literalists focused on the past instead of the future.⁹²

Methodologies

I researched and wrote this dissertation with an acute awareness of my status as outsider. My ancestors are indigenous to Europe, and when I began to work on this project I had lived within the limits of ancient Iroquoia for only a few years. In researching and writing this dissertation I have attempted to see things as much as possible from a Mohawk perspective but I have also recognized my limits in this regard. In the final analysis, this is a history of Kahnawá:ke written by someone who is not Indigenous and does not entirely understand what it means to be Kahnawakehró:non. On the other hand, I hope that I have been able to pose interesting questions, bring insight to the archival documents, offer provisional answers, and construct a narrative that rings true. I am grateful to have had the opportunity to visit Kahnawá:ke frequently and to speak about my archival findings with a number of Kahnawakehró:non over the years. I often gained valuable insights in this way. I did not conduct formal interviews, but have drawn from a few taped and transcribed oral histories conducted by others.⁹³ Additional research based on oral histories will further illuminate the history of Kahnawá:ke land practices.

⁹² Gerald R. Alfred, *Heeding the Voices of our Ancestors: Kahnawake Mohawk politics and the rise of Native nationalism* (Oxford University Press, 1995). Judging by Taiaiake's recent work, it would appear that he has altered his position in this regard. See Taiaiake Alfred, *Wasáse: Indigenous Pathways of Action and Freedom* (Peterborough, Ontario: Broadview, 2005); Taiaiake Alfred, *Peace, Power, Righteousness: An Indigenous Manifesto* (Don Mills, Ont.: Oxford University Press, 2009).

⁹³ For example, Diabo, *Comprehensive Land Report*; n.a., *Old Kahnawake; an oral history of Kahnawake* (Kahnawá:ke: Kanien'kehaka Raotitiokwa Cultural Center, 1991).

This dissertation draws upon a number of primary sources, including newspapers, travel literature, censuses,⁹⁴ legal records, maps, and government reports. The largest part of my research was conducted at Library and Archives Canada, and the greatest part of that was in Record Group 10, the records of the DIA. These include correspondence between Indian agents, department officials, and their superiors as well as petitions, newspaper clippings, letters from third parties, and maps. There are advantages and problems with each of these types of materials. Documents produced by the DIA, in particular, tend to obscure as much as they reveal. In a number of cases, my own interpretation of a particular set of texts changed dramatically over time based on further experience and knowledge gained elsewhere. Among the letters, memos, and reports written by DIA officials are also letters and petitions written by Mohawks themselves. I have used these whenever possible to provide the reader with Kahnawá:ke perspectives. However, while they were written by Kahnawakehró:non, they were usually written to appeal to the sensibilities of Euro-Canadian officials who knew little about, and had little sympathy for, Indigenous points of view. Thus, even documents produced by Indigenous people in the records of the DIA may not always express the true feelings of the author.

DIA officials, including Indian agents, were often motivated by a desire to make themselves look good, cover up mistakes, or justify decisions. In the climate of institutionalized racism that characterized the department it was easy for officials to blame lazy, vindictive, and obstructionist Indians for whatever the problem was. It is also

⁹⁴ I used censuses to confirm identities of individuals and to learn more about family relationships. Historian Michelle Hamilton has pointed out the many ways in which censuses misrepresented the realities of Indigenous peoples, but in my limited use of this source I did not encounter obvious errors or misrepresentations (other than such things as listing the man as the head of the household, etc.). Michelle A. Hamilton, "'Anyone not on the list might as well be dead': Aboriginal peoples and the censuses of Canada, 1851-1916," *Journal of the Canadian Historical Association* 18, no. 1 (2007).

important to note that DIA records, by their nature, highlight conflict instead of harmony. It is for this reason that the action in this dissertation turns on a number of conflicts over land and resources, and the reader could be left with a picture of Kahnawá:ke as a less harmonious place than it really was. The correspondence of department officials and Indian agents are saturated with negative stereotypes and racist assumptions which are easy for an experienced researcher to recognize and factor in, but silences are more difficult to identify. Such topics as women's work and leadership, and small-scale gardening are rarely mentioned in government correspondence, but I have tried to highlight them whenever possible. Nevertheless, some silences will remain silences in this dissertation despite my best efforts.

One research method used primarily in Chapter 6 is the incorporation of a Geographic Information System Analysis (GIS) of the Walbank Survey. The basis for this analysis is the data found in Walbank's Caughnawaga Record Books, which contain information for each claimant and lot, and map of land uses, existing lots, and projected lots. With assistance from GIS specialist Louis-Jean Faucher, I georeferenced the digital image of the map using government-produced topographic vector layers, historical maps, and current satellite photographs. Subsequently, I used GIS software to create digital layers of lot boundaries and land uses, and built a digital data set from the record book data. Faucher then used the plotted lines and data to create the maps that can be found in Chapter 6.⁹⁵ Whenever Walbank and census data was available for individual Kahnawakehró:non who appear in this dissertation, I have included these as footnotes.

⁹⁵ For more on this methodology and the theoretical justification, see Daniel Rueck, "'I do not know the boundaries of this land, but I know the land which I worked:' Using Historical GIS in the study of indigenous environmental history," in *Historical GIS in Canada* ed. Jennifer Bonnell and Marcel Fortin (Calgary: University of Calgary Press, forthcoming).

This dissertation is organized in a roughly chronological way. Chapter 2 is the one exception in that it provides historical context for the rest of the dissertation: an overview on the origins of Kahnawá:ke, the roots of current land claims, community demographics, pre-Indian Act governance, perceptions of outsiders, and the relationship of Kahnawá:ke livelihoods to changing regional economies. Chapter 3 introduces Rotinonhsiónni land practices, as well as customs that were specific to Kahnawá:ke. It shows how, around the turn of the nineteenth century, certain individuals began to challenge community norms and the authority of the chiefs by taking internal conflicts over land to colonial courts. The chiefs responded by drafting a list of twenty-one laws which embodied the principles for upholding the ecological commons. Chapter 4 covers the half-century between 1815 and 1875, one marked by the development of more intrusive Indian legislation, dramatic economic and demographic expansion of Montreal, construction of railroads, and abolition of the seigneurial system. It reveals the continuity of customary land practices in the face of these pressures, as well as the concern and exasperation of the community at the prospect of losing control over the way it was governed. Chapter 5 reveals the chaotic environmental and social consequences that followed an increase in DIA political interference following Confederation. With the chiefs' political power on the wane and the ascendant DIA unwilling or unable to step into the void, there was no entity that could enforce laws related to land, be they customary or otherwise. I argue that the resulting chaos, although it was caused largely by the department, appeared to confirm prevalent stereotypes about lawless Indians. This apparent "tragedy of the commons" was then used to justify the Walbank Survey, which is the subject of Chapter 6. The Walbank Survey was an attempt by the Canadian state to radically transform the community and

landscape of Kahnawá:ke according to liberal ideals, but this chapter shows that it only succeeded in freezing previously-dynamic lot lines and implanting, albeit imperfectly, some of the private property norms of the Indian Act. Chapter 7 traces the decreasing frequency of archival references to customary land laws around the turn of the twentieth century but shows their continued relevance to a number of conflicts in the 1890s. The embarrassing legacy of the Walbank Survey and the subsequent inattention of the department to Kahnawá:ke land matters brought on a host of new problems that still plague the community today.

Orthography

I have had to make some difficult choices regarding terms and orthography. For the most part, I have followed the path set by Gerald Reid and the advice he received from the Elders Advisory Group of the Kanien'kehá:ka Onkwawén:na Raotitióhkwa Language and Cultural Center in Kahnawá:ke. Unlike Reid I have used the term 'Mohawk' (instead of Kanien'kehá:ka) because of its wider currency. While the primary texts consulted for this thesis most frequently refer to Kahnawakehró:non as Caughnawagas, Iroquois, and Indians, there are enough instances of the use of the word 'Mohawk' to convince me that its use is not anachronistic. I use 'Rotinonhsiónni' (Mohawk-language word for 'Haudenosaunee') and sometimes 'Iroquois' in reference to the ethnicity or nationality of Kahnawá:ke residents and other members of the Six Nations. As for a term for those who are members of the Kahnawá:ke community, I have used the common Mohawk term 'Kahnawakehró:non' in the absence of English equivalents aside from the archaic 'Caughnawagans' or 'Caughnawagas,' and the rarely-

used 'Kahnawakes.' For the names of nineteenth-century Mohawks who appear in this dissertation, I have chosen in most instances to refer to them by their Mohawk names when these are known, and if there is a known English/French name I have included it in parentheses at its first appearance. In the case of multiple spellings, I used what appeared to be the most common one. When a name appeared in the Walbank Survey I adopted that spelling because the names in the survey were recorded by a single person (Owakenhen Peter Stacey) in a consistent way. I have not altered these names to reflect the spelling norms of today. For English and French-language quotation I have reproduced them much as they appear in the original, and have included spelling and grammar irregularities without flagging them for the reader.

CHAPTER 2 Aspects of Kahnawá:ke Livelihoods, Economics, and Perceptions of Outsiders

This chapter provides a historical overview of elements of Kahnawá:ke history that provide necessary context for the rest of the dissertation. Unlike other chapters this one does not concern itself with Kahnawá:ke land practices. Instead it gives the reader background for subsequent chapters, and answers some questions that are not directly answered elsewhere. It summarizes the historic territorial grievances of Kahnawakehró:non, how Kahnawá:ke came to be situated in its current location, and how its boundaries changed over time. It also provides some background on Kahnawá:ke demographics, governance, and the perceptions outsiders had of Kahnawá:ke. The chapter ends with an overview of the history of Kahnawá:ke livelihoods from the seventeenth to the twentieth century.

Early Kahnawá:ke

The community of Kahnawá:ke was formed by Indigenous people who were fleeing from the insecurity of war, the ravages of disease, the upheavals of religious factionalism, and the evils of alcoholism.¹ They came from many nations and from many places, but they all believed that Kahnawá:ke offered the things they needed at that time: safety, economic opportunity, religious and social harmony, and sobriety. In sum, they

¹ Although there was a Mohawk community named Kahnawá:ke along the Mohawk River that predated the Kahnawá:ke along the St. Lawrence, residents from the original Kahnawá:ke only made up a portion of the residents of the new Kahnawá:ke in the late seventeenth century.

believed Kahnawá:ke was a place where they would be able to live the kinds of lives they wanted to live, with the kind of freedoms they were used to. They did not come to place themselves under the thumb of the French monarch or missionaries, as early commentators and historians would have it.² Rather they came as political and military allies who were promised political independence, economic opportunity, and land in their traditional territory in exchange for military services. Moving to the Montreal area was not an admission of defeat or a sign of submission, but a calculated decision that living near the center of French colonial power would give them the best opportunity to continue their way of life.³

Mohawks and other Iroquoians had inhabited the St. Lawrence Valley for centuries, but the first Indigenous settlers in the community that would become Kahnawá:ke arrived in 1667. By 1670 it was estimated that twenty families from a number of Indigenous nations lived there, and by 1672 twenty-two nations were represented. In 1673-1674, however, some two hundred Mohawks arrived from the Mohawk Valley, and many non-Mohawks subsequently moved away. From then on the community became increasingly Mohawk in character.⁴ Over the next century, Kahnawakehró:non continued to live in longhouses, and farmed and worked in ways not so different from their ancestors. Some acquired domestic animals for agricultural purposes (also for transportation), but cultivation was still done in large part by women and primarily with traditional crops: corn, beans, and squash.⁵ Kahnawakehró:non

² For example, see Devine, *Historic Caughnawaga*.

³ Reid, *Kahnawà:ke*, 5-9; Alfred, *Heeding the Voices of our Ancestors*; Greer, *Mohawk Saint*, 89-100.

⁴ Greer, *Mohawk Saint*, 89-100.

⁵ Ibid.

continued the traditional practice of moving the village every ten to twenty years until it was moved for the last time in 1716 to its current location.⁶

The Seignury of Sault Saint-Louis

The current legal status of the territory of Kahnawá:ke is tied to its status as a seignury called Sault Saint-Louis, created by the French crown in 1680.⁷ The boundaries of the seignury enclosed about 40,000 acres.⁸ The original deed made this tract of land, running two leagues upriver from the rapids and two leagues inland, the domain of the Iroquois of Kahnawá:ke until the day they should abandoned it. It included two islands, as well as the islets and shoals along the shore. Any Frenchmen who settled on the tract were forbidden from keeping cattle or establishing taverns.⁹ The deed spelled out that the territory was for the benefit of the Iroquois, but the Jesuit missionaries eventually came to believe that they themselves were the owners. Military engineer Louis Franquet was told in 1752-1753, possibly by the missionaries themselves, that the missionaries were the "seigneurs de l'endroit et des environs."¹⁰

As British soldiers were invading the St. Lawrence Valley in 1760, and as it became clear that Montreal would soon fall, the principal leaders of a number of nations

⁶ Decroix, "Le conflit juridique entre les Jésuites et les Iroquois..." 280; Devine, *Historic Caughnawaga*, 20-27; Green, "A New People in an Age of War," 57-58.

⁷ Michel Morin argues that the Gage decision in 1762 meant that Sault-Saint-Louis cannot be considered a seignury since Mohawks were not given the rights of typical of seigneurs. Instead, Morin believes this tract should be considered simply as lands belonging to Amerindians. While this may be true from a legal point of view, the territory was nearly always referred as a seignury until the late nineteenth century when the term 'reserve' gained currency. Morin, *L'usurpation de la souveraineté*, 351.

⁸ Reid, *Kahnawá:ke*, 21; Sossoyan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 22.

⁹ Copie de la concession de la terre nommée le Sault par le roi Louis XIV aux jésuites (Sault-Saint-Louis), May 29, 1680, MG1-C11A, vol. 95, fol. 183-184, reel F-95, LAC.

¹⁰ Louis Franquet, *Voyages et mémoires sur le Canada par Franquet* (Québec: Institute Canadien de Québec, 1889), 37.

previously allied with France (including Kahnawá:ke) met with the British commander Jeffrey Amherst at Oswegatchie in February of 1760 to negotiate an agreement. In exchange for remaining neutral in the conflict, the British promised that Indigenous nations would enjoy the same privileges under British rule as they had under the French, including their land rights in seigneuries and hunting territories.¹¹ What exactly those land rights entailed remained to be negotiated in the years following the conquest. Although the original deed for Sault Saint-Louis specified that the seigneurie was for the Iroquois, Jesuits assumed a managerial role in the operation of the seigneurie, especially in collecting rents from censitaires. This arrangement may have been acceptable to Kahnawakehró:non at one time, but by the time of the British conquest the relationship had seriously deteriorated.¹² Especially during the administrative chaos during and following the conquest, the Jesuits conceded more and more Kahnawá:ke lands to non-Native settlers without authority, and Kahnawakehró:non were furious and concerned.¹³

Fearing they would lose all of their lands in this way, Kahnawakehró:non sent a protest to the military governor of Lower Canada, General Thomas Gage. He investigated the matter in 1762 and ruled against the Jesuits, stating that the seigneurie was vested in the Iroquois and that the underlying ownership lay with the Crown. Removing Jesuit

¹¹ There was probably no written text spelling out the treaty, and if minutes were taken they were subsequently lost. The negotiations ended with an exchange of wampum belts, as was the custom. There are enough consistent references to it in subsequent correspondence and speeches to know the main points it contained. This agreement was ratified in September of 1760 in the Treaty of Kahnawá:ke. See Alain Beaulieu, "La question des terres autochtones au Québec, 1760-1860," (Rapport de recherche déposé au Ministère de la Justice et au Ministère des Ressources naturelles du Québec, 2002); Beaulieu, "Les garanties d'un traité disparu."

¹² By the middle of the eighteenth century, Kahnawá:ke chiefs were lodging formal complaints against the Jesuits for ceding land within the seigneurie without their authorization. See Christine Zachary Deom, *Chronology of Political Events Relative to Kahnawake* (Mohawk Council of Kahnawake Draft Document, 2010).

¹³ Decroix, "Le conflit juridique entre les Jésuites et les Iroquois..."

missionaries from their managerial role, Gage decided that the colonial governor would appoint someone to collect and hand over seigneurial rents to Kahnawakehró:non.¹⁴ Seigneurial land grants appear to have slowed under the British administration but Kahnawakehró:non, like Indigenous peoples in the entire region, still had difficulty stopping non-Native people from settling on their lands.¹⁵ After the Gage decision the threat was less from illegal concessions than from outsiders finding ways to settle on unconceded lands, often with the help of the Indian agent. The situation was so dire that in July of 1771 twenty-two Kahnawá:ke deputies visited Sir William Johnson to ask him to stop French families from settling on their common land.¹⁶ According to historian Maxime Gohier, some thirty to thirty-five percent of petitions from Indigenous people inhabiting the St. Lawrence Valley in the British period concerned land and territory, and most came from Kahnawá:ke.¹⁷ Although there may have been a small number of concessions after the Gage decision, the main territorial concerns of Kahnawakehró:non during the British period were the boundaries of the seignury, the collection of rents, and the appropriation of hunting and fishing territories by non-Native settlers.

A major concern for Kahnawakehró:non throughout the British colonial period was the seigneurial boundary: both the line between the Seignury of Sault Saint-Louis and the Seignury of Laprairie (and to a lesser extent the boundary with Châteauguay), and the boundary between unconceded and conceded lands (today the eastern boundary of the reserve). In 1794 and 1797 Mohawks testified that the Jesuits had moved a

¹⁴ Ibid.

¹⁵ It was reported that in 1796 that Kahnawakehró:non "do not give any new Grants, preferring to keep the Lands for their own use." Memorandum by John Lees based on information from M. Stacey, June 15, 1796, RG8, vol. 248, pp. 172-175, reel C-2848, LAC.

¹⁶ Sir William Johnson, *The Papers of Sir William Johnson*, ed. Alexander C. Flick, vol. 8 (Albany: The University of the State of New York, 1933), 188-189.

¹⁷ Personal communication, Sept. 13, 2010.

boundary marker so that an important mill would be included in the Laprairie seigneurie, which was under Jesuit jurisdiction. They also believed that non-Native farmers routinely moved such markers.¹⁸ The colonial government repeatedly promised to send surveyors to survey the boundaries, but this was never fully done until the end of the nineteenth century.¹⁹ Kahnawakehró:non also fought several court battles, and sent a number of delegations to colonial governors and to London on the issue of boundary encroachment, but their protests generally fell on deaf ears.²⁰

Nineteenth-century expressions of protest also included complaints about unpaid rents and government agents who failed in their task of collecting and delivering seigneurial rents due to ignorance or corruption. For example, Kahnawá:ke chiefs complained about Agent N.B. Doucet in 1824, saying he was a man "que nous ne connessions pas, éloigné de nous, ne connoissant pas lui même les censitaires qui nous payent rentes, combien chacun d'eux doit payer non plus que l'étendue et la situation de leurs terres, ne nous donne ni bled ni argents pour soulager les maux de nos pauvres." They complained that Doucet was afraid to leave his home, refused to speak to the chiefs, and had hired someone else to collect the rents in his stead.²¹ Doucet was replaced, but crooked and unreliable agents continued to be the scourge of Kahnawakehró:non. Income

¹⁸ Jeremiah McCarthy, Procès-verbal concernant les Seigneuries du Sault Saint-Louis et d'autres seigneuries avoisinantes, Mar. 31, 1794, RG10, vol. 9, p. 8976-8978, reel C-10999, LAC; Alexander McKee to James Green, July 28, 1795, RG8, vol. 248, p. 233-236, reel C-2848; Extract of a speech made by Sir John Johnson to the Indian Tribes, June 5, 1797, RG10, vol. 10, p. 9236-9240, reel C-11000, LAC; Memorandum by John Lees based on information from M. Stacey, June 15, 1796, RG8, vol. 248, pp. 172-175, reel C-2848, LAC.

¹⁹ Compte rendu du conseil avec les chefs de Caughnawaga et du lac des Deux-Montagnes, July 26, 1795, and Alexander McKee to James Green, July 28, 1795, RG8, vol. 248, p. 222-224, 233-236, reel C-2848, LAC.

²⁰ Devine, *Historic Caughnawaga*; Decroix, "Le conflit juridique entre les Jésuites et les Iroquois..."

²¹ Kahnawá:ke chiefs to Sir John Johnson Baronet, RG10, vol. 16, p. 12470-12471, reel C-11003, LAC. Spelling of the original has not been altered.

from rents fluctuated over the years but could be significant. In 1830 the income from conceded lands was about £200 in currency and £800 in agricultural produce. It was used for church maintenance, public infrastructure, legal services, pay for the miller and the guardians of the common pasture, upkeep of the mill, and providing for visiting delegations.²² According to a report for the Indian department two years earlier, this income could have been much greater if the revenue had been properly managed.²³

Demographics and Cultural Observations

From the late seventeenth century to beginning of the twentieth, Kahnawá:ke was the largest Indigenous village in Lower Canada with a population between 900 and 2000, according to departmental estimates. The population was difficult to estimate, however, because Kahnawakehró:nnon were highly mobile, with men specializing in careers that took them far away for long periods of time, and their families sometimes went with them. Some were gone for years before returning and others settled where they worked and only came back to visit.²⁴ There were also significant movements of people between Indigenous communities, as well as groups of people who decided to leave for a variety of reasons. It is likely that the population of Kahnawá:ke at any given moment represented only a fraction of all those who considered themselves to be Kahnawakehró:nnon across the continent and world. There were also strategic and military

²² Sossoyan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 24. "Tableau approximatif de la superficie des terres concédées dans la Seigneurie du Sault St. Louis et des cens et rentes qu'elle produit", Doucet, Apr. 14, 1830, RG8 vol. 269, p. 346, LAC; "Moulin de la Tortue," Marcoux, Jan. 25, 1835, RG8 vol. 269, pp. 132-5; "Record Book of Sault St. Louis Landholders," RG10, vol. 665; "Sault St. Louis: Livre de Cens et Rentes", RG10 vol, 666.

²³ Report of Henry C. Darling on Indian Affairs, July 24, 1828, MG24-A12, vol. 9, reel A-535, LAC.

²⁴ Between 1800 and 1804, for example, more than three hundred Iroquois men went west to work in the fur trade. Most of them were from Kahnawá:ke and most returned. Trudy Nicks, *Iroquois Fur Trappers and Their Descendants in Alberta* (Edmonton: Provincial Museum of Alberta, 1979), 18-19.

reasons for Kahnawakehró:non to keep the actual population of the community a mystery. When the French military engineer Louis Franquet asked about population numbers and the number of warriors in 1752-1753, he was told that that these kinds of questions were considered indiscreet.²⁵

Kahnawakehró:non were generally considered to be Christian converts, but the use of Jesuit sources by historians has probably led to an overemphasis on the Christian character of the community. Many observers noted that the Christianity of most Mohawks was not as profound as many missionaries would have wished. Franquet noted that "ils prétendent qu'ils ne se sont séparés des leurs que pour embrasser la religion catholique, à laquelle ils ne sont attachés qu'autant que leurs intérêts s'y trouvent."²⁶ The resident priest, Joseph Marcoux, complained in 1819 about "les danses de nuit," which, to his dismay, were attended by girls and children, as well as young men. In 1825 he complained that the chiefs refused to prevent the young men from playing lacrosse naked.²⁷ Around 1850 many Kahnawakehró:non believed their village had been invaded by a spiritual force, and instead of going to the missionaries for a solution they invited medicine men from other Indigenous communities to solve the problem.²⁸ As historian Allan Greer argues for seventeenth-century Kahnawá:ke, Mohawks' Christianity continued to be synchronistic: they made it their own by adapting it to their traditions and imputing their own understanding to particular Christian teachings and practices.²⁹

²⁵ Franquet, *Voyages et mémoires*, 119.

²⁶ *Ibid.*, 37.

²⁷ Sossoyan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 26.

²⁸ Joseph Doutre, "Les sauvages du Canada en 1852," in *Institut-Canadien en 1855*, ed. J. L. Lafontaine (Montréal: Sénécal & Daniel, 1855), 215.

²⁹ Greer, *Mohawk Saint*.

Beginning around the middle of the nineteenth century, visitors to Kahnawá:ke began to register disappointment about what they found. An early example is Jean-Jacques Ampère (1800-1864) French philologist and writer, who visited Kahnawá:ke in 1851. He was unhappy that the clothing worn by Mohawk men was very similar to that of French-Canadians, but noted that "le costume....des femmes est mieux conservé." He experienced a great moment of disappointment when he entered the village and happened upon "les descendants du peuple le plus puissant et le plus redoutable de ces contrées jouant au bouchon."³⁰ He comforted himself by buying a pair of moccasins from some Mohawk women who he said could only communicate with him through an interpreter.³¹ George Sala, a comedic travel writer who visited Kahnawá:ke in the 1880s wrote that he was "thoroughly disappointed in all that I had come to see." He was particularly annoyed by the fact that most Mohawks he saw were not dressed in traditional clothing, writing that "a Red Indian in a blue jacket and a round glazed hat sounds rather anomalous and incongruous." Even out west, he complained, "the Indian rarely fails to supply himself with European outfit whenever he has an opportunity to do so."³²

Another theme that runs through the documentary history of Kahnawá:ke is observers' conviction that Kahnawakehró:nnon were not authentic Indians because of generations of intermarriage. The commissioners who composed a special report for

³⁰ A game in which players try to knock coins off a cork or similar object, using chips or other projectiles.

³¹ J. J. Ampère and Charles Augustin Sainte-Beuve, *Promenade en Amérique* (Paris: M. Lévy frères, 1874), 172-173.

³² George Augustus Sala, *Under the Sun: Essays mainly written in hot countries* (London: Vizetelly & Co., 1886), 222. For more on the question of Indigenous authenticity, see Simon J. Ortiz, "Towards a National Indian Literature: Cultural Authenticity in Nationalism," *MELUS* 8, no. 2 (1981); Philip J. Deloria, *Indians in Unexpected Places* (Lawrence: University of Kansas Press, 2004); Gerald Vizenor, *Fugitive Poses: Native American Indian Scenes of Absence and Presence* (Lincoln and London: University of Nebraska Press, 1998); Thomas King, *The Truth About Stories: A Native Narrative* (Toronto: Dead Dog Café Productions and the Canadian Broadcasting Corporation, 2003).

Indian Affairs in 1858, for example, wrote that although Kahnawakehrónon were of such "mixed descent...as scarcely to reckon a single full blooded individual among their number," they yet "retain the aboriginal apathy and disinclination to settled labour of any sort."³³ In a curious and common contradiction, the commissioners attributed negative racial stereotypes almost immediately after claiming Kahnawakehrónon were no longer real Indians. A travel writer in 1883 commented on intermarriage and "impurity" of bloodlines.³⁴ An 1896 newspaper announced the death of a Kahnawá:ke man named Teiratasaroiake, the "last pure blooded Iroquois." In a short paragraph sensationalistically titled "The Last of the Iroquois is Dead," the *Daily Nor'Wester* declared that "all the remaining Indians have either French or Scotch blood in their veins."³⁵ Two years later the same newspaper reported the death of a Kahnawá:ke woman reputed to have been 118 years old, and a "pure blood Iroquois."³⁶ In 1948, Charles H. Taggart, a surveyor who was sent to Kahnawá:ke to sort out land titles, estimated that Kahnawá:ke bloodlines were at best one-eighth Indian. "Any claim to Iroquois nationality by blood relationship," declared Taggart, "is unfounded and at variance with all the circumstances indicated by history."³⁷

Likewise, Montreal lawyer Joseph Doutre, who gave a speech on Kahnawá:ke to the Institut Canadien in 1852, felt that Kahnawakehrónon had intermarried with non-

³³ R.T. Pennefather, Fromme Talfourd, Tho. Worthington, "Report of the Special Commissioners...to Investigate Indian Affairs in Canada" Appendix to 16th Vol. of Journals of Legislative Assembly, Province of Canada, 1st Session of Parliament, Feb. 25 – Aug. 16, 1858.

³⁴ n.a., "At Caughnawaga, P.Q.," *Catholic World*, vol. 37, no. 221 (1883).

³⁵ "The Last of the Iroquois is Dead," *Daily Nor'Wester*, Apr. 9, 1894, pg. 1. Teiratasaroiake could not be identified in the Walbank Reference Books.

³⁶ "A Very Old Indian," *Daily Nor'Wester*, June 2, 1896, pg. 1. The "widow of Peter Sayers" could not be identified in the Walbank Reference Books.

³⁷ Report by C. H. Taggart for Minister of Dept. of Mines and Resources, Aug. 15, 1948, in C. H. Taggart, *Caughnawaga Indian Reserve: Report, General and Final* (Ottawa: Department of Mines and Resources, 1948), 9.

Natives for so many generations that little was left to distinguish them from their white neighbours. He believed that, since many Kahnawá:ke men specialized in river piloting, they had completely abandoned hunting. What he did not recognize was that both piloting and hunting were seasonal activities, for summer and winter respectively, and that, although the importance of hunting may have decreased, Kahnawakehró:non never stopped hunting. Nevertheless he went on to claim that the end of hunting had caused Mohawk men to lose their vigor, and that they now lost foot races to French-Canadians.³⁸ This argument about the lack of difference between Mohawks and their neighbours, however, is undermined by the overall thrust of his speech, which centered on difference. Like all other outsiders who recorded comments along these lines, Doutre paid no attention to the ways in which Mohawks traditionally defined their own cultural and national boundaries.

Another racist stereotype that was often applied to Kahnawakehró:non by outsiders was that they were lazy and resistant to change. T. Eugene Antoine, an Oblate priest who was questioned by the Indian department soon after he arrived in Kahnawá:ke in 1857, claimed: "What prevents these Indians from emerging from the state of poverty for which they are proverbial, is the indolence which is natural to them, and an apathy which, in my opinion, is the greatest obstacle to their advancement and improvement."³⁹ In fact, there is no evidence that Kahnawakehró:non were either lazy or poor compared to their neighbours. This was simply the way officials, missionaries, and agents spoke of

³⁸ Doutre, "Les sauvages du Canada en 1852," 216-217.

³⁹ T. Eug. Antoine report to R. T. Pennefather (Appendix 2), Feb. 27, 1857, in R.T. Pennefather, Fromme Talfourd, and Tho. Worthington, "Report of the Special Commissioners to Investigate Indian Affairs in Canada." in Appendix No. 21 to 16th Vol. of Journals of Legislative Assembly, Province of Canada, Feb. 25 – Aug. 16, 1858.

Indigenous people at the time. Antoine went on to opine that the moral, intellectual, and social improvement of the Mohawks in recent years was due to their "continual intercourse with the whites." Factors holding them back from further advances in civilization, according to Antoine, were their "spirit of nationality, their attachment to their own language," and skepticism toward Euro-Canadian schooling.⁴⁰

Politics and Diplomacy

The military and political history of Kahnawá:ke, its relationship to colonial powers, to the Rotinonhsiónni Confederacy, and to other Indigenous communities of the St. Lawrence Valley (the Seven Nations or Seven Fires), is rich and complicated, and a number of excellent works have been written on the subject.⁴¹ Although they were not averse to forming alliances, Kahnawakehró:non have always maintained a fiercely independent stance toward colonial powers (arguably they were most deferential toward outside governments during the last half of the nineteenth century). Most viewed French efforts to "protect" them with fortifications and garrisoned soldiers with great suspicion,⁴² and greatly resented interference of the British colonial government in their internal affairs. Kahnawá:ke envoys, as representatives of a sovereign nation, made agreements with colonial powers and expected these to be respected. Around the turn of the eighteenth century, Kahnawá:ke leaders had the power to concede land, construct and

⁴⁰ T. Eug. Antoine report to R. T. Pennefather (Appendix 2), Feb. 27, 1857, in R.T. Pennefather, Fromme Talfourd, and Tho. Worthington, "Report of the Special Commissioners to Investigate Indian Affairs in Canada." in Appendix No. 21 to 16th Vol. of Journals of Legislative Assembly, Province of Canada, Feb. 25 – Aug. 16, 1858.

⁴¹ Green, "A New People in an Age of War; Parmenter, *The Edge of the Woods*; Dennis, *Cultivating a Landscape of Peace*; Richter, *The Ordeal of the Longhouse*; Beaulieu and Sawaya, "Qui sont les Sept-Nations du Canada?."

⁴² After prolonged resistance from Kahnawakehró:non and the Jesuit missionaries, Vaudreuil gave up on the idea of placing a garrison in Kahnawá:ke in 1724. Green, "A New People in an Age of War," 186.

lease a mill, and make legal agreements with public institutions.⁴³ These powers were steadily taken away over the course of the nineteenth century.

There have been no thorough studies of Kahnawá:ke governance before the establishment of the elected band council in 1889, but a number of commentators and historians made reference to the political system. According to the military engineer Louis Franquet in 1752-1753, Kahnawá:ke was divided into three "familles," each of which was divided into two "bandes" led by individual chiefs who were subordinate to a grand chief.⁴⁴ What Franquet called families and bands were probably roughly equivalent to what would later be called clans. In the 1830s Kahnawá:ke was governed by eighteen members, including seven grand chiefs who were named for life. These grand chiefs were elected by their respective clans by consensus, and confirmed by colonial authorities. These seven chiefs were often called the Council of Chiefs. Around the year 1880 the Department of Indian Affairs refused to confirm any new chiefs upon the death of a traditional chief. When the first band council was elected under the rules of the Indian Advancement Act, only three traditional chiefs remained.⁴⁵

Livelihoods and Economy

The original Kahnawakehró:non settled near the Lachine Rapids for a number of reasons, not least of which was economic. The rapids, until the construction of a network of canals in the nineteenth century, represented a barrier to inland navigation, and Kahnawakehró:non could take advantage that fact by participating in river transportation

⁴³Decroix, "Le conflit juridique entre les Jésuites et les Iroquois..." 292.

⁴⁴ Franquet, *Voyages et mémoires*, 119.

⁴⁵ Reid, *Kahnawà:ke*, 53-54. Sossoyan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 20. Also see Chapter 7 of this dissertation.

above the rapids. Due to their favourable location and legally protected mobility Kahnawá:ke traders were also able to become central players in the lucrative trade between Montreal and Albany, despite numerous attempts by colonial governments to stop them.⁴⁶ French administrators complained about Kahnawá:ke free trading and frequently made laws against it, but there were little they could do in practice. Governor Beauharnois lamented in the 1740s that Kahnawá:ke had become "a sort of Republic," and that furs were frequently diverted away from Montreal to Kahnawá:ke and beyond.⁴⁷

Commercial quarrying in Kahnawá:ke goes back to at least the 1820s when stone was quarried near the village for the construction of the first Lachine Canal.⁴⁸ The Chazy limestone found there was harder than the Trenton limestone available on the Island of Montreal, and ideal for the cutting of large stones for use in construction.⁴⁹ It was used in the construction of a number of canals and bridges in the St. Lawrence Valley, including the Cornwall Canal and the piers of the Victoria Bridge.⁵⁰ There is no record of Mohawk construction workers participating in the building of the Victoria Bridge, but Mohawk boatmen were hired to bring the stone to the construction site.⁵¹ With the enlargement of the Lachine Canal in the 1870s and continuing well into the twentieth century, quarrying

⁴⁶ Jean Lunn, "The Illegal Fur Trade out of New France, 1713-60," *Report of the Annual Meeting of the Canadian Historical Association* 18, no. 1 (1939).

⁴⁷ Green, "A New People in an Age of War," 271.

⁴⁸ Gerald Tulchinsky, "The Construction of the First Lachine Canal, 1815-1826," (M.A. Thesis, McGill University, 1960), 104.

⁴⁹ Thomas Henry Clark, *Rapport Géologique / Geological Report: Région de Montréal / Montreal Area* (Québec: Ministère des richesses naturelles, Direction générale des mines, Service de l'exploration géologique, 1972), 54, 60, 63.

⁵⁰ RG13-A-2, file 1890-149, LAC. The Victoria Bridge connected Montreal to the south shore of the river in 1859.

⁵¹ Jim Rasenberger, *High Steel: The daring men who built the world's greatest skyline* (New York: HarperCollins, 2004), 136.

became an important mainstay of the Kahnawá:ke economy, providing employment for Kahnawakehró:non on a boom-bust cycle.

Following the regional decline in fur-bearing animals and the defeat of the French in North America, it became more common for Kahnawá:ke men to work on the Prairies and farther west as hunters, fur traders, and canoe-men, sometimes in the employ of large companies such as the Montreal-based Northwest Company, and sometimes working independently.⁵² The continental fur trade declined rapidly during the first half of the nineteenth century, and by mid-century many Kahnawakehró:non had made the transition to working in the growing lumbering and wood transport sectors of the Montreal economy. They were heavily involved in provisioning Montreal with firewood, and quickly gained a reputation as capable and courageous river pilots who could guide ships and log-rafts down the dangerous rapids of the St. Lawrence and Ottawa Rivers.⁵³

Careers in the fur trade and lumber industry are probably over-emphasized in the historical literature, not only because they were the domain of men, but also because these types of employment were visible to colonial governments and outside observers. Activities such as hunting and fishing were less visible to outsiders but remained important to the informal Kahnawá:ke economy in the nineteenth century.⁵⁴ The

⁵² For more on Mohawk involvement in the western fur trade, see Trudy Nicks, "The Iroquois and the Fur Trade in Western Canada," in *Old Trails and New Directions: Papers of the third North American Fur Trade Conference*, ed. Carol M. Judd and Arthur J. Ray (Toronto: University of Toronto Press, 1980); Ned Blackhawk, *Violence Over the Land: Indians and empires in the early American West* (Cambridge, Mass.: Harvard University Press, 2006), 161; Green, "A New People in an Age of War"; Alexander F. Chamberlain, "Iroquois in Northwestern Canada," *American Anthropologist* 6, no. 4 (1904).

⁵³ Johnny Beauvais, *Kahnawake: A Mohawk look at Canada and Adventures of Big John Canadian 1840-1919* (Kahnawá:ke: Khanata Industries, 1985).

⁵⁴ Evidence for the continuing importance of hunting and fishing can be found in the complaints about settler infringement on Indigenous hunting and fishing territories in the late eighteenth and early nineteenth centuries. In 1796, for example, the Seven Nations (including Kahnawá:ke), Ottawas, and Malecites protested the prohibition of Indian hunting and fishing on the King's Domain (Innu territory). Discours des Sept Nations, Outaouais, Micmacs et Muskrats (Malécites) à Robert Prescott, Aug. 13, 1796, RG8, vol. 249, pt. 2, p. 301-304, reel C-2849, LAC. Also, Kahnawá:ke chiefs in 1797 protested the infringement on

agricultural activities of Mohawks were also underestimated or ignored by colonial officials, probably because most farmers were women and the scale of farming was small. While small-scale horticulture was largely the domain of women, children, and older men, a minority of men engaged in larger-scale farming beginning in the early nineteenth century. This kind of farming was practiced by those who had the necessary land and capital resources, and by a few non-Native farmers who gained access to Kahnawá:ke land by legal or extralegal means. While most Kahnawá:ke men pursued livelihoods that took them away from the village for long periods at a time, it is important not to overemphasize the division of Mohawk society along gender lines, as many daily activities were done collectively and entire families often travelled together.

Kahnawá:ke experienced important economic, demographic, and environmental changes around the turn of the twentieth century, many related to the dramatic industrialization and growth of Montreal. One of these developments was the rise of Kahnawá:ke as an important tourist destination for Montrealers and visitors to the Montreal area. In 1902, travel writer Gaston du Boscq de Beaumont called Kahnawá:ke "la principale curiosité des environs de Montréal."⁵⁵ Another travel writer, George Sala, said there were only five things for tourists to do in Montreal: "You are only expected to eat a great deal, to pass the bottle, to go round the Mountain, to go through the Tube, and to visit Cuagnawagha."⁵⁶ When Sala asked about this "Cuagnawagha" he was told it was

their right to fish at Beauharnois. Extract of a speech made by Sir John Johnson to the Indian Tribes, June 5, 1797, RG10, vol. 10, p. 9236-9240, reel C-11000, LAC.

⁵⁵ Gaston du Boscq de Beaumont, *Une France oubliée : l'Acadie* (Paris: Librairie Hachette et Cie., 1902), 132.

⁵⁶ Sala, *Under the Sun*, 213. Sala's misspelling of the word Caughnawaga was probably deliberate and intended to be humorous. By "the Tube" Sala meant the Victoria bridge. The original deck of the bridge, a metal tube, was replaced by trusses in 1897-1898. Although constructed three decades before Sala's visit, it was still considered a marvel by many.

an Indian village, and that the best way to get there was "by road to La Chine, where you can obtain a canoe and be ferried across to the village itself." Sala claimed that simply the utterance of the word "canoe" set him "all agog to go."⁵⁷ He was told that Sunday was the best day to visit because that was when the women and children wore their finest clothes.⁵⁸ Sala described his canoe-ride across the river thus:

We crossed the magnificent river, at this point far enough from the La Chine Rapids to be lying calm in the sun like one sheet of burnished gold. There was no awning to the canoe, and a Venetian gondola would perhaps have been preferable as a conveyance; but there was something after all in riding lightly on the bosom of the famous St. Lawrence in a real canoe of birch bark, with a real Red Indian at the stern. I will say nothing of the Irishman at the prow, for he rather detracted from the romance of the thing... The Irishman and the Indian did not attempt the "Row, Brothers, Row," or any other variety of the Canadian boat-song. It was worth coming a good many miles, however, to hear the Irishman endeavour to make himself understood in the French tongue by the redskin, and that noble savage, not to be behindhand in courtesy, endeavouring to talk English to the Irishman. I must not omit to mention that the noble savage wore a pea-jacket and a billy-cock hat, and informed us that in addition to the skill and dexterity with which he feathered his oar, or rather his pole, he was "one dam good pilot."⁵⁹

Probably because his prose was intended to be humorous, Sala's account was even less respectful of Kahnawakehró:non than other contemporary accounts, and especially offensive to Mohawk women whom he mocked and objectified.⁶⁰ Sala self-consciously used the trope of the noble savage, and foregrounded the disappointment often felt by visitors who did not encounter the kind of spectacle they expected.⁶¹ He said he "was

⁵⁷ Ibid.

⁵⁸ Sala referred to Kahnawá:ke women and children as "squaws" and "papooses." *ibid.*

⁵⁹ Ibid., 217-218.

⁶⁰ For more on Indigenous peoples in nineteenth-century travel writing, see Marianna Torgovnick, *Gone Primitive: Savage Intellectuals, Modern Lives* (Chicago: University of Chicago Press, 1990); Dennis Porter, *Haunted Journeys: Desire and Transgression in European Travel Writing* (Princeton: Princeton University Press, 1991); Mary Louise Pratt, *Imperial Eyes: Travel Writing and Transculturation* (New York: Routledge, 1992).

⁶¹ Other nineteenth-century visitors who were disappointed with Kahnawá:ke include: Ampère and Sainte-Beuve, *Promenade en Amérique*; John H. Hanson, *The Lost Prince: Facts tending to prove the identity of*

thoroughly disappointed in all that [he] had come to see," especially in that Mohawks did not dress in the way he felt Indians should. Like other commentators from his era, he was scathing in his commentary on the "looseness" of Kahnawá:ke house construction, but was impressed by their "abundant chattels" and by the fancy furnishings he glimpsed in Kahnawá:ke houses, none of which matched his expectations.⁶² Mohawks were well aware of the disconnect between what tourists expected and what they actually saw. By the middle decades of the nineteenth century Kahnawá:ke performers had gained experience in giving European and North American audiences performances that more closely met expectations. The latter decades of the century saw a number of Kahnawakehró:non make careers of giving tourists what they wanted as performers in circuses and wild-west shows.



Figure 2.1 Postcard titled "Street Scene, Caughnawaga, Que." n.d (early 20th century), CP 917 CON, BANQ.

Louis the Seventeenth, of France, and the Rev. Eleazar Williams, missionary among the Indians of North America (New York: G. P. Putnam & co., 1854); du Boscq de Beaumont, *Une France oubliée*.

⁶² Sala, *Under the Sun*, 209.



Figure 2.2 Postcard titled "Caughnawaga, Que." Postcard, n.d. (early 20th century), CP 916 CON, BANQ.

An anonymous columnist for *The Catholic World* visited Kahnawá:ke in the summer of 1883 and made several observations on the village. Like many commentators of the period, this visitor's first views and impressions were from the river. Viewed from the Lachine pier, the author wrote, "Caughnawaga has the appearance of a large and flourishing village; but in this, as in many other cases 'Distance lends enchantment to the view.'"⁶³ Faced with the choice of the "ponderous ferry-boat plying between Lachine and Caughnawaga, that at stated hours will convey you from the railway wharf at Lachine to a rather rickety pier on the Caughnawaga side" or the rather romantic option of crossing "in a canoe paddled by two brawny red men, who smile loftily at your fears and guarantee safety" the visitor, of course, chose the latter.⁶⁴

⁶³ n.a., "At Caughnawaga, P.Q.," *Catholic World*, vol. 37, no. 221 (1883).

⁶⁴ *ibid.*



Figure 2.3 Postcard titled "Ferry Lachine to Caughnawaga," n.d. (1920s), CP 5255 CON, BANQ.



Figure 2.4 Postcard titled "General view of the Iroquois Indian village of Caughnawaga, near Montreal," n.d. (1920s), CP 926 CON, BANQ.

The author's first impression of the village after the river-crossing was one of mild disappointment:

Once landed you look about for the imposing little town you saw from Lachine. Can this collection of straggling gray houses be Caughnawaga? - warm-looking (indeed, far too warm on this sultry summer day), but for the most part uncleanly and most irregular in situation and in architectural design. The soil is dry, white, and sandy, the atmosphere close and none of the pleasantest. One is struck by the absence of whitewash, paint, flowers, and the small prettinesses that give such a charm to the French villages. The houses are open to the public gaze, and within can be seen bead-work and bark-work, and other evidences of the chief trade of the place.⁶⁵



Figure 2.5 Photograph, n.a., "Village of Kahnawake, QC, about 1910," MP-0000.933.3, MM.

⁶⁵ *ibid.*



Figure 2.6 Photograph, Wm. Notman & Son, "Indian village, Caughnawaga, QC, about 1885," VIEW-2471, MM.

By the end of the article, however, the author's initial disappointment had been replaced by a more romantic vision of Kahnawá:ke:

Caughnawaga has long since lost its monastic aspect, but reminiscences of the old voyageur-historians fill our minds as we saunter through the irregular streets and watch the little Indian children at play. Here and there a cradle of the old back-board pattern shows a lingering fondness for the old custom. On the wharf a bevy of Indian women sit motionless, awaiting the arrival of the ferry-boat that is to convey them and their beaded wares to market. On the water--or, more truly, in it--some small boys are constructing a miniature raft. Up and down the platform pace two Oblate novices telling their beads. All is picturesque even the stoical disregard of time. At length, wearied with waiting, we take advantage of a passing steamer, the *Beauharnois*, and, with our hands full of beaded treasures and of sweet-smelling roses from the Jesuits' garden, we bid farewell to our kind entertainers and leave the dreamy world of Caughnawaga well pleased with the effect of Christian civilization as exemplified in the once ferocious Iroquois of Sault St. Louis.⁶⁶

⁶⁶ *ibid.*

This passage leaves the reader with the sweet vision of a peaceful, pleasant, timeless Indian village. However, not all visitors were as forgiving, and the unmet expectations of tourists were closely related to the rise of entertainment careers among Kahnawakehró:non in the decades around the turn of the century.

Singing, drumming, and dancing have always been important elements of Rotinonhsiónni culture, but during the last decades of the nineteenth century Kahnawakehró:non adapted practices that would appeal to primarily non-Native audiences. The first Kahnawakehró:non to visit Europe for the expressed purpose of performing were two Mohawks who were a part of the Canadian delegation to the 1866-1867 Universal Exhibition in Paris. They also made a stop in London but were not much impressed, saying that Paris was to London as Montreal to Kahnawá:ke. The following year fifteen young Kahnawakehró:non travelled to London to perform dances and play exhibition lacrosse games.⁶⁷ Such exhibition matches had also been played for the Prince of Wales on the occasion of his 1860 visit to Canada, and for Prince Arthur in 1869.⁶⁸ Thirteen performers toured England, Scotland, and Wales in 1876, the highlight of the trip being a lacrosse game played before Queen Victoria in Windsor Castle. These tours were not simply excuses for young Mohawks to visit Europe, but also important commercial tours for the sale of items manufactured in Kahnawá:ke.

Kahnawakehró:non also began to travel around North America at least as early as 1870s to put on small stage shows, and to sell crafts and medicines. During the first

⁶⁷ David Blanchard, "Entertainment, Dance and Northern Mohawk Showmanship," *American Indian Quarterly* 7, no. 1 (1983): 10; Devine, *Historic Caughnawaga*, 404.

⁶⁸ Anna Shea, "Cultural Mechanisms of Empire: The 'Lacrosse Emigration Tour' of 1883," (M.A. Thesis, McGill University, 2004), 9.

decades, these tours were largely organized by Kahnawakehró:non themselves, using traditional Iroquois regalia, dance repertoires, and storylines, but later it became more common for them to play Indian roles in shows and circuses.⁶⁹ Demand for this kind of entertainment rose dramatically in the 1890s, and Kahnawakehró:non were part of the Pawnee Bill Wild West Show when it started touring in 1890.⁷⁰ Also in 1890, the member of parliament for Lachine, Cyrille Doyon, stood up in the House of Commons and asked the government if it intended to help out several Kahnawá:ke performers who were stranded in San Francisco after their circus, which was to tour California and Australia, "abandoned them."⁷¹ Kahnawá:ke performers also entertained large crowds



Figure 2.7 Postcard titled "Thanenrishon, a Mohawk man, at Kahnawake, QC, about 1910," MP-0000.933.8, MM.

⁶⁹ Blanchard, "Entertainment, Dance and Northern Mohawk Showmanship," 10-12.

⁷⁰ Ibid.

⁷¹ Canada, House of Commons, *Debates*, Mar. 10, 1890, p. 1654-1655.

at the 1893 Chicago Columbian Exhibition and as part of the Texas Jack Wild West Show in the early twentieth century. Kahnawá:ke "vaudevillians" established residence in New York City by 1910, and performers established a permanent base of operations in Kahnawá:ke with the opening of the "Indian Village" tourist attraction in the 1930s.⁷²

An important part of the income earned by performers came from the sale of manufactured items such as shoes, clothing, snowshoes, lacrosse sticks, and baskets. Marcoux noted that the manufacture and sale of footwear and beadwork had become an important economic activity in Kahnawá:ke by the 1830s.⁷³ The painter Cornelius Krieghoff depicted several scenes of Kahnawakehró:non in the 1840s, a number of which show them with such items for sale. The one in Figure 2.8 shows a young Mohawk woman carrying baskets, presumably on her way to market.⁷⁴ The manufacture of these items represented an important and growing sector of the Kahnawá:ke economy in the latter half of the nineteenth century.

By the 1880s, most Kahnawá:ke households participated in this industry: women did more of the handwork, but many men were also involved. According to Sala, women "filled up their time by making baskets and creels, and embroidering those exquisite moccasins, slippers, pouches, fans, wampam-belts, and other articles of bead and feather-work which are so much in request in the fancy bazaars of Montreal and Quebec, and for which the retail dealers charge such exorbitant prices."⁷⁵ The ethnologist and geologist Erminnie Smith was mostly interested in the state of the Mohawk language

⁷² Blanchard, "Entertainment, Dance and Northern Mohawk Showmanship."

⁷³ Devine, *Historic Caughnawaga*, 379.

⁷⁴ She is shown wearing a top-hat, something which would have been extremely unusual for a non-Native Montreal woman at the time. This could be an indication of continuing sharp differences in gender identities and roles between Mohawks and Euro-Canadians.

⁷⁵ Sala, *Under the Sun*, 220-221.



Oil on canvas, Cornelius Krieghoff, "An Iroquois woman from Kahnawake," 1847-1852, M967.100.10, MM.

when she visited Kahnawá:ke,⁷⁶ but she reported that "the beadwork of the women is sold from Maine to San Francisco." Furthermore, she pointed out that "over ten thousand pounds of beads are kept constantly on hand in the wholesale store of one of the chiefs to supply the never-ceasing demand."⁷⁷ The Indian agent reported in 1883 that "much money is made by these Indians by trading in Indian handicraft, and there are several members of the community who are quite well off, their enterprise in business having made them so."⁷⁸ Gaston du Boscq de Beaumont, when he visited around the turn of the century, went shopping for locally-manufactured items at a Kahnawá:ke store whose

⁷⁶ Smith believed that the Kahnawá:ke dialect of Mohawk had been completely isolated for more than two hundred years, which had certainly not been the case.

⁷⁷ Erminnie Smith, "Life Among the Mohawks of the Catholic Missions of Quebec Province," *Proceedings of the American Association for the Advancement of Science* 32 (1883): 398.

⁷⁸ Canada, Annual Report of the Department of Indian Affairs, House of Commons, *Sessional Papers*, no. 5 (1883), xxxiv-xxxv.

proprietor lived in an "élégante villa" complete with "piano, lits d'acajou, armoires à glaces, suspension dans la salle à manger, [et] baignoires."⁷⁹

Further evidence of the importance of this industry is the letter written by four Kahnawá:ke merchants protesting a new duty on beads addressed to Peter Mitchell, an independent Liberal Member of Parliament and advocate of free trade.⁸⁰ The letter read like this:

We the undersigned Indians beg to inform you that us and our whole tribe feel that we are unjustly treated by the high duty forced on beads that we use to manufacture beadwork of which the largest number of our tribe have no other means to earn their living by—only to manufacture beadwork and the largest portion of it is sold in the United States and is admitted free of duty; if it was not passed in the United States free a large number of our Indian people would almost starve, and now since the new tariff the Montreal merchants we have to buy from having advanced prices on their beads, these high prices we are forced to pay for beads will lead us to starvation. We have had it very hard to make a living before the new tariff (35 per cent). We humbly beg will you please be kind enough to look down on us poor Indians and get the bead duty repealed and reduced to 25 per cent. By doing this you will deeply and greatly oblige us in need.⁸¹

Repeated references to the poverty of petitioners should not necessarily be taken at face value since such rhetoric was a common way to emphasize the importance of one's request. The fact that this letter was written at all, however, is an indication of the size and importance of the manufacturing sector in Kahnawá:ke, and the personal political

⁷⁹ du Boscq de Beaumont, *Une France oubliée*, 134. The annual exhibitions, first held in 1882, may have encouraged the growth of this industry as they included displays of cradleboards, beadwork, clothing, leatherwork, and lacrosse sticks. "The Indian Exhibition," *Montreal Daily Witness*, Sept. 29, 1883, reprinted in Canada, House of Commons, *Sessional Papers*, no. 4 (1884), 152-158.

⁸⁰ W.A. Spray, "Mitchell, Peter," *Dictionary of Canadian Biography Online*, <http://www.biographi.ca>, accessed July 12, 2012.

⁸¹ Letter by Lose Theriweiere alias Joseph Barnes, Ramis Tenateronakwa, See Sasennowenm, Sorat Karhonrihson [the poor spelling of these names makes it difficult to positively identify the individuals] to Peter Mitchell, in Canada, House of Commons, *Debates*, Apr. 17, 1890, p. 3560-3561.

and business relationships cultivated by influential Kahnawakehró:non outside of their territory.

Items manufactured in Kahnawá:ke included those intended purely as functional tools, such as brooms and snowshoes, and also "curiosities" that were sold as souvenirs.⁸²

Kahnawá:ke salespeople also used a number of creative means to sell these items. In

October 1881, for example, the Montreal Gazette reported that:

White Eagle, the Caughnawaga Indians runner, passed through the city yesterday. He was on his way home from Colorado, where he has been for six months past selling Indian curiosities. Shortly before starting he ran a five mile race, doing the distance in 28 minutes. White Eagle is one of the Indians who went through with Sir Garnet Wolseley in the Red River expedition. He leaves in about three weeks for Cuba, where he goes for the winter to sell Indian goods.⁸³

It appears that White Eagle employed a year-round sales strategy whereas others spent the summer travelling and the winter in Kahnawá:ke. Chief Skatsentie (Joseph Williams) was one of the major Kahnawá:ke businesspeople directing the manufacturing sector in the early 1880s. *The Catholic World* columnist wrote that he lived in a very luxurious house where he prominently displayed "a photograph of the band who went to Windsor Castle to play lacrosse before Queen Victoria, and also another group of Iroquois photographed in Germany, in which country Chief Williams' father did considerable business in selling Indian curiosities."⁸⁴

While women provided most manufacturing labour in Kahnawá:ke, men continued to choose livelihoods that took them far from home for long periods of time. By the 1880s, with railroads carrying more cargo and most ships no longer running the

⁸² Smith, "Life Among the Mohawks of the Catholic Missions of Quebec Province," 398.

⁸³ "Dominion News, From Ottawa," *The Montreal Gazette*, Oct. 18, 1881.

⁸⁴ n.a., "At Caughnawaga, P.Q.," *Catholic World*, vol. 37, no. 221 (1883). For more on Skatsentie, see Chapter 5.

rapids—using canals instead—piloting became a niche tourism business. Tourists would now pay for the thrill of running the rapids with an authentic fearless Indian pilot at the helm. One well-known and charismatic pilot was Taiaiake (Big John Rice or Jean-Baptiste Rice), who was also the organizer of the first trip of the Kahnawá:ke lacrosse team to London in 1867 (Figure 2.9).⁸⁵ The days when large numbers of



Figure 2.9 Photograph, n.a., "Jean Baptiste Rice, river pilot, Montreal vicinity, QC, about 1890," MP-0000.933.5, MM.

Kahnawakehró:non could earn their livelihoods as river pilots were drawing to a close, but the reporter for *The Catholic World* noted still in the 1880s the local school had

⁸⁵ Beauvais, *Kahnawake*, 100-103.

difficulty attracting students because: "Indian boys can earn two dollars and a half by piloting a raft down the rapids, and the money as well as the excitement is naturally a great inducement to them to play truant. The girls are enticed away by large payments for bead-work, so that it seems almost impossible to secure a regular attendance at school."⁸⁶

In the 1880s, many Mohawk men made a successful transition from other occupations to ironworking. Building on their reputation for fearlessness, Mohawk men distinguished themselves as skilled and courageous ironworkers during the construction of the CPR Bridge and in many other construction projects in the following years. By the early twentieth century, iron and steelwork had become the most common waged occupation for Kahnawá:ke men, so that in 1914 about ninety percent of adult males—651 in total—belonged to the National Structural Steel Workers Union.⁸⁷ Within three decades of their first involvement in the industry, Kahnawá:ke ironworkers established a permanent presence in New York City that continues to this day.⁸⁸ The construction of the CPR Bridge in 1887 also allowed a greater number of Kahnawakehró:non to participate in wage labour opportunities on the other side of the river.⁸⁹ Although the new bridge and line required land expropriations and caused a number of hardships (Chapter 6), many saw the bridge in positive terms because it gave them access to new places of

⁸⁶ n.a., "At Caughnawaga, P.Q.," *Catholic World*, vol. 37, no. 221 (1883).

⁸⁷ Bruce Katzner, "The Caughnawaga Mohawks: The other side of ironwork," *Journal of Ethnic Studies* 15, no. 4 (1988). To this day, steelwork is a common career choice for Kahnawá:ke men. After the September 11, 2001 terrorist attacks, at least fifty Mohawk steelworkers took part in the recovery effort. David Johnston, "Seeing the Unthinkable: Mohawk ironworkers who helped the World Trade Centre return for a grim task," *Montreal Gazette*, Sept. 15, 2001, A3.

⁸⁸ Reid, *Kahnawà:ke*, 19.

⁸⁹ For more on the CPR bridge, see Daniel Rueck, "When Bridges Become Barriers: Montreal and Kahnawake Mohawk Territory," in *Metropolitan Natures: Urban Environmental Histories of Montreal*, ed. Stéphane Castonguay and Michèle Dagenais (Pittsburgh: University of Pittsburgh Press, 2011).

employment such as the fruit orchards of Lasalle and the factories of Lachine (Figure 2.10).⁹⁰



Figure 2.10 Photograph, n.a., "Aerial view of Dominion Bridge Company Ltd. Lachine plant," 1927, MG28, LAC. Taken forty years after the construction of the CPR Bridge, this photograph shows the plant of the Dominion Bridge Company in the foreground, the Lachine Canal just above it, and the CPR Bridge leading from not-yet-urbanized Lasalle to Kahnawá:ke on the other side of the river.

Conclusion

Kahnawakehró:non have lived in close proximity to Euro-Canadians for centuries and have maintained their distinct society against all predictions to the contrary. They

⁹⁰ The Indian agent anticipated this positive side-effect for the community even before construction began. Canada. "Annual Report of the Department of Indian Affairs," Jan. 1, 1887, Sessional Papers, vol. 5, pg. xxvii.

participated in the global economy through their involvement in the fur, lumber, and construction industries, and they used their diverse skills and creativity to entertain audiences on both sides of the Atlantic. On their home territory, Kahnawakehró:non governed themselves and managed their lands in ways they saw fit, but faced repeated incursions, both in the form of infrastructure related to the growth of Montreal, in the form of political intervention by the Department of Indian Affairs. The following chapters further explore these incursions, their impacts, and the responses of the community.

CHAPTER 3 "Attendu que la Seigneurie du Sault St Louis est la propriété de la Nation Iroquoise dudit village...": Kahnawá:ke Land Practices to 1815

Kahnawá:ke saw tremendous change from the last move of the village in 1716 until the years following the end of the War of 1812: the status of Mohawks was downgraded (in the eyes of colonial officials) from essential military ally to uncooperative liability; Montreal grew from a village to a city on the brink of explosive industrialization; the countryside was transformed from mostly uncultivated land to farms; and with the conquest of 1760, colonial governance changed from French to English. This chapter details how Mohawks adapted their land practices to new circumstances, and how this adaptation resulted in new conflicts and debates. It describes the beginnings of a kind of “tragedy of the commons,” but not one brought on by many rational, self-interested individuals depleting a common resource to the detriment of all, as Garrett Hardin described it.¹ Instead, the tragedy described in this dissertation was brought on by individuals (both inside and outside the community) who opposed the communitarian elements of Mohawk society and broke customary laws governing the exploitation of common property resources. This chapter begins with an overview of some of the features of Iroquoian land practices prior to and during the eighteenth century, as well as those specific to Kahnawá:ke. It then relates how certain community

¹ Hardin, "The Tragedy of the Commons."

members began to challenge those norms around the turn of the nineteenth century, and ends by showing the ways in which Kahnawá:ke leaders responded to this threat.

Rotinonhsiónni Land Practices Before 1800

When Europeans first encountered them, Iroquoian villages were moved from one site to another approximately once per generation. Village sites were carefully chosen based on a number of factors, including the quality of the soil, access to water and availability of firewood. Uplands were often favoured, not only because these locations were easier to defend, but also because of their lighter soils which were relatively easy to turn with wooden tools. The area in and around villages was referred to by Iroquois people as "the clearing," in opposition to the spaces beyond which were known as "the forest."² The Dutch colonial lawyer Adriaen van der Donck noted in about 1640 that Mohawk villages usually had woodlands on one side and fields on the other.³ In the absence of metal tools, Iroquoians cleared land for cultivation by burning or girdling trees near the village. They also used materials derived from plants and animals inhabiting the forests around the village for food, clothing, medicine, fuel, and construction.⁴ A village remained in the same place until a number of factors converged to make a move necessary. After several years in the same location, soil became compacted and lost its fertility, and weeds became unmanageable; firewood became too distant for easy

² Rotinonhsiónni land practices included fishing and hunting (usually associated with "the forest") but the focus here is activities that were associated with "the clearing." Evidence from a number of non-Rotinonhsiónni Iroquoian peoples is included since Iroquoians in the entire Great Lakes region followed similar land practices.

³ Adriaen van der Donck, *Description of the New Netherlands [in 1640]*, trans. Jeremiah Johnson (New York: New York Historical Society, 1841), 198.

⁴ Gordon M. Day, "The Indian as an Ecological Factor in the Northeastern Forest," *Ecology* 34, no. 2 (1953): 330-331.

collection and transport back to the village; and insect and rodent pests invaded fields and homes.⁵ Over the life of a particular village location, more and more effort and time were required to produce crops, collect firewood, and maintain the longhouses, until finally the community decided to move to a new location.⁶

Iroquoian fields could range in size from ten to several hundred acres. Early explorers and missionaries described fields of a scale that bears little resemblance to the little gardens shown in many museum dioramas. French soldiers in 1669 reported a Seneca clearing of cultivated land six miles in circumference, and in an attack on four Seneca villages in 1687 the French attackers claimed they destroyed 400,000 minots or 1.2 million bushels of corn.⁷ The Dutch traveler Harmen Meynderts van den Bogaert who visited Mohawk country in 1634-5 gave account of affluent towns in which longhouses were stuffed with beaver pelts, grains, and dried venison. Everywhere he went he saw huge stores of corn, in some cases entire longhouses dedicated to this purpose, some holding up to 300 bushels each. One town he saw consisted of fifty-five longhouses used for habitation, and a number used only for grain storage, but he wrote that even the inhabited houses were full of grain and beans.⁸ To give an example from Kahnawá:ke itself, when the community was moved to Montreal in anticipation of a Rotinonhsiónni

⁵ There is evidence that Iroquoian villages before the fifteenth century occupied sites for up to fifty years, but by the time of contact with Europeans the maximum was about twenty-five years. Dennis, *Cultivating a Landscape of Peace*, vol. 2, pg. 26, 77.

⁶ For more on Iroquoian and Algonquin land practices, see William Cronon, *Changes in the Land: Indians, colonists, and the ecology of New England* (New York: Hill and Wang, 1983); Day, "The Indian as an Ecological Factor in the Northeastern Forest."

⁷ Dennis, *Cultivating a Landscape of Peace*, 27. To put this into perspective, this much grain would fill seventeen Olympic-sized swimming pools.

⁸ Harmen Meynderts van den Bogaert, *A Journey into Mohawk and Oneida Country, 1634-1635: The Journal of Marmen Meynderts van den Bogaert*, ed. Charles T. Gehring and William A. Starna, trans. Charles T. Gehring and William A. Starna (Syracuse, New York: Syracuse University Press, 1988). For further evidence of the high productivity of Iroquoian horticulture, see Day, "The Indian as an Ecological Factor in the Northeastern Forest," 330-334.

attack, it took soldiers six weeks to transport all of Kahnawá:ke's stored corn across the river.⁹ While modernizers have long derided it as backward and unproductive, swidden cultivation, also known as “slash and burn” farming was one of the key elements that enabled the Rotinonhsiónni to build a relatively secure and wealthy society.¹⁰

Both agricultural space and agricultural work were part of "the clearing," which was feminized in Iroquoian thinking and practice. Men played a limited role in this space when they inhabited it. They built houses and cleared fields, but it was the women who directed these activities. Women were seen to have jurisdiction over the direction of the village and agricultural activities, and were responsible for planting, tending, harvesting, and processing crops, storing and cooking food, as well as observing taboos and conducting rituals that promoted successful harvests.¹¹ Van der Donck noted in the 1640s that old men and children also worked the fields under the direction of the women.¹² More than a century later, a group of Mohawks told Sir William Johnson that women were the “Truest Owners” of the land because they were the ones who laboured on it.¹³

Joseph-François Lafitau (1681-1746), a Jesuit missionary and writer who lived in Kahnawá:ke during the second decade of the eighteenth century, was an astute observer

⁹ Devine, *Historic Caughnawaga*, 89.

¹⁰ For more on swidden agriculture around the world, see Hugh Brody, *The Other Side of Eden: Hunters, farmers and the shaping of the world* (Vancouver: Douglas & McIntyre, 2000); Cronon, *Changes in the Land*; Timo Myllyntaus, Minna Hares, and Jan Kunnas, "Sustainability in Danger? Slash-and-burn cultivation in nineteenth-century Finland and twentieth-century Southeast Asia," *Environmental History* 7, no. 2 (2002); D.B. Grigg, *The Agricultural Systems of the World* (Cambridge: Cambridge University Press, 1984).

¹¹ For more on the position of women in Iroquoian societies, see F. W. Waugh, *Iroquois Foods and Food Preparation* (Ottawa: Government Printing Bureau, 1973 [1916]); Elizabeth Tooker, "Women in Iroquois Society," in *Extending the Rafters: Interdisciplinary Approaches to Iroquoian Studies*, ed. Michael K. Foster and Jack Campisi (Albany: State University of New York Press, 1984); Judith K. Brown, "Economic Organization and the Position of Women Among the Iroquois," *Ethnohistory* 17 (1970); Arthur C. Parker, *Parker on the Iroquois*, ed. William Fenton (Syracuse: Syracuse University Press, 1968).

¹² van der Donck, *Description of the New Netherlands*, 209.

¹³ Alan Taylor, *The Divided Ground: Indians, settlers, and the northern borderland of the American Revolution* (New York, NY: Alfred A. Knopf, 2006), 18.

of everyday Mohawk life. He commented on the fact that women cultivated the soil, and made specific observations regarding the way they organized themselves for the heaviest tasks. According to Lafitau, Kahnawá:ke women "font diverses bandes nombreuses, selon les differens quartiers où elles ont leurs Champs, & elles passent d'un Champ à l'autre, s'aidant ainsi toutes mutuellement." One woman was designated as a sort of coordinator, or in Lafitau's words "la Maitresse du Champ," whose job it was to distribute seeds, and assign each working group to a particular area. Lafitau added that it was relatively easy to move from field to field because there were no hedges or ditches between fields as there were in the Europe he knew. In fact, he noted that to an untrained eye the fields "ne paroissent faire tous ensemble qu'une seule piece; sans que pour cela elles aient des disputes pour leurs bornes, que chacune sçait fort bien reconnoître."¹⁴ Although many would have assumed that the open character of the fields implied lack of field divisions, Lafitau was perceptive enough to understand that Mohawk land ownership was at once communal and individual in character. Lafitau's remarks are unusual in that he did not make negative comments about the openness of Iroquois agricultural landscape the way many of his contemporaries did. Van der Donck, sixty years before, said Amerindians were "not neat and cleanly in their fields," that they paid very little attention to their crops, and that they left their fields open, unenclosed, and unprotected. Nevertheless, even van der Donck admitted that these methods produced massive surpluses, on which the Dutch depended to stock their ships.¹⁵

¹⁴ Joseph François Lafitau, *Moeurs des sauvages americains comparées aux moeurs des premiers temps*, 4 vols. (Paris: Chez Saugrain l'aîné et al., 1724), vol. 2, 77. Early anthropologist Louis H. Morgan noted that lots belonging to different families would have been bounded by uncultivated ridges, Lewis H. Morgan, *League of the Ho-de'-no-sau-nee or Iroquois* (North Dighton, MA: JG Press, 1995 [1851]).

¹⁵ van der Donck, *Description of the New Netherlands*, 209-210.

Women began to prepare the ground for planting as soon as the snow melted. They first gathered and burned the stubble from the previous year, then turned the soil using a tool described by Lafitau as a piece of bent wood "de trois doigts de largeur" attached to a long handle. Instead of the linear headlands and furrows of European farmers and their draught animals, Mohawks created small round hillocks, about three feet in diameter. Lafitau wrote that nine corn seeds were planted in each hillock and beans were planted next them.¹⁶ Mohawk fields were also planted in dozens of other crops, some of which are described in the following passage by Lafitau:

Outre le Maïs, elles sement des feveroles ou de petites fèves, des citrouilles d'une espece differente de celle de France; des Melons d'eau & de grands Tournesols. Elles sement les fèves à côté des grains de leur Bled d'Inde, dont la canne ou la tige leur sert d'appuy, comme l'Orme à la vigne. Elles font des Champs particuliers pour leurs Citrouilles & leurs Melons; mais avant que de les semer dans leurs Champs, elles préparent une terre noire & legere, dans laquelle elles les font germer entre deux écorces dans leurs Cabanes, au-dessus de leurs foyers.¹⁷

While Lafitau was able to see and convey to his readers the hard work, care, and expertise of the Mohawk farmers, the likes of Van der Donck preferred to define this husbandry by what it lacked ("manuring and proper tillage") and seemed surprised that they continued to prefer their own practices over the more labour- and time-intensive methods of Europeans.¹⁸

Lafitau observed that Mohawks did not sow in autumn, as French farmers often did, because their crops were all, as he called them, "d'Esté," or summer crops. These included sesame, millet, panic-grass and other vegetables. He noted that the most important Mohawk crop, corn or maize, required only three months between sowing and

¹⁶ Lafitau, *Moeurs des sauvages*, vol. 2, 76-77.

¹⁷ Ibid., vol. 2, 77-78.

¹⁸ van der Donck, *Description of the New Netherlands*, 210.

harvesting. In fact, many of the grains he observed being raised in other parts of the French colony were sown in April and May and harvested in July and August.¹⁹ During the mid-winter months when van den Bogaert was in Mohawk country he was served baked and boiled pumpkins, beans, venison, dried and fresh salmon, hare meat cooked with chestnuts, dried strawberries, and loaves of bread, some of which had nuts, chestnuts, blueberries, and sunflower seeds baked into them. He claimed that he ate beaver every day, and that he was served bear meat on at least two separate occasions.²⁰ The Rotinohsiónni enjoyed considerable food-security because they knew how to sustain themselves from multiple sources. Even while some inhabited the village year-round, others travelled great distances to take advantage of what different regions had to offer. If crops failed, the people could still eat meat, berries, and nuts; and if the hunters came back empty handed, the agricultural produce would see them through.

Rotinohsiónni land practices were designed to meet material needs in a way that took into account a number of cultural priorities that were different from those of many contemporary Europeans. Rotinohsiónni farmers planted their crops in such a way as to disturb as little soil as possible and often planted in the same mound year after year, keeping hoeing and weeding to a minimum. This was not only appropriate according to cost-benefit analyses in the minds of Iroquoian farmers; it also made their fields less susceptible to soil erosion and leeching when compared to fields ploughed using oxen. They planted a number of different species together, which had several advantages, including making crops less vulnerable to pests and diseases. Planting corn among beans also made sense because corn by itself quickly depletes the soil of nutrients, whereas the

¹⁹ Lafitau, *Moeurs des sauvages*, vol. 2, 75-76.

²⁰ van den Bogaert, *A Journey into Mohawk and Oneida Country*.

nitrogen-fixing bacteria on the root nodules of beans continually makes this element available. The large leaves of squash plants shade the ground, which helps to retain moisture and limit weeds. Corn stalks also provide a support structure on which bean and squash plants can climb.²¹

While many colonists believed that lands held by Indigenous peoples were a kind of undifferentiated, collective property, it is clear that they organized their territories according to a complex system of use-rights. Sir William Johnson, Superintendent of Indian Affairs, understood this. In 1764, he wrote that contrary to widespread beliefs at the time it was not difficult to discover the "true" Indian owner of a particular parcel of land. "Each nation," he explained, "is perfectly well acquainted with their exact original bounds, the same is again divided into due proportions for each Tribe, and afterwards subdivided into shares to each family, with all [of] which they are most particularly acquainted, neither do they ever infringe upon one another, or invade their neighbours' hunting grounds."²² Among the Rotinonhsiónni, land was not to be bought or sold, but could be allocated to families for exclusive use, as Johnson described. Unused land could also be claimed by individuals or families for specific uses, but such a claim was lost when the person stopped using the land.

It is well-known and accepted that women were the managers and 'owners' of land, houses, and food stores, and that individual women had jurisdiction over the plots they cultivated. That women "owned much property" has often been interpreted as one of

²¹ Jane Mt. Pleasant, "The Iroquois Sustainers: Practices of a Longterm Agriculture in the Northeast," *Northeast Indian Quarterly* 6, no. 1-2 (1989); Dennis, *Cultivating a Landscape of Peace*, 27-28. For further discussion on Rotinonhsiónni horticulture and food, see Arthur C. Parker, "Iroquois Uses of Maize and Other Food Plants," *New York State Museum Bulletin* 144 (1910); William Engelbrecht, *Iroquoia: The Development of a Native World* (Syracuse, NY: Syracuse University Press, 2003), chapter 2.

²² Johnson to Lords of Trade, Oct. 30, 1764 ("difficult matter"), in O'Callaghan, ed., NYCD, VII:672. Quoted in Taylor, *The Divided Ground*, 36.

the important bases for the political power wielded by women in Iroquoian societies.²³ Anthropologist Elizabeth Tooker pointed out however, that such an interpretation does not take into account that particular cultivated plots and houses were not viewed as permanent holdings of individuals to be passed down to children. The plots of land, as well as the longhouses, were left behind when the village was moved every decade or two. Tooker also emphasizes that in Iroquoian societies, tools and other objects were "owned" by those who used them. Instead of understanding property in terms of a transferrable ownership-right to a particular object or delineated space, Iroquoians understood rights to tools, buildings, and spaces only in the context of use.²⁴ Similarly, nineteenth-century anthropologist Lewis Morgan was told by his informants in the nineteenth century that "no individual could obtain the absolute title to land, as that was vested by the laws of the Iroquois in all the people; but he could reduce unoccupied lands to cultivation, to any extent he pleased; and so long as he continued to use them, his right to their enjoyment was protected and secured."²⁵ The oral history tradition also makes the connection between use and ownership. In 2003 Ernie Kaientaronkwen Benedict, the late Ahkwesáhsne leader and scholar, recounted that in the days before European interference, "when a man wished to build a home and take some land for his family, he simply went to the desired location and indicated that this was to be his property."²⁶ Tom Shakokwanionkwas Porter, a leader in Kanatsiohareke, explained that according to

²³ Tooker, "Women in Iroquois Society," 114.

²⁴ Ibid. Lewis Morgan claimed it was traditional for Iroquois peoples to own, sell, buy, transfer, and inherit land and improvements, but I believe this represents a tradition proper to permanent Iroquois villages, not to temporary ones. Morgan, *League of the Ho-de'-no-sau-nee*, 317.

²⁵ Morgan, *League of the Ho-de'-no-sau-nee*, 317.

²⁶ "Interview with Ernie Kaientaron:kwen Benedict, 28 Oct 2003," in *Comprehensive Land Report: Restoring Kanien'kehaka approach to land holding and land use*, ed. Melvin Tekahonwen:sere Diabo (Kahnawake: Unpublished Report submitted to the Office of the Council of Chiefs, 2004), 19-20.

traditional principles a person who owns a certain number of horses has a right to use an area of land appropriate for that number of horses, but no more.²⁷

Kahnawá:ke Land Practices in the Eighteenth Century

Just as every society changes over time, so did Kahnawá:ke. And just as every society disagrees about changes, so also Kahnawakehró:non disagreed among themselves. Many of the conflicts I analyze are between those who wanted to incorporate European practices and those who did not, or between those who disagreed about how customary law should be applied in new contexts. These conflicts emerged around the turn of the nineteenth century, when there was a clash between those who preferred the norms they saw being applied in the Euro-American societies around them and those who drew a line in the sand and refused any more change (and many perspectives between the two extremes). It should be said however, that the people who valued change and "progress" over tradition tended to be outnumbered by the majority which, while not opposed to change *per se*, fought to limit and slow the penetration of Euro-American ideas and practices.

The most fundamental change in Mohawk land practices after 1716 was the decision not to move the village again. The first generations of Kahnawakehró:non moved their village four times after installing themselves at Laprairie in the 1660s. The community of 800 to 1000 people moved one last time in 1716 to its current location.²⁸ It is not known why the decision was made to permanently fix the village, but it is likely

²⁷ Interview with Tom Shakokwanion:kwas Porter, Kahnatsohare:ke, [2002], trans. from Mohawk by Diabo, in *ibid.*, 59.

²⁸ Reid, *Kahnawà:ke*, 7-11; Devine, *Historic Caughnawaga*, 129.

that by this time, in the context of expanding French Canadian settlement, there was a lack of available land for further moves in the area. The next time a large group of Kahnawakehró:non moved to a new village location was around 1750 when some thirty Kahnawá:ke families, along with families from other communities, founded Ahkwesáhsne one hundred kilometres upstream.²⁹ The new reality of a permanent village had important implications for the way Kahnawakehró:non lived and used their land. One of these was the decision by Kahnawakehró:non to move from longhouses into single-family dwellings. Initially they continued to live in longhouses but this was no longer the case by the end of the eighteenth century.

Historian Gretchen Green argues that most Kahnawakehró:non were still living in longhouses at the end of the eighteenth century, but since the period covered by her dissertation does not extend into the nineteenth century, she does not indicate when the change to smaller dwellings occurred.³⁰ The evidence is scant and contradictory, but the change must have been well underway by the middle of the eighteenth century. When the military engineer Louis Franquet visited Kahnawá:ke in 1752-3, he observed that people still lived in longhouses but also noted that some were starting to build smaller houses in the style of their French neighbours, using squared timber or stone.³¹ Franquet's fortification map (Figure 3.1) shows both long and shorter dwelling houses, indicating that a transition was underway. Later that decade, French army officers Louis Antoine de

²⁹ R. B. Simison, "The Indian Lands of Dundee: An historical perspective," *Journal annuel de la Société historique de la vallée de la Châteauguay* 11 (1978).

³⁰ Green, "A New People in an Age of War," 285.

³¹ Franquet believed that Jesuit missionaries were encouraging Kahnawakehró:non to build more permanent single-family dwellings in the hope that they would inherit the valuable properties when Kahnawakehró:non abandoned the territory. See Franquet, *Voyages et mémoires*, 38-39.

that nineteenth-century accounts do not mention the presence of longhouses, Green may have placed too much stock in Weld's low count.³⁴

By the turn of the nineteenth century most Kahnawakehró:non had made the change to living in smaller dwellings. This transition may well have involved conflict and debate, but since it did not leave a paper trail in the courts any such conflict can be assumed to have been resolved internally. It is also possible that this architectural change was not as culturally disruptive as supposed. According to Morgan, longhouses had always been partitioned into "apartments," each of which was "in fact, a separate house, having a fire in the centre, and accommodating two families, one upon each side of the fire. Thus a house one hundred and twenty feet long would contain ten fires and twenty families."³⁵ Since families already lived in separate "apartments" within longhouses, the move to individual family dwellings need not be seen as a rupture, or a sign of acculturation. It was an adaptation to the new reality of a permanent village.³⁶

It is widely believed that a permanently-located village is incompatible with shifting cultivation, but this is not at all the case.³⁷ In Kahnawá:ke it did bring a number of changes including the increased importance given to the question of land ownership and inheritance, but fundamental principles remained in place. These included the notion that a lot could not be claimed by someone unless that person also worked it, and that a

³⁴ Green, "A New People in an Age of War," 284-285.

³⁵ Morgan, *League of the Ho-de'-no-sau-nee*, 307.

³⁶ Houses of the Grant River Rotinonhsiónni in 1812 were outwardly like European houses but the interiors of some houses still resembled longhouses with double rows of bunks for seating, sleeping, and storage. Carl Benn, *The Iroquois in the War of 1812* (Toronto: University of Toronto Press, 1998), 26.

³⁷ Most farmers practicing shifting cultivation today live in permanently located villages. The research of Nancy Peluso reveals Kalimantan villages that have been permanently located for hundreds of years while their inhabitants practiced shifting cultivation. Those practicing shifting agriculture face significant obstacles in having their rotational system recognized by the state as "permanent." Nancy Lee Peluso, "Whose Woods Are These? Counter-Mapping Forest Territories in Kalimantan, Indonesia," *Antipode* 27, no. 4 (1995): 390-393.

claim could be lost if the land was not worked. In Kahnawá:ke, one of the principles that was de-emphasized by nineteenth-century leaders who communicated with the Indian Department was women's ownership of land. There are no explicit pronouncements in the archives to mark the change, but by the eighteenth century Kahnawá:ke lots were owned by both men and women. I discuss possible reasons for the decision of Kahnawakehró:non not to maintain this principle in Chapter 4.

In the seventeenth century, the problem of increasing distances from the village to new fields and firewood was solved by moving the village. In the context of a permanently-located village, however, was the increased distance to firewood and new fields presented a serious problem.³⁸ The solution was the horse. By the early seventeenth century, Kahnawakehró:non had many horses, mainly for the purpose of transporting firewood and produce. But the presence of horses brought new problems, as described by Lafitau:

...ces chevaux, qui sont en grand nombre, se répandant par troupes dans leurs champs de bled d'Inde, où il n'y a point de hayes & de clôture pour les arrêter, les désolent entierement, sans qu'on état de les nourrir dans des écuries, tout ce qu'on peut faire c'est de les enfermer dans de mauvais parcs, que ces chevaux franchissent aisément; soit que ne trouvant pas assez de nourriture dans ces enclos, ils soient portés d'eux-mêmes à en aller chercher ailleurs dans les bleds d'Indes, qui les affriandent plus que l'avoine; soit que les enfans, qui sont sans cesse occupés à les animer pour les faire battre, les pressent, & les forcent de sauter par-dessus leurs barrières.³⁹

³⁸ For Indigenous people practicing shifting agriculture, increased population densities can cause great hardship due to increased walking distances to fields, and can lead farmers to cultivate fallows rather than old growth forest. This brings new problems like weeds, pests, and declining soil productivity. For a twenty-first-century example, see Anders Henrik Sirén, "Population Growth and Land Use Intensification in a Subsistence-based Indigenous Community in the Amazon," *Human Ecology* 35, no. 6 (2007).

³⁹ Lafitau, *Moeurs des sauvages*, vol. 2, 108.

What Lafitau describes as a poorly-fenced pasture for horses is probably the beginning of what would become the common pasture. A century later, in 1810, an English comic actor named John Bernard⁴⁰ who toured Kahnawá:ke, was impressed by the system of communal horse ownership he observed:

In the course of our walk round the town our guide pointed out to us a field in which all the horses belonging to the settlement were running loose, and told us it was the practice whenever a man wanted one for him to take the first that came to hand, whether it was his own or not, to make use of it, and then return it at his convenience to this general repository. This may be a very good practice, thought I, in Cognawagha, but I doubt how it would be found to work in any other part of the world.⁴¹

The common pasture remained in place until the latter decades of the century, but it is not known how long Kahnawakehró:non continued to view horse ownership in this way.

Another problem related to the permanent village and its increasingly settled environs was the declining returns from hunting and fishing. The increasing population densities both in the St. Lawrence Valley and in the heart of Iroquoia meant that there were many more hunters and much less game.⁴² This was a problem for communities like Kahnawá:ke, for although historians and anthropologists have long emphasized the centrality of horticulture for Rotinonhsiónni economies, there is no doubt that meat was highly valued and desired. Van den Bogaert, for example, described a rich, meat-heavy Mohawk diet; and the Rotinonhsiónni chiefs who visited Paris in 1666 were not much impressed by anything except the meat market.⁴³ The decision to incorporate livestock

⁴⁰ For more on John Bernard, see Douglas S. Harvey, "Strolling Players in Albany, Montreal, and Quebec City, 1797 and 1810: Performance, Class, and Empire," *Studies in Eighteenth Century Culture* 38 (2009).

⁴¹ John Bernard, *Retrospections of America, 1797-1811* (New York: Harper & Brothers, 1887), 355-356.

⁴² Regarding fishing, see the extract of a speech made by Sir John Johnson to the Indian Tribes, June 5, 1797, RG10, vol. 10, p. 9236-9240, reel C-11000, LAC. Regarding hunting, Taylor mentions conflicts in the 1760s and 1770s between Kahnawakehró:non and southern Mohawks related to hunting in the Adirondacks, in Taylor, *The Divided Ground*, 36-37.

⁴³ van den Bogaert, *A Journey into Mohawk and Oneida Country*; Devine, *Historic Caughnawaga*, 404.

into Mohawk land practices in the eighteenth century may have been a way to retain access to meat at a time when traditional hunting and fishing territories were over-exploited or appropriated by European settlers.⁴⁴ The fur trader John Long, in the latter half of the eighteenth century, wrote that Kahnawá:ke Mohawks depended less on hunting than did other Indigenous peoples because they raised their own crops and were heavily involved in trading.⁴⁵ In 1757, while inspecting the fortifications at Kahnawá:ke, the French military engineer Pierre Pouchot noted that Mohawks made their living cultivating the land, and raising livestock and poultry.⁴⁶ By 1801, many, if not most, Kahnawakehró:non raised some domestic animals.⁴⁷

With dramatically increasing settler populations around the turn of the nineteenth century, Kahnawá:ke hunters and trappers found that hunting and trapping was increasingly fraught with conflict as they were forced onto lands claimed by other Indigenous peoples. First Nations in northern parts of Upper Canada protested against the presence of Kahnawá:ke hunters on their lands. Even the Algonquins and Nipissings from Kanehsatà:ke complained that Kahnawá:ke hunters trespassed on territories they claimed along the Upper Ottawa River and Lake Nipissing.⁴⁸ As a consequence of the increased difficulties associated with hunting, a number of Kahnawakehró:non chose to hunt less and engage in other pursuits. In 1796, Indian Agent M. Stacey and Indian

⁴⁴ The concept of raising animals for food had not been unknown to Mohawks. Some Native hunters were known to bring back young animals whose mother had been killed to be raised for future slaughter. Van den Bogaert, for example, described several bears he saw in Mohawk villages which were kept in enclosures. van den Bogaert, *A Journey into Mohawk and Oneida Country*.

⁴⁵ Long, *John Long's Voyages and Travels*, 6-7.

⁴⁶ Green, "A New People in an Age of War," 290.

⁴⁷ Several of the Twenty-One Laws concern livestock. "Règlements établis par les chefs du Sault Saint-Louis", Feb. 26, 1801, RG10, vol. 10, p. 9446-9454, reel C-11000, LAC.

⁴⁸ This was particularly vexing to Kanesatakeronon who did not derive revenues from their lands the way Kahnawakehró:non did. Devine, *Historic Caughnawaga*, 335-336.

Affairs storekeeper John Lees wrote that by that time Kahnawá:ke men had "no hunting of any consequence," and were becoming more "laborious" as a result. Stacey and Lees' interpretation is a good example of Euro-Americans categorizing hunting as a leisure activity. They also mentioned the fact that the cultivation of corn (maize) was as an important part of the Kahnawá:ke economy, estimating average annual production at one hundred bushels per family. While they incorporated domestic animals and new agricultural crops such as potatoes and wheat into their daily lives, Kahnawakehró:non, like many Rotinonhsiónni people, continued to grow their traditional crops and continued to use their traditional methods long into the nineteenth century.⁴⁹ Historian Matthew Dennis explains that this was not because they lacked "a spirit of innovation but because they had found a practical and efficient long-term solution to their subsistence needs, one that made sense to them intellectually, morally, and religiously."⁵⁰

Disputes over land practices 1790-1815

Little is known about land disputes in Kahnawá:ke before the turn of the nineteenth century because disputes were handled internally, without a written record. It is only with the first Kahnawakehró:non who tried to circumnavigate the authority of the chiefs by taking their disputes to colonial courts that we have a written record of them. The origins of the first conflicts appear to lie with primarily a man named Arakwente (Thomas) and his wife Sagosennagete (Agathe). Arakwente was a Mohawk merchant

⁴⁹ Memorandum by John Lees based on information from M. Stacey, June 15, 1796, RG8, vol. 248, p. 172-175, reel C-2848, LAC. They had already been experimenting with wheat-growing in 1678. Ibid., 48-49. At the beginning of the nineteenth century, the Rotinonhsiónni of the Grand River were growing corn, squash, beans, tobacco, pumpkins, wheat, rye, oats, peas, potatoes, turnips, flax, and orchard fruits, and the same was probably true in Kahnawá:ke. Benn, *The Iroquois in the War of 1812*, 26.

⁵⁰ Dennis, *Cultivating a Landscape of Peace*, 31.

who ran an inn that sold liquor legally to non-Natives and illegally to his fellow Mohawks. He was also a fur trader, land-holder, speculator, and money-lender, and held a lucrative ferry license for moving goods and people across the St. Lawrence River between Lachine and Kahnawá:ke. An Irish writer named Isaac Weld met Arakwente in the mid-1790s when he was travelling on Lake Champlain. Before meeting him, Weld had heard that "Captain Thomas" of the "Cachenonaga nation...was a very rich man and had a most excellent house in which...he lived as well as a seignior." The two men met when Arakwente was on his way to trade furs in Albany, and Weld described him this way:

Thomas appeared to be about forty-five years of age; he was nearly six feet high, and very bulky in proportion: this is a sort of make uncommon among the Indians, who are generally slender. He was dressed like a white man, in boots; his hair untied but cut short; the people who attended him were all in the Indian habit. Not one of his followers could speak a word of English or French; Thomas, however, could himself speak both languages. English he spoke with some little hesitation, and not correctly; but French seemed as familiar to him as his native tongue. His principal attention seemed to be directed towards trade, which he had pursued with great success, so much so, indeed, that, as we afterwards heard, he could get credit in any store in Montreal for five hundred pounds. He had along with him at Chimney Point thirty horses and a quantity of furs in the canoe, which he was taking for sale to Albany. His people, he told us, had but a very few wants: he took care to have these always supplied; in return they brought him furs, taken in hunting; they attended his horses, and voluntarily accompanied him when he went on a trading expedition: his profits therefore must be immense. During the course of conversation he told us, that if we came to see him he would make us very happy; that there were some very handsome squaws in his village, and that each of us should have a wife: we promised to visit him if it was in our power, and parted very good friends.⁵¹

Although Weld was quite taken by Arakwente's swagger at the time, he later received information that moved him to include at the end of his account that, "Thomas, as we

⁵¹ Isaac Weld, *Travels Through the States of North America and the Provinces of Upper and Lower Canada* (London: John Stockdale, 1800), 213-214.

afterward found, is not a man respected among the Indians in general, who think much more of a chief that is a good warrior and hunter, and that retains the habits of his nation, than of one that becomes a trader, and assimilates his manners to those of the whites."⁵²

Arakwente's aggressive commercial activities and assimilationist tendencies had earned him little respect in the community. And this was not simply a matter of jealousy among his less wealthy neighbours. Many Kahnawakehró:non saw him as someone who put his own individual interests over the interests and customs of the community. Aside from his willingness to break customary laws and sell liquor to Mohawks, he began to take his grievances to British courts in the 1790s. In so doing he broke with the traditions of his own people for resolving conflict, and challenged the authority of the chiefs. This put Arakwente squarely in the camp of 'reformists' or 'modernizers,' as historians of nineteenth and twentieth-century Kahnawá:ke would later dub those who opposed tradition and worked for legal and cultural reforms.⁵³

In 1796, Arakwente became the first Kahnawakehró:non to take a fellow Mohawk to a British court.⁵⁴ A few Mohawks appear in the Montreal legal records before his time, but all of these were cases in which the individual had broken laws outside Mohawk-controlled territory.⁵⁵ Although the laws of New France did not differentiate between Indian and non-Indian, Indigenous people were almost never put on trial for crimes committed against non-Natives. Instead, Indigenous suspects were usually handed over to

⁵² Ibid.

⁵³ Reid, *Kahnawà:ke*, 68.

⁵⁴ Denis Delâge and Alexandre Lefrançois, "Thomas Arakwenté : promoteur de la modernité dans la communauté iroquoise du Sault Saint-Louis (1791- 1820)," in *Gouvernance autochtone : aspects juridiques, économiques et sociaux*, ed. Andrée Lajoie (Montréal: Les éditions Thémis, 2007).

⁵⁵ Donald Fyson, *Magistrates, Police and People: Everyday criminal justice in Quebec and Lower Canada* (Toronto: University of Toronto Press, 2006), 303.

their home communities for judgement and punishment.⁵⁶ During the first decades of the British regime the same practices continued. As for conflicts within Indigenous communities, these were resolved within the communities themselves. According to historians Denys Delâge and Étienne Gilbert, in all the years of colonial rule before 1796, there was only one case in which an Indigenous person appealed to the courts to resolve an internal problem.⁵⁷ But between 1796 and 1820 there were thirty such cases, almost all of them involving Kahnawá:ke, while other Indigenous communities continued to resolve their internal disputes internally. This exponential increase in cases involving Kahnawakehró:non is particularly noteworthy since it does not correspond to a general increase in court activity generally for this period.⁵⁸ It is clear that Arakwente was a kind of trailblazer, and his quest for individual profit had far-reaching ramifications for his people.

Arakwente's first court case in 1796 followed an incident in which he erected a fence to enclose a piece of land, which fence was removed by the chiefs. He claimed to have fulfilled the ownership requirements for this piece of land, but the chiefs disagreed and so did the court, saying that he had not given proof of such. In 1799 Arakwente argued before a Montreal court that his commercial woodcutting on Kahnawá:ke territory, employing two lumberjacks, was in line with Mohawk customs. The ancient

⁵⁶ Grabowski, "The Common Ground; Grabowski, "French Criminal Justice and Indians in Montreal, 1670-1760; Helen Stone, "Les Indiens et le système judiciaire criminel de la province de Québec : Les politiques de l'administration sous le Régime britannique," *Recherches amérindiennes au Québec* 30, no. 3 (2000). It was also common for Amerindians to hand over non-Native suspects to colonial authorities for trial. An example from Upper Canada is an 1814 incident when several Delaware men from Grand River were murdered. When the suspects were captured by Grand River warriors, they were sent to the provincial capital for trial. Benn, *The Iroquois in the War of 1812*, 135.

⁵⁷ Delâge and Gilbert, "La justice coloniale britannique et les Amérindiens au Québec, 1760-1820 - I. En terres amérindiennes," 64-65.

⁵⁸ Evelyn Kolish, "Some Aspects of Civil Litigation in Lower Canada, 1785-1825: Towards the Use of Court Records for Canadian Social History," *Canadian Historical Review* 70, no. 3 (1989): 343-344.

custom, he argued, was that any member of the nation could cut as much as he liked, making no mention of any customary law against the sale of wood. Again he did not find favour in the eyes of the court and withdrew his complaint. Over the following decade Arakwente and his wife Sagosinnagete took several more Kahnawakehró:non to court. In one instance they brought a case against a chief for throwing Sagosinnagete out of the church and threatening to banish her from the community. Several other cases involved accusations of death threats against Arakwente.⁵⁹ In an 1806 case, a bailiff was sent to Kahnawá:ke to arrest a man Arakwente accused of threatening him, but the bailiff was turned back by a group of at least fifty Kahnawakehró:non armed with clubs and sticks who said "they had not any business with the Montreal Law."⁶⁰ The same year the council of chiefs followed through on their threats to expel Arakwente for his unwillingness to "renoncer à la loi de ce pays, ni abandonner son commerce." Aided by a large number of Kahnawakehró:non, they stormed Arakwente's house, seized him, carried him to the outskirts of Laprairie, and warned him that he would forfeit his life if he ever returned to his house.⁶¹ This eviction, however, could not be enforced because the courts would not back the chiefs up on this matter.

It is not known how the verdicts were reached in these cases, but it appears that jurists found ways to solve problems that would be seen as legitimate in both Kahnawá:ke and Lower Canada. Montreal courts were marked by considerable inconsistency at this time and little is known about the kind of justice Amerindians could

⁵⁹ Delâge and Gilbert, "La justice coloniale britannique et les Amérindiens au Québec, 1760-1820 - I. En terres amérindiennes," 65.

⁶⁰ Alexandre LeFrançois, "Thomas Arakwenté : Promoteur de la modernité dans la communauté iroquoise du Sault Saint-Louis (1791-1820)," *Revue d'éthique et de théologie morale* "Le Supplément", no. 226 (2003): 364.

⁶¹ Delâge and Gilbert, "La justice coloniale britannique et les Amérindiens au Québec, 1760-1820 - I. En terres amérindiennes," 65.

expect to find there. Jean-Philippe Garneau has shown that during the latter decades of the eighteenth century judges and lawyers with little or no formal legal training struggled to navigate the provisions of the Quebec Act. The new justice system, which went into effect in 1775, was a hybrid of the common law tradition of Britain and the civil law tradition of France, and it took several decades before it would work smoothly.⁶²

Amerindians represented only about half of one percent of defendants in Quarter Sessions complaints in the district of Montreal between 1780 and 1835, and even fewer appeared as plaintiffs. Legal historian Donald Fyson uses the example of Arakwente and Sagosennagete to illustrate the rarity of Indigenous plaintiffs during this period.⁶³ Merchants, on the other hand, were always over-represented in the courts compared to their demographic weight in the population at large.⁶⁴ All of this suggests that Arakwente's actions and values were in line with those of merchants, but not with those of other Indigenous people.

It is worth considering how Arakwente fit into overall patterns for litigation in Quebec at the time. Historian Evelyn Kolish's quantitative analysis of civil court records for this period shows that the British population was over-represented in the overall pattern of litigation. She suggests that this could be due to the fact that most litigants were urban, and that Anglophone populations tended to be urban. Her other hypothesis is "that the British population relished litigation more than the Canadians or that they relied more on the courts and less on the informal networks of family and local communities."⁶⁵

⁶² Jean-Philippe Garneau, "Appartenance ethnique, culture juridique et représentation devant la justice civile de Québec à la fin du XVIII^e siècle," in *Entre justice et justiciables : les auxiliaires de la justice du moyen âge au XX^e siècle*, ed. Claire Dolan (Québec: Les presses de l'Université Laval, 2005).

⁶³ Fyson, *Magistrates, Police and People*, 303-304.

⁶⁴ Kolish, "Some Aspects of Civil Litigation in Lower Canada," 348.

⁶⁵ *Ibid.*, 350-351.

Although Kolish does not present direct evidence to corroborate these hypotheses, it seems reasonable that cultural and political factors played a role. Mohawks avoided the courts until the time of Arakwente, at least in part, for cultural and political reasons, and there is no reason to think that such reasons could not also have been a factor for French Canadians. Of course geographical distance also played a role. Since people who lived at greater distances from Montreal and Quebec City were less likely to go to court, and since Kahnawá:ke was closer than most Indigenous communities to a major urban center, it is not surprising that it was among the first Indigenous communities to start litigating on civil matters.⁶⁶

If Arakwente had regular contact with Anglophone merchants in the Montreal region, it is likely that he encountered rhetoric that linked seigneurial tenure to French tyranny and soccage tenure to British liberties. It would not be hard for someone like Arakwente to begin to see himself as an oppressed victim of an outdated and unfair system of land tenure. While British merchants, along with their government patrons, used legislation to systematically attack the seigneurial system in the nineteenth century, Arakwente challenged Mohawk land laws in Montreal courts. Arakwente's litigiousness is even more extraordinary in light of that fact that taking someone to court was highly unusual for most censitaires at the time. According to Kolish:

...the economic and social realities of life would have made litigation unlikely if not impossible for most censitaires: hence a relatively low level of litigation on seigneurial rights...No doubt the fact that the majority of landowners were rural small-holders, running owner-occupied farms, also reduced litigation, since the rural agricultural population would appear to have resorted much more systematically to local arbitration, especially in matters such as boundaries, fencing, rights-of-way, and so on. This was a

⁶⁶ Ibid.

tendency undoubtedly reinforced by the urban bias of the court structures.⁶⁷

Kolish argues that the courts were "distinctly marginal in their impact on the lives of most of Lower Canada's rural agricultural population."⁶⁸ The position of Kahnawá:ke as a ferry-hub across from Lachine, and with easy access to Montreal by way of the river, facilitated Arakwente's urban connections despite the rural nature of Kahnawá:ke itself.

Arakwente's commercial activities, and perhaps those of other Indigenous traders, present a challenge to the understanding of a Quebec in which the world of commerce was the exclusive domain of English-speaking merchants. This world is believed to have been generally closed to French Canadians, which explains why Francophone men were disproportionately drawn to liberal professions.⁶⁹ Yet a Mohawk merchant, who was neither Francophone nor Anglophone, was able to navigate the waters of commerce in both Lower Canada and New York State. The court proceedings for all the cases involving Mohawks in the late eighteenth and early nineteenth centuries were written in French, and Mohawks of that period were generally more proficient in French than in English.⁷⁰ Anglophones in the 1790s still made up only 10% of the Quebec population, but they dominated Canadian commercial activities.⁷¹ The fact that a Mohawk like Arakwente, who spoke English as his third language, could become a successful merchant in Lower Canada at this time raises some questions about the assumed exclusiveness of the commercial domain at the time. Arakwente may have simply been

⁶⁷ Ibid., 362.

⁶⁸ Ibid., 365.

⁶⁹ Jean-Pierre Wallot, *Un Québec qui bougeait : trame socio-politique du Québec au tournant du XIXe siècle* (Montréal: Boréal Express, 1973).

⁷⁰ Garneau, "Appartenance ethnique, culture juridique et représentation devant la justice civile de Québec."

⁷¹ Ibid., 406.

an anomaly, but further study of Indigenous merchants promises to enrich our understanding of ethnic and commercial relations in Quebec.

Although Arakwente was perceived to be a wealthy man, his controversial land and wood grabs could also be seen to betray desperation. Arakwente was either so confident in his position that he did not feel the community could threaten him, or his usual sources of income were drying up. The latter interpretation would fit with Allan Greer's portrayal of a country merchant in the latter half of the eighteenth century as perennially indebted and searching for new sources of revenue (except in times of war). However, Arakwente's practices present a challenge to Greer's characterization of rural merchants as "parasitic intermediaries between productive systems over which they exercised little control." In Greer's account, rural merchants bought low and sold high, but made no attempt to transform the feudal order into a capitalist one.⁷² While it is not known if Arakwente's ambitions included the explicit creation of a capitalist society in Kahnawá:ke, his actions were clearly aimed at upsetting the existing order in favour of one that favoured people like him. Kahnawakehró:non have never been shy about engaging in trade and commercial enterprise, but Arakwente took it a step further by defying the customary laws of his own community.

Another key modernizer during this period was Claude Delorimier (Guillaume Chevalier de Lorimier), a French Canadian militia officer and merchant who was named resident agent by the Indian Department at the start of the American War of Independence. Delorimier helped the British to recruit Indigenous warriors, and took part

⁷² Greer, *Peasant, Lord, and Merchant*, Chapter 6.

in a number of military operations.⁷³ He settled in Kahnawá:ke in 1783 and married a Mohawk woman whose name is recorded as Marie-Louise Schuyler. After Schuyler died in 1790, he married a French-Canadian woman, who died in 1800, at which time he married a woman named Skawennetsi (Anne Gregory or McGregor). His three wives bore twelve children in total.⁷⁴ More than Arakwente, Delorimier made an effort to develop a network of allies within the community, and he was quite successful in this for some time. Although his actions were often as controversial as those of Arakwente, Delorimier tended to split the community rather than galvanise the opposition. Delorimier's first few years in Kahnawá:ke were not marked by conflict. He became naturalized as a member of the nation in 1790, and, after swearing off his right to buy and sell lands to non-Mohawks, was given land rights at Kahnawá:ke.⁷⁵ Not many years later, however, a large group of Mohawks submitted a list of complaints against Delorimier, the most serious of which were that he accumulated land, cattle, and wood to the detriment of the poor and of the nation, and that these purchases were made with funds that were intended for the community.⁷⁶ Similar complaints were raised against him repeatedly in the following two decades, and later against his children. By 1801 Delorimier had obtained 53 lots totaling 107 acres and many in the community agreed that he had no right to own so much. There were also complaints that his cattle damaged others' crops, which would suggest that he did not maintain his fences or that he simply

⁷³ He wrote a memoire of his war experiences. Claude Nicolas-Guillaume de Lorimier, "Mes services pendant la guerre américaine," in *Invasion du Canada*, ed. M. L'abbé Verreau (Montréal: Eusèbe Senécal, 1873).

⁷⁴ Leighton, Douglas, "Lorimier, Claude Nicolas-Guillaume de," *Dictionary of Canadian Biography Online*, www.biographi.ca, accessed July 9, 2012.

⁷⁵ Sossoyan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 85.

⁷⁶ Rapport du procureur général adjoint sur certaines plaintes des Iroquois du Sault St-Louis pour Guy Carleton Dorchester, Mar. 1794, RG10, vol. 625, p. 182269-182277, reel C-13395, LAC.

allowed his animals to roam. By the second decade of the century Delorimier had few allies left and there were attempts to evict him, including a majority decision in 1811 to rescind his rights at Kahnawá:ke. However, the community was in a difficult position in that they relied on him as official interpreter and Indian agent. He was well connected at a number of levels of government and used his connections to find ways to keep his rights.⁷⁷

Seeing as Arakwente and Delorimier were both motivated by the desire to accumulate land and property in ways that were out of line with Mohawk tradition, one might be tempted to assume they would have worked together to further their individual interests. This was not the case. In fact, one of the major court cases of the time was a dispute between them. In 1803 Arakwente sued Delorimier, claiming the latter cut wood in his sugarbush. In making his argument Arakwente insinuated that Delorimier had cut maple trees, without ever saying he had actually done this.⁷⁸ Under Kahnawá:ke custom, living trees could be cut by any Kahnawakehró:non for their own use, but not maples that were actively tapped. Delorimier defended himself by saying that the place in question was not Arakwente's sugarbush, but a lot that was owned by all.⁷⁹ Thus the two 'modernizers' faced off, not only in a Montreal court, but also in the court of Kahnawá:ke public opinion. Arakwente had the favour of a few, among whom were five minor chiefs, but Delorimier was able to sway the majority, including most of the chiefs.⁸⁰ Both men constructed their arguments to include Lower Canadian norms of property ownership, as

⁷⁷ LeFrançois, "Thomas Arakwenté," 362; Sossoyan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 85.

⁷⁸ Deposition of Thomas Arakouanté, Mar. 22, 1803, TL19, S4, SS1, file 48, BANQ.

⁷⁹ Plea of Guillaume Chevalier de Lorimier, Apr. 5, 1803, TL19, S4, SS1, file 48, BANQ.

⁸⁰ LeFrançois, "Thomas Arakwenté," 374-375.

well as Kahnawá:ke norms. In the end the court ruled in favour of Delorimier, since Arakwente was not able to prove that Delorimier actually cut in Arakwente's sugarbush.⁸¹ In making this decision, the court was able to sidestep the question of Kahnawá:ke customs, and focus on a simple boundary issue.

The Twenty-One Laws of 1801

The response of Kahnawá:ke chiefs to Arakwente (and in smaller measure, to Delorimier) was multi-faceted. As we have already seen, they faced him in court and sometimes won. They also appealed directly to the colonial authorities. For example, immediately after Arakwente first took them to court in 1796, they met with the attorney general to voice their complaints about Arakwente, and to ask that he not be allowed to take internal disputes to British courts.⁸² Five years later, the failure of these approaches led the chiefs to draw up a list of twenty-one laws that put Kahnawá:ke customary laws onto paper, which are hereafter referred to as the Twenty-One Laws.⁸³ All except one of these laws were signed and ratified by the chiefs before witnesses and notaries on the 26 February 1801. Delâge and Gilbert have argued that this action by the chiefs meant that they had concluded the oral tradition was no longer enough to protect their collectivity from those who wanted to use their traditions for their personal gain.⁸⁴ Given the

⁸¹ Report of the Arbitrators, Feb. 19, 1806, TL19, S4, SS1, file 48, BANQ.

⁸² Joseph Chew to Thomas A. Coffin, Jan. 28, Feb. 18, Mar. 7, 1796, RG8, vol. 249, part 1, reel C-2849, LAC.

⁸³ The title "Twenty-One Laws" is my own. It is not a contemporary appellation.

⁸⁴ Delâge and Gilbert, "La justice coloniale britannique et les Amérindiens au Québec, 1760-1820 - I. En terres amérindiennes," 66. Delâge and LeFrançois say the rules were drawn up in 1808, but upon close examination, it appears that these were passed in 1801 and rescinded in 1808.

importance of this document for this dissertation, a transcription of the entire original is given below:

Règlements établis par les chefs du Sault Saint-Louis, Feb. 26, 1801

Règlements et Conditions accordés et convenus par les chefs des Iroquois du Sault Saint Louis assemblés et convoqués à cette effet dans la Chambre du Conseil au village du Sault Saint Louis ce jourd'hui vingt six février mil huit cent un.

Article Premier.

Attendu que la Seigneurie du Sault St Louis est la propriété de la Nation Iroquoise dudit village et qu'elle est commune à tous les membres qui composent la dite Nation et qu'il y ont tous également part sans pour autant qu'il soit loisible à aucun en particulier ni la subdiviser ni la vendre ni l'aliéner en aucune manière, il est expressément convenu que la Seigneurie et les moulins qui peuvent ou pourront cy après lui appartenir ainsi que les revenus en dépendants, seront gouvernés et administrés par les chefs du village et leurs conseillers, ou par toutes autres personnes qui seront munies de leurs plein pouvoir par acte reçu devant notaire et délivré en plein conseil convoqué à cet effet.

Accepté.

Article Second.

Il sera loisible aux chefs de village en conseil de nommer une ou plusieurs personnes pour recevoir ou percevoir et même avoir la gestion et administration de la dite Seigneurie et moulins en dépendants et accorder un salaire quelconque pour ses peines et soins et qui sont amplement expliquées dans la procuration qu'ils en donneront.

Accepté.

Article Troisième.

Comme les terres de laditte Seigneurie du Sault St Louis sont communes à tous les individus qui la composent soit comme sauvages Iroquois soit comme enfant adoptif de la Nation, il est convenu que chacun d'eux ne pourra posséder ni distribuer plus de terrain qu'il n'en pourra défricher sans qu'il lui soit permis d'y substituer aucun autre personne à sa place soit comme fermier, agent, procureur ou autrement.

Accepté.

Article Quatrième.

Il ne sera aucunement loisible à chaque propriétaire de terre dans la dite seigneurie de vendre ni transporter aucun bois de cordes [,] de service ou

autre, le tout étant réservé pour son usage et celui de chaque membre du village en générale. Comme aussi il ne sera loisible à qui que ce soit de couper les érables des sucreries d'aucuns des propriétaires sans leurs consentement exprès.

Accepté.

Article Cinquième.

Aucun propriétaire de terre et sucreries ne pourra vendre ni céder son droit en iceux qu'en présence et avec l'agrément du Conseil assemblé et convoqué à cet effet car sans cette formalité toute discussion qui pourrait naître ou survenir à ce sujet ne sera aucunement écouté et sans laquelle leurs transactions serait déclarés nuls et d'aucun effet.

Accepté.

Article Sixième.

Le propriétaire qui aura abandonné pendant l'espace de trois années consécutives la terre qu'il aura défriché, il sera loisible à un autre d'en prendre possession et d'en faire son profit particulier.

Accepté.

Article Septième.

Il ne sera permis à aucun propriétaire de couper sur sa terre ni sur aucune parties du domaine de la dite Seigneurie : sucreries, bois de chêne ni cèdre, attendu qu'ils sont expressément conservés pour l'usage publique de la dite Seigneurie et pour l'église du dit village.

Accepté.

Article Huitième.

Et pour garantir les champs de Blés d'inde et autres terrains cultivés, chaque personne propriétaire d'iceux sera obligé de faire sa part de clôture, pour mettre les dits champs et terrains cultivés à l'abri des animaux qui pourront leurs causer du dommage et à défaut de par chaque propriétaire de se conformer au présent article qu'au dit en deça requis, il sera loisible aux chefs de la faire faire à ses dépens ou de l'y contraindre juridiquement.

Non Accepté.

Article Neuvième.

Toute personne qui sera convaincue d'avoir coupé, arraché ou autrement ôté aucune des clotures de ses copropriétaires, sera sur plainte portée devant le conseil condamné à payer une piastre d'Espagne dont moitié au conciliateur et l'autre moitié employé à réparer la clôture qu'il aura ainsi endommagé.

Accepté.

Article dixième.

Chaque printemps aussitôt la fonte des neiges, chaque propriétaire qui aura des cochons seront tenus de les Aléner et si aucuns des dits cochons, après la publication qui en sera fait au dit village est trouvé à fouiller les terres cultivés et jardins il sera loisible au propriétaire qui souffrira dommage par les dits cochons de les tuer sur le champ et de les laisser sur la place afin que le propriétaire puisse l'enlever s'il le juge à propos sans qu'il puisse [répéter] aucun dommage contre celui les aura ainsi tués. Accepté.

Article Onzième.

Toute personne qui sera convaincu sera prouvé avoir monté sur le cheval d'une autre personne sans son agrément et permission sera tenue de bayer une piastre d'amande dont moitié au dénonciateur et l'autre moitié payable au fond public du village pour le Biens générale des membres qui composent la Nation. Accepté.

Article Douzième.

Toute personne qui sera convaincue d'avoir trait la vache d'une autre sera tenue de payer quarante sols par an chaque fois qu'il aura ainsi trait la vache d'un autre, dont moitié au Dénonciateur et l'autre moitié au propriétaire de la vache. Accepté.

Article Treizième.

Aucun propriétaire de maison dans le village ou locataire actuellement y demeurant ne pourra loger ni recevoir chez lui ni donner azile à aucune personne étranger qui voudroit y résider sous quelques prétextes que ce soit, qu'il n'ait préalablement consulté les chefs du dit village, en conseil et qu'il n'en ait reçu leur permission expresse. Accepté.

Article Quatorzième.

Il est expressément convenu qu'aucun propriétaire de terre non encore défrichée pourra aucunement vendre, céder, transporter, louer ni aliéner aucune partie d'icelles sans le consentement des chefs assemblés et convoqués en conseil pour ce sujet et en avoir reçu leur agrément et consentement express et par écrit. Accepté.

Article Quinzième.

Si Aucune personne est convaincue d'avoir pris ou s'être emparé d'un Batteau, canot de bois ou d'écorces pour passer la rivière ou y naviguer sans la permission du propriétaire du dit canot, il sera sur conviction puni

et obligé de bayer quarante sols d'amande par chaque offence dont moitié au propriétaire du dit canot et l'autre moitié au dénonciateur.
Accepté.

Article Seizième

Toute personne qui sera sur le témoignage d'une ou plusieurs personnes dignes de fois devant le conseil sera convaincu d'avoir volé, pris ou emporté les légumes, bled. Ou autres productions du champ ou du jardin d'un autre et sera condamné à payer deux piastres d'amande dont trois livres ou schelings de vingt coppres au dénonciateur et neuf livres même schelings au propriétaire du terrain qui aura été ainsi volé.

Accepté.

Article Dix-septième

Toute personne qui mettra paitre son cheval au delà des clotures de la commune du village sera sur conviction condamné à payer une piastre d'amende qui sera remis à la masse de l'église de la Paroisse du Sault St Louis et employés à y faire prier Dieu pour le repos des Ames trépassés de la Nation Iroquoise.

Accepté.

Article Dix-huitième.

A l'avenir, il ne sera point bati, aucun étable ni granges dans le village du Sault Saint Louis et ce accompler de ce jourd'hui, et qu'autres à celles qui subsiste actuellement, elles seront dans l'espace de quatre années à datter de ces présentes, enlevées et ôtées par les propriétaires et placés audelà du village et derrière icelle dans le lieu qui sera jugé à propos, et si à l'expiration des dittes quatres années les dites étables et granges ne sont point déplacés, elles seront détruites par ordre du Conseil en pure perte pour les propriétaires qui n'auront aucuns dommages à répéter à cet égard.
Accepté.

Article Dix-neuvième.

Et comme plusieurs vagabonds et gens sans aveu dans le village auroit vollé et emporté les chaines et autres ferrures des voitures, il est statué que sur conviction devant le conseil assemblé, tel personne convaincu à l'avenir d'un semblable forfait sera [immédiatement] autrement tenu de remettre au propriétaire l'effet ainsi pris et volé ou lui payer en argent suivant l'évaluation qui en sera fait par le conseil mais en outre sera condamné à payer deux piastres d'amende, dont trois livres au dénonciateur et neuf livres à l'église de la paroisse du village ou employé en d'autres œuvres pies à la volonté du Conseil.

Accepté.

Article Vingtième.

Il ne sera pas au pouvoir du conseil d'augmenter les peines et amendes portés aux présents règlements mais pourra seulement les modifier suivant les circonstances, lesquels règlements auront tout leurs effets jusqu'à révocation en conseil.

Article Vingtunième.

Celui ou celle qui ne voudra pas se soumettre aux présents articles de règlements pourront être d'ailleurs punis par le conseil comme désobéissant et chassé du village suivant les volontés des membres du conseil.⁸⁵

The list of laws begins and ends by emphasizing the authority of the chiefs whose legitimacy is said to reside in the will of all the people. Among the laws are prohibitions against stealing (or using without permission) boats, horses, agricultural produce, carriage hardware, and milk; a law forbidding strangers from being housed in Kahnawá:ke without permission; laws about when and where livestock may graze; and prohibitions on stables and barns in the village. But the core of the list concerns land-use, use-rights, and ownership.

The first law begins with the statement: "Attendu que la Seigneurie du Sault St Louis est la propriété de la Nation Iroquoise dudit village..." This assertion lays the foundation for all subsequent laws by stating that the entire territory is owned collectively and that no one person has the power to subdivide, sell, or alienate any part of it without consent of the chiefs. No other authority other than the chiefs is recognized as having any authority over the seigneurie, and no one but the members of the nation are recognized as owners. The core land-related laws are the following: Law 3: It is forbidden to possess more land than one can work without having someone work it in one's place. Law 4: All

⁸⁵ "Règlements établis par les chefs du Sault Saint-Louis," Feb. 26, 1801, RG10, vol. 10, p. 9446-9454, reel C-11000, LAC. Originally transcribed by Stéphanie Boutevin.

firewood and timber, except maples actively used for sugar, is owned collectively, and it is forbidden for anyone to sell or take wood off-territory. Law 5: It is forbidden to conduct land sales or transfers without consent of the council. Law 6: Any member of the nation may claim a lot that has not been worked for three consecutive years. Law 7: It is forbidden to cut cedar and oak anywhere on the territory as these are reserved for collective and church use only. Law 9: It is forbidden to damage others' fences. Law 14: It is forbidden to lease uncleared land without permission.

The Twenty-One Laws appear to have been rescinded in 1808, for what reason we do not know. They had been submitted for ratification to Sir John Johnson Baronet, Superintendent of Indian Affairs, and perhaps he never approved them. We do not know if the rules were enforced or even enforceable, but important for this discussion are the principles embodied in the list. I have extracted a number of land-practice principles from the laws and have enumerated them below:

1. The entire territory is owned communally.
2. The chiefs are the designated arbiters of land disputes. There is no mention of colonial courts.
3. Land may be individually owned only as long as it is worked. Land left uncultivated becomes available to others.
4. An individual may own only as much land as he/she can work him/herself.
5. Standing trees may not be owned by individuals unless they are maples actively tapped for sugar.
6. Most other trees, including those on lots owned by individuals, are available to any Kahnawakehró:non who wishes to cut them.

7. Wood cut on Kahnawá:ke territory may not be taken out of Kahnawá:ke and may not be sold. It is for the personal use of the person who cuts it.

Although the Twenty-One Laws were not kept on the books as such, the principles they contained were consistently maintained by Kahnawá:ke chiefs throughout the nineteenth century.

The laws also give evidence to a number of characteristics of Mohawk land practices at Kahnawá:ke at the turn of the nineteenth century. First, livestock such as cows and pigs were widespread, as were horses. Cattle and horses were to be pastured in a fenced common area whereas much cultivated land was not fenced. Pigs were allowed to run free in the winter but had to be penned up during the rest of the year so they would not destroy crops. The laws also make evident that Mohawks did not have a problem with individual land ownership under certain conditions. The laws appear to be an effort to square traditional practices with the new reality of land scarcity and individual acquisitiveness. They show a continuing opposition to the idea that land and wood are commodities, and forbid, in no uncertain terms, the accumulation of land for speculative purposes. Finally, the laws prohibit private woodlots since the entire territory was to be a communal woodlot. With the exception of sugarbushes, no one had the right to prevent others from cutting on wooded land.

There are a number of other things worth noting in this list of laws. One is that the chiefs were very concerned about strangers staying in the village and made it illegal to house an outsider without permission. This may have been a direct attack on Arakwente's hotel business, or it may have represented a concern about non-Mohawks in general—

perhaps the sort of strangers who would have accepted Arakwente's invitation to come to Kahnawá:ke for the women. The chiefs' recent experience with Delorimier would have made them particularly sensitive to the dangers of giving an outsider membership through marriage.

Another item of note is Law 8, which, for unspecified reasons, was not passed. This rule required that everyone who cultivates land in Kahnawá:ke do his/her part in building and maintaining the fence around the communal pasture. The rejection of this law is evidence that the matter of maintaining the communal fence generated considerable controversy. The point of contention was surely not the need for this fence, but who should maintain it. Instead of requiring anyone who pastured their animals on the communal pasture to participate in maintaining the fence, it required the participation of anyone who cultivated land anywhere on the territory. This may not have seemed fair to farmers and gardeners who did not use the common pasture.

Conclusion

If archival silence can be taken as an indicator of relative peacefulness, or at least of a functioning political system in which members did not appeal to external sources of authority, the court records produced by Arakwente and Delorimier reveal ruptures, conflicts, and power struggles. Considering larger demographic, cultural, economic, and environmental developments of the time, it seems inevitable that such conflicts would arise in one way or another, but these were the men who led the charge. According to some accounts, Delorimier led Kahnawá:ke warriors in battle against the Americans in the War of 1812, which likely paid off handsomely for him in the years following the

war.⁸⁶ Nevertheless, he was dismissed from his post as agent in 1821 after the Department of Indian Affairs could no longer deny or ignore the multitude of ways he was abusing his position. Complaints against him included that he failed to properly collect rent; accumulated land, livestock and houses; slept around; sold liquor; and skimmed off the top of supplies and presents destined for Kahnawakehró:non.⁸⁷ The year he was dismissed, Kahnawá:ke chiefs decided that all land grants to him be annulled on the date of his death and that possession of his lands would revert to the community. Upon his death in 1823, however, the chiefs could not enforce the wishes of the community, and his children were able to inherit the lands he had accumulated.⁸⁸ Many Kahnawakehró:non continued to work for the expulsion of the Delorimier family throughout the nineteenth century with some success, but a number of his descendants also became fully integrated into Kahnawá:ke society.

Little is known about Thomas Arakwente's biological children, but Arakwente's legacy lived on through his adopted son, Jarvis McComber. McComber, originally from Massachusetts, arrived in 1796 as a teenager under unknown circumstances and was adopted by Arakwente. He married one of Arakwente's daughters and, after serving as land agent for the chiefs, obtained lots totaling 97 acres. In 1817 he was taken to court by the chiefs and ordered by the Court of King's Bench to return these lands. He did this but repurchased them the same year. Over the course of his life, McComber was married to three different Mohawk women and fathered a total of twenty-eight children. He served as resident interpreter during the 1820s and 1830s, and died in 1866 at the age of ninety-

⁸⁶ Sossoyan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 84.

⁸⁷ Rapport du procureur général adjoint sur certaines plaintes des Iroquois du Sault St-Louis pour Guy Carleton Dorchester, March 1794, RG10, vol. 625, 182269-182277, reel C-13395, LAC.

⁸⁸ Sossoyan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 85-86.

five.⁸⁹ Whereas Arakwente did not appear to play anything other than an antagonistic role in relation to the majority of Kahnawakehró:non and their leaders, McComber may have modeled his strategy on the more complicated and ambiguous path taken by Delorimier. While the acquisitiveness (in land) of these men went counter to the customs and instincts of the majority, they did not try to overthrow the traditional ways as Arakwente had. Instead they offered their cross-cultural and linguistic skills to the community, and the community likely benefitted from these. Nevertheless the colonial government signed their paychecks, and most Kahnawakehró:non remained skeptical about their true loyalties.

The chiefs responded to the political challenge from these men by crafting the Twenty-One Laws. The laws are based on the claim of Kahnawakehró:non and their leaders to exclusive political and legal jurisdiction over their lands, and spell out the rules by which Kahnawakehró:non presumably already abided. Putting these previously-unwritten laws on paper can be interpreted as an innovative attempt to give customary rules added legitimacy. Although the Twenty-One Laws were not ratified by colonial authorities, Kahnawakehró:non throughout the nineteenth century asserted the continuity of the legal principles laid out in the laws. Mohawks continued to act on their right to cut wood anywhere on the territory and claim unused land for the purpose of cultivation, and they continued to forbid the sale of wood and the possession of excessive lands, just as the Twenty-One Laws spelled out.

At the beginning of the nineteenth century, Kahnawá:ke remained a place where people lived largely according to customary laws. While the land traditions of

⁸⁹ Ibid., 86.

seventeenth-century Mohawks had been altered to account for the reality of a permanently-located village, many of the fundamental principles were still in place. A few men challenged Kahnawá:ke chiefs and customary laws, but they were not representative of the people of Kahnawá:ke as a whole. Over the course of the nineteenth century, this pattern would continue: the majority tended to favour the maintenance of traditional land practices while a minority pushed for reforms that would privatize and commercialize Kahnawá:ke land.

CHAPTER 4 "Dans quelle anarchie légale vont bientôt se trouver les questions de propriété:" Kahnawá:ke Land Practices 1815-1875

"On verra...dans quelle anarchie légale vont bientôt se trouver les questions de propriété, dans un endroit où tout le monde est propriétaire et où personne ne l'est."¹

These are the words of Joseph Doutre, a lawyer and the president of the Institut Canadien, taken from a transcript of his speech entitled "Les sauvages du Canada en 1852," which he delivered to a mid-nineteenth-century gathering of Montreal's Francophone liberal professionals. The subject of the speech was Kahnawá:ke. Doutre was sure that the opening of the Lake St. Louis and Province Line railway, which commenced operations that very year, would cause serious problems. "Le chemin de fer qui traverse maintenant toute la profondeur de la seigneurie," predicted Doutre, "va être inévitablement l'occasion de nombreuses difficultés. Déjà les blancs attirés par le commerce que vient d'y créer le chemin de fer, se sont répandu dans le village et sur la route."² The only outcome Doutre could foresee was legal anarchy.

Unlike most of his contemporaries, Doutre showed considerable insight in specifying that the predicted problems would not be caused by any defect in Kahnawá:ke governance, but by racial tensions and outside government interference. In his words, the problems "ne résulteront aucunement de leur forme de gouvernement mais uniquement du mélange de races hétérogènes, soumises à une législation essentiellement différente."³

¹ Doutre, "Les sauvages du Canada en 1852," 202-203.

² Ibid.

³ Ibid., 203.

Other outside commentators in the following decades, including officials with the Department of Indian Affairs (DIA), operated under the under the assumption that the underlying problem in Kahnawá:ke lay in the people who lived there. Officials characterized Kahnawá:ke land customs as retrograde, uncivilized, and the product of a conservative and irrational mindset. This was in line with the contemporary mainstream belief that Indians were uncivilized, lazy, ignorant, and devious, and that their primitive collective instincts stood in the way of their improvement as individual citizens. Nineteenth-century government records, travel reports, and newspaper articles are infused with this misdiagnosis, and uncritical historians have tended to repeat it. The same rhetoric has been used against Indigenous communities around the world. Governments have long assumed that Indigenous peoples have defective land practices and have used this as pretense for expropriating land and imposing new land-management regimes. This chapter details the continuity of Kahnawá:ke land practices in the nineteenth century: many Kahnawakehró:non continued to abide by customary land laws and chiefs continued to apply and assert them. It argues that land-management problems arose when these practices and laws were undermined. In other words, I argue that Doutre was correct in suggesting the land-management problems in Kahnawá:ke did not arise from internal political deficiencies, but from railroads, population growth, racial tension, land shortage, and external political interference.

This chapter is divided into two main parts: the pre-railway period, covering the years from 1815 to 1850, and the post-railway period, which covers 1850 to 1870. Aside from the construction of the railway, the 1850s also presented Kahnawá:ke with challenges in the form of new Indian legislation, the abolition of the seigneurial system,

and new environmental problems. Both the early and the later periods covered by this chapter are marked by continued self-government on the part of Kahnawá:ke, but the latter period is characterized by the increasing importance of the Indian Department in the daily lives of Mohawks and the erosion of political independence. During this period, Kahnawá:ke chiefs lost control of community finances, and found it increasingly difficult to enforce customary laws concerning resource use, landownership, and membership. This period also saw the rhetorical and legal transformation of Kahnawá:ke from seigneurie into reserve, and Kahnawakehró:non from allies of the British crown to "dependents" of the Canadian state. Kahnawakehró:non themselves did not approve this changed relationship, but they no longer had the political or military power to impress their own understanding of the relationship upon the Canadian state.

PART I -- 1815-1850

The trajectory of nineteenth-century Indian legislation, and reality on the ground, was a decline in First Nations power over their own affairs, and a rise in the power of the Indian Department to manage the same. The Indian Department began the nineteenth century as a branch of the military, and was vested with the task of maintaining diplomatic relations with valuable allies. The same department ended the century as a civilian department charged with the task of protecting Indians from harmful influences while they were being assimilated. It began the century as an agency designed to serve

the needs and demands of First Nations and ended it trying to eradicate every aspect of their societies.⁴

Following the upheaval of the War of 1812 and the rapid growth of population due to the influx of loyalists and other immigrants beginning in the 1790s, First Nations in Upper and Lower Canada experienced a decided decline in political clout. This decline was directly related to a decline in their relative demographic and military importance. They were no longer seen as significant military threats, important allies, or even a large percentage of the population. With increased immigration from Europe and the United States and a decrease in military hostilities in Eastern North America, government insiders began to suggest that the Indian Department should be part of the civilian, rather than military, administration. Threatened with the complete elimination of the department, Indian Affairs officials saved their jobs by agreeing to the change, and shifting their policy orientation toward the economic and social well-being of Indians. The new civilian department, however, was funded almost entirely by the sale of Indian land, which in hindsight seems clearly at odds with the stated goals of the department. At the time, however, decision-makers did not see it that way. Deputy Superintendent General of Indian Affairs, H.C. Darling, argued for the maintenance of the department in 1828 by suggesting that if the department were not there to protect them and Indians were subsequently deprived of their lands they would either become more dependent on the government or would turn to violence. He also argued that the Indian Department was well placed to protect Indian land. According to Darling, the policy change and continued expenditure on Indians were justified because it would head off the possibility of even

⁴ Daniel Francis, *A History of the Native Peoples of Quebec, 1760-1867* (Ottawa: Department of Indian Affairs and Northern Development, 1985), 1-20; Carter, *Lost Harvests*, 23-24.

larger expenditures. The dispossession of Indigenous peoples was seen as inevitable, and the maintenance of the department was a way to ensure that the process happened in a way officials considered "orderly."⁵ At the same time the department began to de-emphasize its former mission of maintaining good relations through the distribution of presents and worked instead to transform Indigenous societies and individuals, a process they called "civilization." This meant sponsoring missionaries and schools, and encouraging Indigenous men to become sedentary farmers.⁶

When the British conquered New France, the former allies of the French, including Kahnawakehrónon, were concerned that they would now lose their lands and rights. The war-weary British, eager to keep their new allies on side, enacted several measures intended to assure Indigenous peoples that they would be protected under British rule. Important among these assurances was the fortieth article of the Articles of Capitulation of Montreal, signed in 1760, which stipulated that Indians would keep the land they inhabit, not be molested, have freedom of religion, and have the right to keep among them the missionaries of their choosing.⁷ The 1763 Royal Proclamation reaffirmed the territorial rights acknowledged by the Articles of Capitulation but went further, setting apart large territories as Indian hunting lands to the west and north, land which was not to be settled by Euro-Canadians without the permission of the Crown. No lands held by First Nations in the St. Lawrence Basin were to be purchased by non-

⁵ Report of Henry C. Darling on Indian Affairs, July 24, 1828, MG24-A12, vol. 9, reel A-535.

⁶ John L. Tobias, "Protection, Civilisation, Assimilation: An outline history of Canada's Indian policy," in *Sweet Promises: A Reader on Indian-White Relations in Canada*, ed. J. R. Miller (Toronto: University of Toronto Press, 1991); Duncan Campbell Scott, "Indian Affairs, 1763-1841," in *Canada and its Provinces*, ed. Adam Shortt and Arthur G. Doughty (Toronto: Glasgow, Brook and Co., 1914); Duncan Campbell Scott, "Indian Affairs, 1840-1867," in *Canada and its Provinces*, ed. Adam Shortt and Arthur G. Doughty (Toronto: Glasgow, Brooke and Co., 1914).

⁷ Carmen Lambert, *History of Kahnawake Land Claims, Seigneurie of Sault-Saint-Louis* (Paper prepared for the Confederation of Indians of Québec, 1980), 28.

Natives, and Indians were prohibited from selling land to anyone but the Crown. The goals of this legislation were to restrict European settlement to the eastern seaboard, to keep First Nations from warring against the colony, and to allow the Crown to maintain some measure of control over the pace and character of colonial settlement. The promise of a vast western territory free of European settlement was broken almost as soon as it was made, and most of the lands in the interior were lost to Indigenous peoples over the course of the nineteenth century.⁸ The smaller territories in the St. Lawrence Valley were also under threat by Euro-Canadian settlement and encroachment, but First Nations there were more successful in maintaining their land rights. Because the history of First Nations lands in the St. Lawrence Valley, including the history of Kahnawá:ke, must be understood in the context of the seigneurial system, the following is a short summary of the early history of a seignury that would later come to be understood as a reserve.

The Seignury of Sault Saint-Louis dates from 1680, when Louis XIV granted Kahnawakehró:non a territory about four times the size of the current reserve. This seignury was different from most seigneuries in New France, not only because the original deeds recognized Kahnawakehró:non as proprietors, but also because they did not contain parameters as to the relationship between seigneur and censitaire (i.e. the rights and obligations of each).⁹ Legal historian Michel Morin argues that this means Sault Saint-Louis cannot be considered a seignury, but instead simply "de terres

⁸ Francis, *A History of the Native Peoples of Quebec*, 9-25.

⁹ For more on the seigneurial system, see R. Cole Harris, *The Seigneurial System in Early Canada: A geographical study* (Québec: Presses de l'Université Laval, 1966); William Bennett Munro, *The Seigniorial System in Canada: A study in French colonial policy* (New York: Longmans Green, 1907); Fernand Ouellet, "Le régime seigneurial dans le Québec (1760-1854)," in *Éléments d'histoire sociale du Bas-Canada*, ed. Fernand Ouellet (Montréal: Hurtubise HMH, 1972); Marcel Trudel, *Le régime seigneurial* (Ottawa: Société historique du Canada, 1956).

appartenant aux autochtones."¹⁰ Historical anthropologist Carmen Lambert does not go so far, but argues that this seigneurie was never intended for non-Indigenous settlement, and that all such concessions were illegal.¹¹ However, the Jesuit missionaries, who were granted a role in managing seigneurial lands, paid little attention to differences in wording between the deeds of this and other seigneuries, and acted more and more like seigneurs, especially by the time of the British conquest. Kahnawá:ke chiefs, however, also asserted their right to lease land to non-Native people under the seigneurial system, and the community earned significant revenue in that way. Whether legal or illegal, with or without the consent of Kahnawakehrónon, about two thirds of the seigneurie was conceded to non-Mohawks. The rents from these lands were to be handed over to the chiefs for such purposes as the maintenance of local infrastructure including the church, hosting diplomatic delegations, and helping the poor to pay for funerals. There were ongoing disputes about who was responsible for collecting rents and how much was handed over to chiefs (Chapter 2).

After the conquest, the Jesuits claimed exclusive ownership of the seigneurie, but General Thomas Gage, Governor of Montreal and British Commander in North America, agreed with the Mohawks that the seigneurie belonged them. He also interpreted the original deeds as meaning that non-Indigenous settlement on the seigneurie was illegal. He cancelled all concessions after 1760, but allowed most concessions granted before that date to stand, and replaced Jesuit rent collectors with a government Indian agent. For Gage, the clause of the 1680 deed, stating that if the territory were ever abandoned it would revert to the French crown, meant that Kahnawá:ke territory was now Crown land,

¹⁰ Morin, *L'usurpation de la souveraineté*, 251.

¹¹ Lambert, *History of Kahnawake Land Claims*, 18.

belonging to Kahnawakehró:non for only as long as they occupied it.¹² Later, the legal basis for the Crown assuming title to Kahnawá:ke was the seizure of Jesuit estates in 1800, an argument which depends on the dubious claim of Jesuit ownership.¹³ The understanding of Indian land as Crown land became the legal basis for the creation of the system of Indian reserves under the eventual administration of the federal government.¹⁴

Land Practices and Livelihoods

Kahnawá:ke land practices during this period continued to be an adaptation of traditional Rotinonhsiónni and Euro-Canadian practices. Joseph Marcoux, the Catholic priest who lived and worked in Kahnawá:ke from the 1820s to the 1850s, noted in 1830 that while gardens and fields were not fenced, a common pasture surrounded by a fence was used for grazing cattle. Public roads and the fence around this common were repaired by Mohawk men who were gathered for that purpose by the chiefs, and compensated with bread, meat, and rum. He wrote in 1839 that livestock, including hogs and poultry, were ubiquitous. Most good land was owned "privately," according to Marcoux, which did not mean that land was necessarily held under Euro-Canadian conditions but that good land was taken up and used.¹⁵ Kahnawá:ke chiefs said much the same thing when

¹² Ibid., 25-26.

¹³ As late as 1810, Kahnawakehró:non had voting rights in Lower Canada based on their status as owners of the seigneurie. Petition of Augustin Cuviller to the Legislative Assembly of Lower Canada, Feb. 9, 1810, *Journaux de la Chambre d'Assemblée du Bas-Canada depuis le 29e Janvier jusqu'au 26e Février 1810*, inclusivement, Québec, pp. 89-101.

¹⁴ The Indian Department commissioners in 1858 claimed that when the land was taken from the management of the Jesuits, "the interest of the Tribe only under the supervision of the Indian Department was recognized, the fee simple being retained by the Crown." R.T. Pennefather, Fromme Talfourd, and Tho. Worthington, "Report of the Special Commissioners to Investigate Indian Affairs in Canada." in Appendix No. 21 to 16th Vol. of Journals of Legislative Assembly, Province of Canada, Feb. 25-Aug. 16, 1858, pg. A21-19.

¹⁵ Sossayan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 20.

they turned down an 1839 Indian Department offer to have the reserve subdivided on the basis that most of the good land was already cleared and taken up.¹⁶ Such statements, however, are contradicted by reports from the 1840s. An 1843 report by Marcoux stated that of the 12,400 acres left of the original seigneurie, around 10,000 was still in a "primitive state."¹⁷ The Jesuit historian, E.J. Devine, took this to mean that while Kahnawakehrónon had had 160 years to start making use of the land, they still only used a fraction of it.¹⁸ Declaring land as being in a "primitive state," however, was a value-laden judgement, and it is well-known that the Euro-American eye did not perceive Iroquoian agriculture as particularly sophisticated. C.D.C. Napier, Superintendent of Indian Affairs, reported the following numbers for a seigneurie he estimated at 42,336 acres in 1845:

Conceded to Canadians	15,000 acres
Under Indian Cultivation	2,296 acres
Sugar Bush	1,953 acres
Common near village	1,500 acres
Irreclaimed swamps	<u>4,004 acres</u>
Total	24,753 acres
Residual	17,583 acres ¹⁹

These figures may be based on nothing more than informed speculation, since unconceded parts of the seigneurie were not systematically surveyed or mapped until forty years later. It is unclear if Napier included the land occupied by the village as "under Indian cultivation," and there is no explanation for the 17,583 acres of "residual"

¹⁶ Iroquois of Caughnawaga to Duncan C. Napier, June 1, 1839, RG10, vol. 97, p. 40204-40205, reel C-11470, LAC.

¹⁷ Devine, *Historic Caughnawaga*, 379.

¹⁸ Ibid.

¹⁹ Report of the Superintendent of Indian Affairs, C.D.C. Napier, 1845, Department of Lands and Forests, D-3 359-44, Sec. 2., BANQ, Quoted in Lambert, *History of Kahnawake Land Claims*, 56.

unclassified lands. Suffice it to say that one cannot place too much stock in estimates of acreages for Kahnawá:ke land-use before the 1880s.

Did Mohawks cultivate their territory? Yes, but archival sources differ wildly on how much. Marcoux asserted in 1836 that Kahnawá:ke men had practically ceased to hunt and now made their living by piloting boats and rafts in the summer, and selling moccasins, snowshoes, and beadwork in the winter. He saw Mohawk men as having a particular aversion to agriculture and to sedentary life in general. "Don't tie them down to learn a trade," wrote Marcoux, "Touch not their liberty if you wish to do anything with them." He reported that "up to the present they cultivate with the spade and not with the plough," but felt they could be encouraged to do more by furnishing them the right tools. Marcoux's successor, Father T. Eugene Antoine, added that aside from a lack of interest in agriculture, Mohawks also showed little inclination toward learning trades that would keep them in the village.²⁰ While it is true that many Mohawks were attracted to livelihoods that took them away from the village, early commentators emphasized this fact to such an extent that few scholars have taken an interest in how Mohawks interacted with the land when they were they were at home. Even Reid states that farming in the late nineteenth century "was an economic option, but few pursued it in an important way."²¹ Early commentators may have over-emphasized the non-agrarian nature of Kahnawakehró:non because of perceived racial characteristics that kept them roaming

²⁰ T. Eug. Antoine report to R. T. Pennefather (Appendix 2), Feb. 27, 1857, in R.T. Pennefather, Fromme Talfourd, and Tho. Worthington, "Report of the Special Commissioners to Investigate Indian Affairs in Canada." in Appendix No. 21 to 16th Vol. of Journals of Legislative Assembly, Province of Canada, Feb. 25-Aug. 16, 1858.

²¹ Reid, *Kahnawà:ke*, 17-19.

rather than stationary. The Indian Department, in its 1856-1858 inquiry into its own operations, concluded that Kahnawakehró:non were:

...of such mixed descent, as scarcely to reckon a single full blooded individual among their number, retain the aboriginal apathy and disinclination to settled labour of any sort. They still cling to their roving habits, and many of them are Voyageurs and Canoemen in the employment of the Hudson's Bay Company. A considerable number too are occupied during the summer in rafting timber and as pilots through the rapids of the St. Lawrence.²²

The report went on to say that, "they cultivate a limited quantity of land, but most of the Reserve which is in their own hands, is lying idle, unprofitable alike to themselves and the country at large."²³ The assessment was that the land was going to waste, a common argument used to justify white settlement on Native land.

Contradicting both this truism and his own assertions, Marcoux estimated in 1843 that the average Kahnawá:ke family cultivated about ten acres and that few cultivated more than forty acres.²⁴ Considering how stridently Marcoux insisted on Mohawks' non-agricultural nature, it is surprising to see him describe the typical day of a Kahnawakehró:non as the day of a male farmer. He wrote of them in 1843:

...generally speaking, the Indian begins the day by eating between eight and nine o'clock. When the sun begins to throw out its rays he goes to his field, where he works in the greatest heat until the afternoon. He then returns home to take another meal. In winter between the morning and the afternoon meals, he goes to cut wood, but when he remains at home he eats several times a day. No word is found in his tongue for *dinner*, *breakfast* or *supper*; he always used the expression *to eat*. The Indian has no stated number of meals, nor any fixed time for taking them; it all depends on circumstances.²⁵

²² R.T. Pennefather, Fromme Talfourd, and Tho. Worthington, "Report of the Special Commissioners to Investigate Indian Affairs in Canada." in Appendix No. 21 to 16th Vol. of Journals of Legislative Assembly, Province of Canada, Feb. 25-Aug. 16, 1858, pg. A21-20.

²³ R.T. Pennefather, Fromme Talfourd, and Tho. Worthington, "Report of the Special Commissioners to Investigate Indian Affairs in Canada." in Appendix No. 21 to 16th Vol. of Journals of Legislative Assembly, Province of Canada, Feb. 25-Aug. 16, 1858, pg. A21-20.

²⁴ Devine, *Historic Caughnawaga*, 379-380.

²⁵ Quoted in *ibid.*, 380.

Although the Kahnawá:ke man Marcoux describes is a farmer, Marcoux suggests that he is undisciplined and irrational for eating meals at irregular times and working in the heat of the day instead of in the early morning. Value judgements aside, the average mid-century Quebec farmer cultivated between thirty and forty-five acres compared to the average Mohawk farmer's ten acres.²⁶ Kahnawá:ke averages were thus decidedly smaller, but nearly every family cultivated plots of land, many of which were larger than ten acres and some of which matched the Quebec average. Of an estimated population of 1100 in 1843, Marcoux stated that fifty families farmed.²⁷ It is possible that by this statement Marcoux meant that fifty *men* farmed on a relatively large scale, incorporating Euro-American farming techniques and technologies such as field rotation, draught animals, manuring, and harrows.²⁸ But aside from the fifty families, it is likely that several hundred other women and their families also cultivated lands on a smaller scale and using different techniques. After all, Marcoux noted in 1847 that traditional gender roles were still in place: young men ploughed and harrowed fields, and that the rest of the agricultural work was done by women and old men. He also noted the continued existence of the custom making unused land available to any Kahnawakehró:nnon who wanted to work it.²⁹

The 1858 report by the Special Commissioners into the affairs of the Indian Department stated that Kahnawakehró:nnon possessed "a very considerable quantity of

²⁶ Serge Courville, "La crise agricole du Bas-Canada, éléments d'une réflexion géographique (1e partie)," *Cahiers de géographie du Québec* 24, no. 62 (1980): 197. The two figures given here represent Courville's calculations for the years 1844 and 1851 converted from arpents to acres.

²⁷ Sossoyan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 19.

²⁸ *Ibid.*, 20.

²⁹ *Ibid.*, 19.

live stock."³⁰ It listed 251 cows, 15 oxen, 226 horses, 517 swine, and 119 carts and wagons among the 1342 individuals who had been reported in the census of 1856. The village was "the largest, and one of the best built Indian Settlements in Canada" and its farms produced oats, barley, peas, hay, and wheat. The manufacture of maple sugar was carried out "to a very considerable extent." Father Antoine, newly arrived on the job, claimed that "Indians have been taking an interest, before not known, in agricultural pursuits."³¹ This statement, however, can be considered virtually meaningless, as it was an axiom repeated over and over in Indian Department reports over the decades. One finds virtually the same sentence in reports written three decades later.

According to a declaration by the chiefs and warriors of Kahnawá:ke in 1846, the entire territory was divided between Mohawk families. The authors declared that some areas:

...était autrefois couvert de champs de blé-d'inde, qui depuis un siècle sont devenus des prairies dont quelques unes ont été abandonnées, et d'autres encore en plein rapport, qu'il s'y sème encore tous les ans toutes sortes de grains par les individus de la nation, qui les ont reçus en héritage ou achetés les uns des autres; qu'ils s'y trouve des sucreries qui ont été légués de père en fils, de tems immémorial...³²

This mid-century statement indicates that Kahnawá:ke believed traditional horticulture had once been practiced to a much greater extent in the territory. Although some of this land was no longer used for growing corn, the authors insisted that much of it was used for growing a great assortment of crops, for pasturing, and for the production of maple

³⁰ R.T. Pennefather, Fromme Talfourd, and Tho. Worthington, "Report of the Special Commissioners to Investigate Indian Affairs in Canada." in Appendix No. 21 to 16th Vol. of Journals of Legislative Assembly, Province of Canada, Feb. 25-Aug. 16, 1858, pp. A21-19 to A21-20.

³¹ *ibid.*

³² Pétition des Iroquois de Sault Saint-Louis à Charles Murray Cathcart, Jan. 3, 1846, RG10, vol. 602, p. 48642-48646, reel C-13381, LAC. Transcribed by Maxime Gohier.

sugar. The statement also indicates that the practices of buying and selling land, and of passing land from parents to children were well established by this time.

Cartographical depictions of Kahnawá:ke by surveyor and cartographer Joseph Bouchette juxtapose a forested and undifferentiated Mohawk territory with neatly parceled farmland all around. The only cultivated lands in areas known to be occupied by Mohawks are shown next to the main roads. Both his 1815 and 1831 maps (Figures 4.1 and 4.2) of Lower Canada show the land in this way, but the 1831 edition contains an added label of "Indian Woodlands." Both maps show the Seigneurie of Sault Saint-Louis as extending well beyond the borders of the current reserve, and including the areas conceded to French-Canadian farmers.



Figure 4.1 Joseph Bouchette, detail of "Topographical Map of the Province of Lower Canada," 1815, G/3450/1815/B68 CAR, BANQ.



Figure 4.2 Joseph Bouchette, detail of "Topographical Map of the Province of Lower Canada," 1831, G/3450/1831/B68 CAR, BANQ.

Bouchette constructed his composite maps from existing maps of different regions. Considering the lack of accurate maps of Kahnawá:ke, and that Bouchette probably never saw any of the areas beyond the main roads shown on the map, there is no reason to give these depictions a great deal of credibility. They do, however, represent how non-Mohawks thought of Indian land as underutilized and uncultivated. To a Euro-Canadian eye, in other words, Mohawk land use did not look like *use*. The blindness of Euro-Canadian observers to the economic contributions of women may also explain why they repeatedly constructed incomplete pictures of Kahnawá:ke economic and environmental realities. Notwithstanding the depictions of outsiders, we can assume that the majority of the land was claimed and used by Kahnawakehró:non in one way or another, as evinced

by the 1839 statement by the chiefs that it would be impossible to lay out a new hundred-acre farm without infringing on several already existing possessions.³³

While small-scale farming and gardening were largely the domain of women, children, and older men, and larger-scale farming was done by a minority of men who had the necessary land and capital resources (and by a few non-Native farmers who leased land unofficially), most Kahnawá:ke men, like their ancestors, pursued livelihoods that took them away from the village for long periods at a time. The Mohawk community of Ahkwesáhsne followed similar land-use and livelihood patterns as Kahnawá:ke. Solomon Chesley, a superintendent and interpreter for the Indian Department, stated in 1834 that the majority of farmers in Ahkwesáhsne were women. In his account, many Ahkwesáhsne men worked as boaters in the summer while the women cultivated the fields. How and where people spent their winters was in determined to some extent by the success of the crops and by the annual presents from the Indian Department. In 1834, when the government reduced annual presents and the corn crop failed, Chesley described seeing a nearly-empty village. About three quarters of the population was elsewhere.³⁴ This seasonal pattern was also observed in Kahnawá:ke, but may have been less extreme due to the more plentiful employment opportunities available in the Montreal area.

³³ Sossoyan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 20.

³⁴ Solomon Y. Chesley to James Hughes, Jan. 18, 1834, RG10, vol. 88, p. 35006-35008, reel C-11466, LAC.

Membership and Land

The question of membership has been central to questions of land at Kahnawá:ke for more than 200 years and continues to be so. The previous chapter shows that deciding on who was *in* and who was *out* centered on two questions. First, what were the criteria for deciding who was a member; and second, who had the authority to enforce such rules? In the case of Arakwente, no one disputed his right to land and resources in Kahnawá:ke. The attempts to evict him were based on his unwillingness to live by the customary rules that governed the commons. In the cases of non-Native men who married Mohawk women, such as Claude Delorimier, whether or not they gained rights depended on the rules governing membership. The incidents involving Delorimier and Arakwente were harbingers of things to come and alerted Kahnawakehró:non to the fact that outsiders were not being integrated in the same way that they once had been. This section addresses questions of membership criteria and authority before moving on to discuss some specific cases in the first half of the nineteenth century.

Until 1850 the colonial government did not have a legal definition of "Indian" and the Indian Department did not concern itself greatly with the question of membership. In 1836 Indian Agent James Hughes wrote to Napier, Secretary of the Indian Department, saying that as he understood it, whites who live in Kahnawá:ke for a long time were considered Indians. By this he clearly meant white men, because he went on to say that "all children begotten by Indian parents or an Indian father and a white mother are looked upon as Indians; all children by white men and Indian women are looked upon as whites."³⁵ Hughes wrote again the following year, saying that based on his experience at

³⁵ Quoted in Sossoyan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 88-89.

Kahnawá:ke, women who marry white men lose their Indian status.³⁶ Such correspondence reflects the ambiguous reality in which the Indian Department operated during this period—decisions on membership were made according to the opinion of mostly non-Native men who were supposed to know something about the matter and it is clear that there was still uncertainty within the department in the 1830s about how to deal with this issue.

The problem was that adoptees like Delorimier and McComber had not assimilated as completely as adoptees had in previous decades. They only internalized a portion of the Mohawk worldview. Within a few years of their arrival these men became wealthy at the expense of the community, and their considerable influence presented a challenge to the status quo. While the challengers were not all from the outside, it was clear to Kahnawakehró:non that the new ideas about land and property were outside ideas. Many of those who pushed for reform were adoptees, children of adoptees, or non-Mohawks who had established themselves with the approval of the Indian Department. It is therefore not surprising that their opponents labelled them as "white men." Although these people claimed Mohawk identity and rights, their opponents felt they were imposters. Those wishing to maintain traditional land practices believed that conflicts over landownership and resource use could be solved by expelling "white men" from the territory and preventing others from marrying in.

With the removal of Jesuit missionaries from their position as land managers, and the Gage decision to end seigneurial land concessions, it became difficult for non-Mohawks to gain land in the area. One of the only ways left to gain land privileges in the

³⁶ Ibid.

seigneurie was to marry a Mohawk woman. As early as the 1780s, Kahnawakehrón:non were protesting non-Native men gaining access to their land through marriage. There were also a number of incidents in the early nineteenth century that are indicative of this newly recognized danger. In 1812 alone, at least two non-Native Francophone men were physically prevented from entering the Kahnawá:ke church where they intended to marry Mohawk women. Ten years later the newly-hired agent Nicolas Doucet noted growing frustration and unrest around this problem. In Doucet's view, men could be forbidden from gaining land rights through marriage based on the provisions of the Royal Proclamation, which prohibited the establishment of whites among Indians.³⁷ The 1828 Darling Report noted repeated complaints about White people living in Kahnawá:ke and selling liquor. It concluded that, since some of these people had now been expelled, things were going better.³⁸ In reality, the colonial government rarely intervened to expel anyone, and these problems continued to fester.

While many Mohawks became increasingly desirous of finding expedient ways to expel non-Mohawks, the colonial government maintained an ambiguous position on the question of membership. Through its agent, the Indian Department maintained significant control over who could live on the territory but it did not have any defined or consistent rules on the question of membership. Permits were issued to those who had the favour of the department, and the department rarely forced people to leave once they had settled there. In 1835 it was reported that of the unconceded lands in the seigneurie, 188 acres were held by whites, but there was disagreement as to whom the label "white" could be applied. In September of that year the chiefs petitioned the newly appointed Governor

³⁷ Ibid., 83-84.

³⁸ Report of Henry C. Darling on Indian affairs, July 24, 1828, MG24-A12, vol. 9, reel A-535, LAC.

General, Lord Gosford, to have these people removed and their lands returned to Kahnawakehró:non. They described these men as "bad birds with black hearts who use honeyed and bewitching words to turn the heads" of their people. In response they were told that since the demise of the Jesuit Order, the king was now the "true owner and proprietor of the seigniory of Sault St. Louis." If Mohawks had conflicts, they were told, they should be brought before the courts.³⁹ The Indian Department would later do all it could to keep land conflicts from going to the courts, and the courts, in any case, often referred cases involving Kahnawakehró:non back to the Indian Department because of the 'irregularities' in landownership there.

Conflicts in the 1830s

Ethnohistorian Matthieu Sossayan has argued that although Kahnawakehró:non united to fight against the rebels during the 1837-1838 rebellions, the 1830s were a period of particular factionalism in Kahnawá:ke. That decade, Sossayan argues, was "wracked by internal disputes."⁴⁰ As Sossayan acknowledges, the bitter divisions began much earlier and continued unabated through the nineteenth century, but the land conflicts of the 1830s are an important and heated moment in the history of Kahnawá:ke.

One particular conflict boiled over in 1833 and 1834 when Bernard St-Germain, the official interpreter, tried to have the ferry license held by George Delorimier (Antoine-George de Lorimier or Oronhiatekha) revoked and given to a man named

³⁹ Devine, *Historic Caughnawaga*, 353-354.

⁴⁰ Sossayan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 82.

Ignace Delisle (Kaneratahere).⁴¹ St-Germain argued that Delorimier should be expelled, seeing as he was not a member of the tribe and should not have Kahnawá:ke rights. Father Marcoux defended Delorimier, and Indian Agent James Hughes backed St-Germain. Hughes went so far as to make sure all chiefs who would not oppose Delorimier were deposed and replaced. According to Marcoux, this was the first time the colonial government had interfered in the nomination of Kahnawá:ke chiefs.⁴² The chiefs, now allied with Hughes, petitioned against Marcoux complaining that he was not acting in the best interests of the people because he sided with white men like Delorimier. They also petitioned against the presence of White people in village in general, who had illegally taken land and wood with the help of the agents. According to the chiefs, the only way to re-establish peace in the village was to remove all whites, return their property to the community, and enforce the ancient laws and customs.⁴³

After the Montreal magistrates ruled in December of 1834 that Delorimier was an Indian, he was able to keep his ferry license.⁴⁴ Despite the ruling, and probably due to the influence of Agent Hughes, the Indian Department cancelled his annual presents. The following year Hughes found a way to have the ferry license transferred to Delisle and to open a government inquiry into the conduct of Marcoux (he was later acquitted). Agent Robert McNab, the official put in charge of investigating the question of "white" people,

⁴¹ George Delorimier was the son of Claude Delorimier, who appears in the previous chapter as a leading reformer of the early nineteenth century. He married a daughter of Jarvis McComber named Marie-Louise McComber.

⁴² Joseph Marcoux, "Mémoire pour le Missionnaire du Sault St-Louis," Sept. 28, 1835, File 3A, Document 170, ADSJQL.

⁴³ Sossoyan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 93.

⁴⁴ Duncan C. Napier to Thomas W.C. Murdoch, Nov. 20, 1840, RG10, vol. 100, pp. 41805-41808, reel C-11471, LAC.

concluded that the McComber, Delorimier and Mailloux families had no rights to Kahnawá:ke land, and no legal status as Kahnawá:ke Indians.⁴⁵

The battle between Hughes and Marcoux continued into 1836 with Hughes compiling a list of sixty-one whites in the village, and Marcoux claiming there were less than ten, none of whom had taken any land. Marcoux went on to say that everyone in Kahnawá:ke was of mixed ancestry, and that whites and half-breeds had been "sauvagifiés" in any case.⁴⁶ Although Marcoux had enough support among Mohawks to maintain his position, his stance on White people was probably not a majority opinion. In 1836 the majority of chiefs sent another petition asking for the removal of White people and the formalization of a law forbidding the sale or lease of land to non-Natives.⁴⁷ The "whites" in question, including McComber and Delorimier, counter-petitioned. After the 1837-1838 rebellion, the tide turned in favour of the Marcoux-Delorimier's faction but only for a short time. The chiefs removed Delisle, the Hughes-backed ferry-operator, from the Council of Chiefs. Subsequently the Council reconciled with Marcoux and Delorimier, and petitioned against Hughes and his allies in the village. Another inquiry was held, this time into the behaviour of Hughes. It found in favour of Hughes and recommended the removal of Marcoux and Delorimier.⁴⁸

That year, a group of forty-four Kahnawakehró:non, apparently fed up with the entire conflict, sent a petition that put them in opposition to both of the factions. They opposed Delisle *and* blamed Delorimier and Marcoux for stirring up trouble.⁴⁹ Around

⁴⁵ Sossoyan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 82-100.

⁴⁶ Ibid., 94.

⁴⁷ Ibid., 93.

⁴⁸ Ibid., 95-103.

⁴⁹ Ibid., 101.

the same time there were at least two other petitions asking for the removal of White people, one stating the primary concern as wood; the other as land.⁵⁰ The summer of 1840 saw a final inquiry in which Marcoux was acquitted, and in December 1840 the factions signed a peace treaty. Hughes and St-Germain were transferred to positions in which they would no longer have connections to Kahnawá:ke in their work, and a membership agreement was reached that all children of Indian women would be considered Indian, regardless of the identity of their father.⁵¹ This solution would have appealed to traditionalists because it was in line with Rotinonhsiónni matrilinealism, and it was agreeable to descendants of white men like McComber and Delorimier who had married Mohawk women. Many Kahnawakehró:non continued to worry, however, about non-Native men and their children gaining Kahnawá:ke membership and land-rights by marrying Mohawk women.

The Indian Department recognized that the conflicts concerning membership at Kahnawá:ke were essentially conflicts over land. As a solution, it offered in 1839 to have the territory subdivided into thirty to fifty acre lots, so that land could be more equally and securely held.⁵² The chiefs refused the offer, saying this would have been feasible only before most of the good land had already been occupied. Also, they contended that young men in possession of such a lot would sell the wood and abandon the land.⁵³ The arguments of the chiefs do not show a general distaste for private property, nor

⁵⁰ Ibid., 105. Pétition des chefs et guerriers de Caughnawaga à Charles Poulet Thompson, Gouverneur Général, May 29, 1840, File 3A, Document 210, ADSJQL.

⁵¹ Ibid., 103-105.

⁵² Superintendent of Indian Affairs Duncan C. Napier initially believed there was enough unconceded land to allow each Mohawk family a 100-acre farm, but appears to have been corrected by a local surveyor. Napier to Lieutenant Colonel Couper, Apr. 14, 1830, RG8-I, C Series, vol. 269, pp. 347-350, reel C-2857, LAC.

⁵³ Iroquois of Caughnawaga to Duncan C. Napier, June 1, 1839, RG10, vol. 97, p. 40204-40205, reel C-11470, LAC.

opposition to the plan in principle. They simply did not believe it was feasible and they did not believe the outcome would be beneficial to the community or the young men who would gain possession. The idea must have simmered for decades in the files and minds of Ottawa officials, because it surfaced again in the 1870s and 1880s (Chapter 6).

The Calm Before the Storm

These two watercolours (Figures 4.3 and 4.4), dated 1848, were painted by James Duncan, a Montreal watercolour painter who sketched buildings and scenes of daily life throughout the Montreal area. These paintings depict Kahnawá:ke, a village of more than a thousand inhabitants, as quiet and calm. The first painting centers on the church at the center of the village, and foregrounds several houses, fences, and two Mohawks in traditional clothing having a conversation. The second presents a vista of the village with



Figure 4.3 Watercolour, James D. Duncan, "View of Caughnawaga / Caughnawaga au Canada-Est," 1848, W.H. Coverdale collection of Canadiana, LAC.



Figure 4.4 Watercolour, James D. Duncan, "View of Caughnawaga / Caughnawaga au Canada-Est," 1848, W.H. Coverdale collection of Canadiana, LAC.

a defunct mill in the foreground, along with one upright and one seated figure. Both watercolours depict a peaceful atmosphere that seems distant from the hustle and bustle of Montreal. Many visitors described it in similar terms, and there is reason to believe that there was a good measure of peacefulness and calm in the daily life of the village, notwithstanding the conflicts described thus far. The Jesuit historian, E.J. Devine, when describing the "exemplary" behaviour of Kahnawakehró:non for much of its history, explained that this was the result of the seclusion of the village: "Caughnawaga was out of the beaten track," wrote Devine. "Strangers were rarely seen, and the native population were far enough away from the contaminating crowd to enable them to live their lives in

peace and quiet."⁵⁴ Devine, in turn, was basing his impression on the mid-century writings of John H. Hanson, which should be understood in light of Hanson's search for Louis XVII and his conviction that the prince was hiding in a North American Indian village:

Caughnawaga is a straggling Indian village on the St. Lawrence, opposite Lachine, and within sight of Montreal. It consists, besides a number of scattered huts, of two long narrow streets varying considerably in width. The houses are low and shabby, most of them of wood, but some of dark stone. The masonry is of the rudest kind. A Roman Catholic church, a solid stone building, of some slight pretensions to architecture, stands in the middle of one of the streets. In looking at the dingy houses, the narrow streets, the crowd of little Indian children; and considering the loneliness of the spot in former years before railroads and steamboats had brought it into connection with the busy world, one cannot help feeling how secure a hiding-place for a poor scion of royalty this village presented.⁵⁵

As Hanson suggests in his last sentence, the "loneliness" of Kahnawá:ke was drawing to a close.

Kahnawakehró:non may have been eerily aware that major changes were about to occur. In 1848, the year Duncan painted the village, Kahnawá:ke residents believed their village had been invaded by evil spirits, and local medicine men could not get rid of them. It is not entirely clear what the spirits were doing, but Kahnawakehró:non considered it a serious enough problem to use public funds to bring a powerful Algonquin medicine man from Mississauga, near Toronto. After claiming to have killed the spirits, he left, but the spirits soon returned. Next, Kahnawá:ke sent a delegation to Onondaga, known as a Rotinonhsiónni community that had resisted Christianity and Euro-American ways, seeking someone with the power to solve the problem. They found an Onondaga medicine man who was willing to come to Kahnawá:ke. He visited in 1851 and was

⁵⁴ Devine, *Historic Caughnawaga*, 390.

⁵⁵ Hanson, *The Lost Prince*, 355.

apparently able to solve the problem by suggesting that a particular "possessed" young woman be married. The dark spirits may have been banished, but this incident was merely a foretaste of the disturbances Kahnawá:ke would see in the next decades.⁵⁶ Kahnawá:ke was about to be invaded by a railroad.

PART II -- 1850-1870

Devine may have overstated the isolation of Kahnawá:ke before 1850, but there is no doubt that Kahnawá:ke in the second half of the century became connected to the outside world in dramatic new ways. Ethnohistorian Gerald Reid summarizes the period as one characterized by growing land scarcity, white encroachment, inequality of landownership, and intensified assimilation pressure from the modernizing Canadian economy and state.⁵⁷ Of the many root causes of these growing problems for the community, the chief culprits were Montreal industrialization, the abolition of the seigneurial system, and changes in Canadian Indian policy.

Montreal Industrialization and its effects

In the hundred years before 1900, Montreal was transformed from a fur trading town of nine thousand on the colonial margin to an economic powerhouse with a population of nearly three hundred thousand. As the city was becoming the most important transfer point, depot, and manufacturing centre in British North America, it

⁵⁶ Doutre, "Les sauvages du Canada en 1852," 212-215.

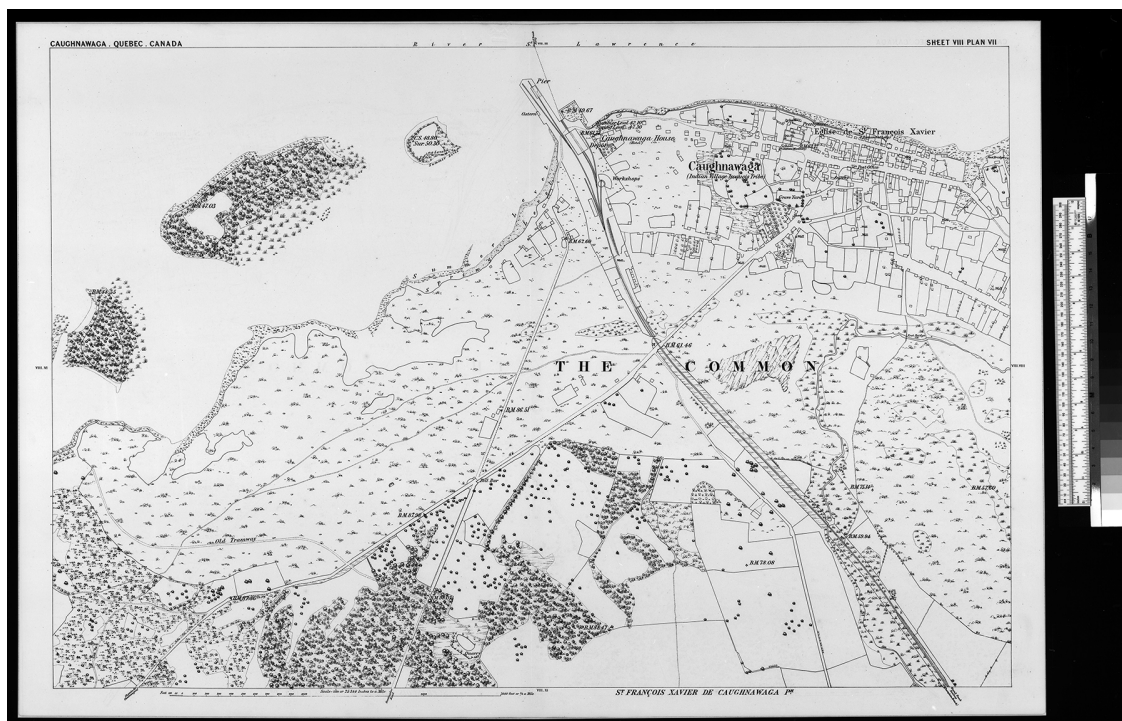
⁵⁷ Reid, *Kahnawà:ke*, 20.

experienced spectacular population growth with rates averaging 5 percent per year in the 1850s. This rapid urban development was made possible by significant increases in public spending on transportation infrastructure such as canals and railroads, as well as political and judicial reforms that favoured growth.⁵⁸ Economic expansion went hand in hand with geographical expansion and steady increases in land prices throughout the region. Although situated several miles from the city core and separated from it by a large river, Montreal had a significant impact on Kahnawá:ke. Like most developments associated with industrial and urban expansion, these were not all negative: there were opportunities for entrepreneurship, new jobs, and easier river crossings for a time. But the breaking of the relative isolation also brought new anxieties, problems, and hazards.

A major impact of the growth of Montreal on Kahnawá:ke was the construction of the Lake St. Louis and Province Line (LSL&PL) railroad in 1852. Running thirty-five miles from Plattsburgh, New York, to Kahnawá:ke, it facilitated the portage of goods and passengers from Lake Champlain to the St. Lawrence River. At the Kahnawá:ke terminus the aptly named ferry, *Iroquois*, carried railway cars to Lachine, from where they were pulled to Montreal along an eight-mile rail line parallel to the Lachine Canal. Figure 4.5 is an 1868 military map showing the part of the village of Kahnawá:ke, the rail line, and the infrastructure associated with the terminus and wharf.

The LSL&PL was financed by Montreal businessmen who believed the economic well-being of their city was threatened by recently completed lines in New York State, such as the Northern Railroad which ran from Ogdensburg to Rouses Point (connecting

⁵⁸ Jean-Claude Robert, *Atlas historique de Montréal* ([Montréal]: Art Global/Libre Expression, 1994), 58, 78-79, 92.



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Figure 4.5 "Lachine and Caughnawaga, province of Quebec" 1868.⁵⁹ The LSL&PL railway can be seen running from the southeast (bottom right) to the wharf on the west side of the village.

the Upper St. Lawrence to Lake Champlain) and cut Montreal out of the trade between New England and the Great Lakes.⁶⁰ By the time the first train ran from Montreal to Plattsburgh, however, there were already several companies competing for essentially the same route, each hoping to capture the traffic between Montreal and the eastern seaboard. The advantage of the LSL&PL over its downstream (and down-rapids) competitors was that goods arriving at Lachine could be shipped south of the border without paying Lachine Canal tolls, but its competitive disadvantage was that Plattsburgh did not yet

⁵⁹ William Francis Drummond Jervois and H. S. Sitwell, *Fortification Surveys Canada: Lachine and Caughnawaga, Province of Quebec* (Southampton, [England] Ordnance Survey Office, 1868), Sheet VIII, Plan VII.

⁶⁰ G. R. Stevens, *Canadian National Railways: Volume 1: Sixty years of trial and error (1836-1896)* (Toronto: Clarke, Irwin & Co., 1960), 30, 38.

have rail connections to the south.⁶¹ This meant that railway cars had to be transported by steamer across Lake Champlain to the nearest railway terminus.

After several unprofitable years, a merger, and a bankruptcy, the LSL&PL was swallowed by the Grand Trunk Railway, which thus gained control of the line serving Kahnawá:ke in 1863.⁶² With the completion of the Victoria Bridge in 1859, bridgeless lines like the LSL&PL became much less valuable. It was used less frequently until it was finally abandoned in the early 1880s and turned into a public road. The wharf associated with the railway continued to be used as a ferry terminus and for loading quarried stone onto barges, and the abandoned Grand Trunk warehouses and workshops were taken over and used by Kahnawakehró:nnon for a variety of purposes, including residences.⁶³

Mohawk political theorist Taiaiake Alfred calls the arrival of the LSL&PL the time when "Kahnawake's modern era began in earnest."⁶⁴ This could be said of the arrival of a railroad in any nineteenth-century town, but Kahnawá:ke was the end of the line, so the impact was much greater. Piers, docks, and other structures were built to accommodate freight and passengers, and the village became a busy railway terminus. Many Mohawks saw this development as "unwelcome" and "ominous," and expressed this sentiment in a number of ways. Governor General, Lord Elgin, responded to their opposition by suggesting that "no one, whether white man or Indian, is permitted to stand in the way of improvements."⁶⁵

⁶¹ Gerald Tulchinsky, *The River Barons: Montreal businessmen and the growth of industry and transportation 1837-53* (Toronto: University of Toronto Press, 1977), 188.

⁶² Stevens, *Canadian National Railways: Volume 1*, 31-33.

⁶³ RG10, vol. 7661, file 22005-1, LAC.

⁶⁴ Alfred, *Heeding the Voices of our Ancestors*, 52.

⁶⁵ Ibid.

Aside from changing the character of the village, the railroad also caused damage to land and landowners all along its path. Kahnawá:ke farmers were so infuriated by the way the company had treated them that they refused to have any more dealings with it after construction was completed. The last straw was when the company demanded thirteen acres for a terminal at the village waterfront, which some interpreted as a plot to gain possession of the village. Tension and threats of violence ensued. Kahnawá:ke chiefs quite reasonably believed that the compensation for the expropriated lands should stay in the community, but the colonial government kept the money, arguing that it was not responsible to hand over large sums of money to Indians who would spend it unwisely.⁶⁶ The physical, cultural, and economic changes wrought by the railway, along with the sense that their leaders could no longer enforce their authority over the territory, led many to consider the option of moving to a location where they could live out their lives in peace.

The advent of quarrying represented perhaps the first major impact of Montreal development on Kahnawá:ke territory. The Trenton Limestone found near the city was not hard enough for cutting large construction stones, whereas the gray, medium- to coarse-grained Chazy Limestone found at Kahnawá:ke was ideal for this purpose.⁶⁷ As early as 1822 the area behind the village was being quarried for the construction of the Lachine Canal. The work was done by non-Mohawk labourers who were housed in and near the village because of the lack of fast transportation facilities between Montreal and Kahnawá:ke.⁶⁸ Kahnawá:ke stone was utilized in many structures built for transportation

⁶⁶ Devine, *Historic Caughnawaga*, 390-392.

⁶⁷ Clark, *Rapport Géologique / Geological Report: Région de Montréal / Montreal Area*, 54, 60, 63.

⁶⁸ Tulchinsky, "The Construction of the First Lachine Canal, 1815-1826," 104.

including the Cornwall Canal and the piers of the Victoria Bridge. On the latter project, Mohawk boatmen were hired to transport stone to the building site.⁶⁹ The quarries were in operation until the middle of the twentieth century and most are today filled with water.

A development that could have further disrupted the lives of Kahnawakehró:non was the construction of a canal to connect the St. Lawrence with the Richelieu River. This idea was seriously discussed from the 1840s until the 1870s. Its most ardent proponent was John Young, a steamship entrepreneur, longtime president of the Montreal Harbour Commission, and lifelong proponent of harbour and waterway modernization.

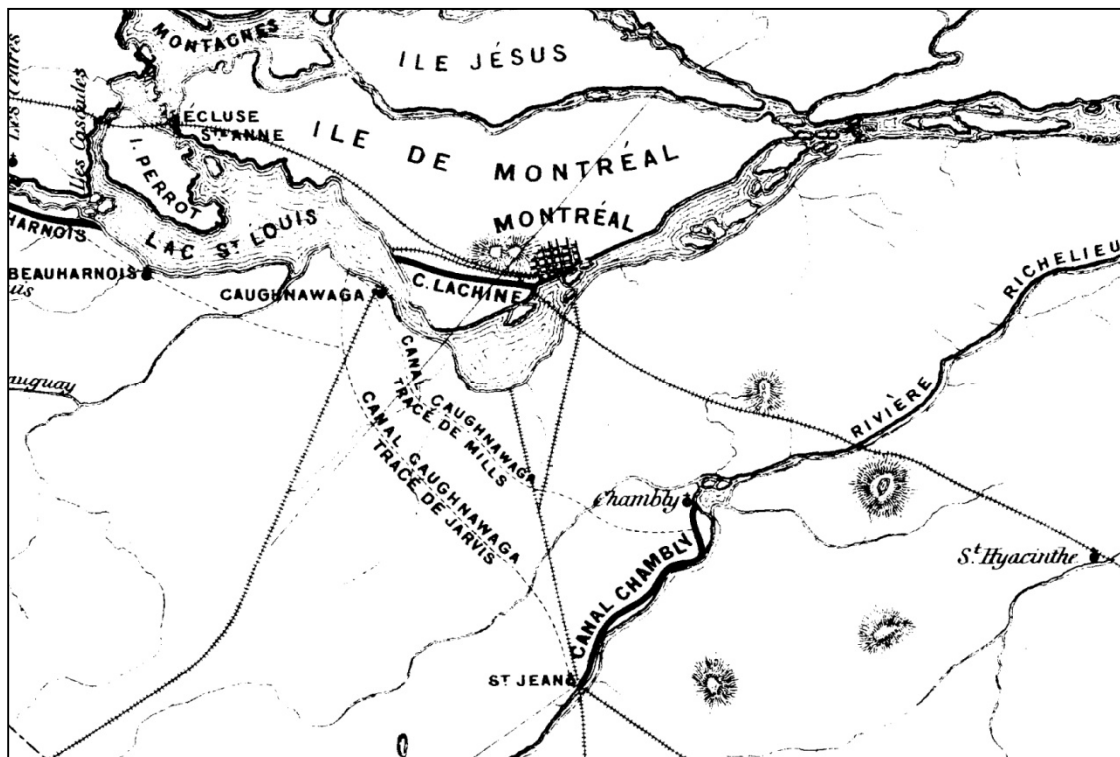


Figure 4.6 Detail of "Canaux Construits et Projetés, District de Montréal," 1867.⁷⁰

⁶⁹ Department of Railways and Canals - Moneys due Indians for stone quarried at Caughnawaga for works on the Cornwall Canal, RG13-A-2, File 1890-149; Rasenberger, *High Steel*, 136.

⁷⁰ Sessional Papers vol. 5, 1st Session of Parliament 1867-8, Annual Report of the Commissioner of Public Works, 30 June 1867, n.p.

Several studies were commissioned mid-century, most recommending that the canal be constructed from Kahnawá:ke to the already extant Chambly Canal which led to Lake Champlain. Because Kahnawá:ke is located above the Lachine Rapids, it is only 29 feet below Lake Champlain compared to Montreal, which is 73.5 feet below. Locating the terminus of the canal at Kahnawá:ke would mean fewer locks, and thus lower construction and operational costs. The canal was to have been about 32.5 miles long, and the cost of construction was estimated at \$1,814,408 in 1848, and \$4,267,890 in 1855.⁷¹ Although engineers declared the plan perfectly feasible and although Young kept bringing it to the attention of the prime minister as late as 1871, it was never carried out.⁷²

In addition to the ever increasing impact it had on Kahnawá:ke through railroads, quarries, and bridges, the growth of Montreal and its industrial infrastructure also affected the community in other ways. Population explosions in the Montreal area meant that land prices skyrocketed and wood had to be brought from farther and farther away, meaning that the price of wood rose. Wood shortages, as a direct result of these changes, began to be felt in Kahnawá:ke as outsiders more frequently cut and took wood to which they had no right. Some Mohawks also took to cutting and selling Kahnawá:ke wood for profit, breaking with the long tradition of communal use. Figure 4.7 is a detail of an 1860 map of the area, showing the relationship of Kahnawá:ke to nearby towns and extensive "Indian lands," which were more heavily wooded than neighbouring lands. The regional wood shortage meant that Kahnawá:ke wood, which was relatively abundant, became

⁷¹ Canada, "Survey of a Projected Canal between the St. Lawrence and Lake Champlain" in Annual Report of the Commissioner of Public Works, June 30, 1867, Sessional Papers vol. 5, 1867-8, pp. 68-69.

⁷² Macdonald to H. Allan, Jan. 26, 1871, MG26-A, LAC.

increasingly vulnerable to unauthorized depredations. The conflicts related to this problem are explored in detail in Chapter 5.



Figure 4.7 Detail of "Frontier of Canada East," 1865, G/3450/s63,3/F76 CAR, BANQ.

Abolition of the Seignorial System

Another challenge to the Kahnawá:ke economy and land base was the abolition of the seignorial system in 1854. It meant that the parts of the seignury settled by non-Natives were now destined to become private property and would no longer produce revenue for the community. The law made provisions for censitaires to transform their feudal ownership (with its rights and responsibilities) into an ownership in *franc alleu-roturier* free of all *cens*, *lods et ventes*, *droit de banalité*, *droit de retrait* and other feudal

rights and duties.⁷³ Seigneurs were to be indemnified by the government for their losses, a value that was arrived at by calculating the value of seignury land using a cadastral survey (*cadastre abrégé*). The law made exceptions for seigneuries owned by religious orders and First Nations, and so changes there occurred differently. The *cadastre abrégé* for Kahnawá:ke was conducted in 1860 by land commissioner H. Judah, who assessed the value of the conceded portion of the seignury at \$99,209.83. This was the amount which Kahnawakehró:non should have received as compensation for the territorial loss brought on by the abolition of the seigneurial system. Judah's heading for the *cadastre* lists the seignury as belonging to "la tribu des sauvages Iroquois, etc." but this was immediately corrected to remove the "etc." The latter abbreviation would have indicated a doubt as to the sole ownership of the seignury, but its removal would appear to signify that the creators of this *cadastre* saw the Mohawks as the sole owners. At least as late as 1890, representatives of the Quebec provincial government argued, based on the Gage decision, that Mohawks were in possession of their territory, and that the claims of the federal government were thus invalid.⁷⁴ The indemnity that was owed Kahnawá:ke from the abolition of their seignury, however, was never paid. The 1894 Act Respecting the Seignury of Sault St. Louis reduced arrears in rents of most tenants by 25% in agreement with Iroquois, but this legislation appears to have failed in its goal to encourage censitaires to pay their arrears. The 1935 *Seigneurial Rents Abolition Act* provided for commutation of rental arrears of censitaires by payment of "a capital sum the interest on which 6% equals the rent and which applied to Sault Saint Louis," and set up a fund from which they could borrow at low interest to make the lump-sum payment,

⁷³ Lambert, *History of Kahnawake Land Claims*, 29.

⁷⁴ Decroix, "Le conflit juridique entre les Jésuites et les Iroquois..." 294-295.

but few censitaires opted for this. In 1967 the Kahnawá:ke band council unanimously rejected a lump sum payment in exchange for giving up their seigneurial rights.⁷⁵

Negotiations are still underway today.

There was never a decisive moment when Sault Saint-Louis concessions were transformed into "total ownership" and rents continued to be collected in a haphazard way by government agents after Confederation. However, it appears that by the time of seigneurial abolition, rents had already been falling off, largely due to neglect by the Indian agents. Throughout the 1820s, 1830s and 1840s, one agent after another was investigated for irregularities and quickly replaced, and records on seigneurial income, if they ever existed, were incomplete at best. The 1858 report by the Special Commissioners into the affairs of the Indian Department reported that the annual public revenue of Kahnawá:ke was small, amounting to \$1062, of which about \$1000 was derived from "rents in money and kind from their leased lands." The rest was paid by the Seminaire de Montréal as interest on money loaned to them in the previous decade for the construction of the Notre-Dame church in Montreal. The rents were collected by the Indian agent, who received no government salary but had the right to retain a portion of the rents collected. An indication of the importance and lucrative nature of this position is the fact that a new agent was required to give the Indian Department a \$4000 security.⁷⁶ The department felt that the seigneurial arrangements for the 14,257 conceded acres produced rents below market value, but there was little the department would do about it in the 1850s because Kahnawá:ke finances were still largely out of the hands of the department at the time.

⁷⁵ Lambert, *History of Kahnawake Land Claims*, 29-30, 42-43.

⁷⁶ R.T. Pennefather, Fromme Talfourd, and Tho. Worthington, "Report of the Special Commissioners to Investigate Indian Affairs in Canada." in Appendix No. 21 to 16th Vol. of Journals of Legislative Assembly, Province of Canada, Feb. 25-Aug. 16, 1858, p. A21-19.

The commissioners emphasized in 1858 that: "Over most of this money the Indian Department has no control, nor does it pass through their hands. The above named rents are collected by the local agent who is bound to render annual returns to Head Quarters of his receipts and expenditure."⁷⁷ Mentions of seigneurial income become rarer as the century drew to a close. Lambert suggests that some censitaires stopped paying rent in 1871, and others followed suit. By 1891 no one was paying.⁷⁸ Kahnawakehró:non, however, did not forget that this income was their right and inheritance, and they often brought the matter to the attention of the Indian Department. For example, in 1874, the chiefs complained that agents had not been collecting rents and that the books had not been kept since 1848.⁷⁹ Ottawa sued one censitaire for thirty years arrears in 1889, but instead of producing any income for Kahnawá:ke, the case turned into a drawn-out legal dispute between Quebec and Ottawa over who had the right to collect rents.⁸⁰ The loss of seigneurial income was probably another factor making Kahnawakehró:non question why they should continue to put up with the numerous mid-century incursions into their land and lives.

The boundaries around the seignury were also a point of contention, especially the eastern boundary bordering the Jesuit seignury of Laprairie. General Gage decided in 1762 that the disputed boundary tract, measuring 37 arpents by 4 leagues, belonged to Laprairie. However, General Burton, Gage's successor, had three surveyors examine the boundary in 1763, and they decided the tract should be part of Sault Saint-Louis. The

⁷⁷ R.T. Pennefather, Fromme Talfourd, and Tho. Worthington, "Report of the Special Commissioners to Investigate Indian Affairs in Canada." in Appendix No. 21 to 16th Vol. of Journals of Legislative Assembly, Province of Canada, Feb. 25-Aug. 16, 1858, pp. A 21-19 and A21-21.

⁷⁸ Lambert, *History of Kahnawake Land Claims*, 42.

⁷⁹ "Memo on letter of the 28th Inst. from the Caughnawaga Chiefs complaining of their Agent" by L. Vankoughnet, Apr. 30, 1874, RG10, vol. 1924, file 3055, LAC.

⁸⁰ Lambert, *History of Kahnawake Land Claims*, 42.

Court of Common Pleas in Montreal ruled against the Jesuits on the same question, but the Superior Court reversed the lower court's decision, restoring the tract to Laprairie. In 1798, the crown successfully sued the Jesuits on behalf of Iroquois on the eastern boundary in the Court of King's Bench, but the same court reversed its decision the following year. In 1807, Kahnawá:ke sent a delegation to London to protest the location of that boundary, but failed to convince the secretary of the colonies to take action. In 1820 Lord Dalhousie decided against their claim as he felt that the territory had belonged to the Jesuits, not the Mohawks. They sent a delegation to Sir James Kempt in 1828, saying that the most valuable part of the seigneurie, including the grist mill and other valuable buildings, were part of the disputed tract. As evidence that the land was theirs, they reminded Kempt that the Jesuits had needed Mohawk permission before building the mill, but he rejected their claim. An 1829 delegation to the King of England on the same matter accomplished nothing except to bring in some money for church renovations.⁸¹ Kahnawakehró:non often asked their resident priest Joseph Marcoux to speak for them in the context of delegations or important meetings, but he raised the issue that the law treated Indians as minors and prevented them from pleading their case before the courts except through their tutor, the King of England. For example, in 1820 over 1000 pounds were owed them from a number of sources, but since they could not sue their debtors this money could not be collected through legal channels.⁸²

The map by P.L. Morin, dated 1864, a detail of which is shown in Figure 4.8, shows the seigneurie of Sault Saint-Louis, including conceded lots (long rectangles in the

⁸¹ Memorandum signed by chiefs and warriors, Dec. 15, 1829, MG24, H64, vol. 1, file II, p. 15-17, reel H-1209, LAC.

⁸² Devine, *Historic Caughnawaga*, 339-443; Lambert, *History of Kahnawake Land Claims*, 32-33.

bottom half of the image) that still produced rental income for the Kahnawá:ke community. It is one of the last nineteenth-century maps to depict the seignury as including both conceded lands and what would become the "Indian reserve."



Figure 4.8 P.L. Morin, detail of "Plan of the Seigniorie of Sault St. Louis or Caughnawaga," 1864, LAC.
Note: The several lines running through the map horizontally and vertically are fold-marks.

The caption on the map (not shown) reads "Plan of the Seigniorie of Sault St. Louis or Caughnawaga," which indicates that at this time the entire seignury was equated with Kahnawá:ke. In 1880 when the DIA set out to survey the boundaries of the "reserve" only, it effectively cut off the rest of the seignury, both on the ground and in the imagination.

Indian Policy 1850 to 1870

Added to the environmental, industrial, and territorial issues that caused problems for Kahnawakehrónon was an increasingly strident and ambitious Indian Department with a stronger and stronger 'civilizing' agenda. During the 1830s and 1840s, the newly constituted civilian Indian Department focused more on First Nations in Upper Canada because Lower Canada communities already lived in permanent villages, and this feature was considered essential in the "civilizing process." Reserves were established for the first time in Upper Canada as places that would keep Indians safe from the vices of Euro-Canadian society while being trained in the best features of the same. Because of budget constraints, the department did little more than administer the distribution of annual presents, and relied on missionaries to run schools.⁸³ Although First Nations in Lower Canada had protested against unfettered non-Native settlement on their hunting grounds since the late eighteenth century, this issue became more and more pressing until it came to a head in the 1840s. An 1844 report commissioned by Governor Charles Bagot suggested that Native communities throughout the St. Lawrence watershed were in crisis: quantities of game were much depleted, farmers and loggers were invading hunting territories, and the closer proximity to settlers was leading to alcoholism, dependence, and poverty. The colonial government was bombarded by petitions and demands from a great number of Indigenous communities asking for protection and compensation.⁸⁴

In response to this crisis for Indigenous peoples, the Canadas made the protection of Indian lands a stated priority for the Canadas by mid-century. Protecting these lands

⁸³ Francis, *A History of the Native Peoples of Quebec*, 21; Tobias, "Protection, Civilisation, Assimilation," 129.

⁸⁴ Francis, *A History of the Native Peoples of Quebec*, 20-24.

was important to colonial governments because they did not want the expense of feeding Indigenous people if they starved; nor did they want a military revolt. What they meant by Indian lands, however, were not the vast lands guaranteed by the 1763 Royal Proclamation, but only a few delineated spaces that would interfere as little as possible with non-Native settlement. The 1850 "Act for the Better Protection of the Lands and Property of the Indians in Lower Canada" aimed to stop encroachment on Indian land, but also gave the crown the right to manage those lands. Jesuits reserves, such as Kahnawá:ke, were also vested in the Commissioner of Indian Lands and began to be called 'reserves' whereas hitherto they had usually been referred to as Indian villages or seigneuries. The 1851 "Act to Authorise the Setting Apart of Lands for the Use of Certain Indian Tribes in Lower Canada" set aside 230,000 acres as reserve land for hitherto nomadic communities, and hunting reserves for permanently located communities, including Kahnawá:ke.⁸⁵

The 1850 Act was the first piece of Canadian legislation to give the category "Indian" a legal definition. Aside from establishing the legal precedent that Indians ultimately had no say in who would be considered an Indian, this document also specified that Indian status was transferrable to and from both male and female spouses.⁸⁶

Indigenous nations who were affected immediately understood that the liberal nature of

⁸⁵ This is the legal origin of the Tioweró:ton territory, also known as Doncaster or St-Lucie, in the Laurentian Mountains, which serves the hunting and fishing needs of Kahnawá:ke and Kanehsatà:ke Mohawks. Richard H. Bartlett, *Indian Reserves in Quebec* (Saskatoon: University of Saskatchewan Native Law Centre, 1984), 5; Carter, *Lost Harvests*, 25; Duncan Campbell Scott, "Indian Affairs, 1867-1912," in *Canada and its Provinces*, ed. Adam Shortt and Arthur G. Doughty (Toronto: Glasgow, Brook and Co., 1914), 593; Francis, *A History of the Native Peoples of Quebec*, 35. For more on the origin of reserves outside the St. Lawrence Valley, see Gérard L. Fortin and Jacques Frenette, "L'acte de 1851 et la création de nouvelles réserves indiennes au Bas-Canada en 1853," *Recherches amérindiennes au Québec* XIX, no. 1 (1989).

⁸⁶ Francis, *A History of the Native Peoples of Quebec*, 32; Tobias, "Protection, Civilisation, Assimilation," 129.

this law mean that it would be easy for non-Indians to gain control of Indian land through marriage. After an outcry from a number of First Nations about this fact, the law was changed so that non-Native men would not be able to gain access to First Nations resources and land through marriage. A non-Native man who henceforth married a Native woman would not gain rights in her community, but she would lose her rights. Non-Native women who married Native men would gain status through him. Considering that women had been the principal farmers and land managers in eighteenth-century Rotinonhsiónni communities (see Chapter 3), this Rotinonhsiónni-led effort to impose patrilineal land ownership and inheritance is puzzling. The story about how Kahnawakehró:non asked for this change has even been passed down in Kahnawá:ke oral histories.⁸⁷ The apparent contradiction between long-held values and mid-nineteenth century political action can be explained by threats to Indigenous lands, and the apparent inability to protect the land base under the matrilineal customs at that time.

Mohawk anthropologist Audra Simpson suggests that in this situation:

...white men were perceived as threatening but white women were not. Iroquois women were the primary care givers in the community... We can hypothesize that within the colonial scene where land, identity and place become enframed in juridical and rights-based language and legislation, this imperative would have been maintained but through the sieve of status. White women were less threatening to the distribution of power on the reserve than white men, as potential landowners, band councilors and voters would have been.⁸⁸

In terms of whether or not these rules were discriminatory toward women, Simpson believes that "the presence of white women (as *de jure* Indians) must have been profoundly aggravating to Indian women that had to leave, but not *threatening* to the

⁸⁷ Audra Simpson, "To the Reserve and Back Again: Kahnawake Mohawk narratives of self, home and nation," (PhD Thesis, McGill University, 2003), 92-93.

⁸⁸ Ibid., 95.

broader community in terms of property or land ownership." Thus the extinguishment of Mohawk women's rights, according to Simpson, "was less an attempt at discriminating against their own people than at protecting the community from a possible take-over by non-Indian men."⁸⁹ Patrilineal land ownership and inheritance norms were also adapted in other Indigenous communities during the nineteenth century. Historian Deborah Doxtator has argued, for example, that leaders in mid-nineteenth-century Six Nations of the Grand River incorporated patrilineal legal norms as a way to protect what little remained of the land base of that community.⁹⁰ Although it is clear that Rotinonhsiónni women continued to cultivate the land, nineteenth-century documents for Kahnawá:ke are silent on the details of how patrilineal landownership changed women's relationship with the land. While beyond the scope of this study, a comprehensive analysis of notarial records would likely reveal a great deal about the gendered land relations in nineteenth-century Kahnawá:ke.

The 1857 "Act to Encourage the Gradual Civilization of the Indian Tribes" (or Gradual Civilization Act) was supposed to create legal conditions that would break down barriers between Indian and non-Indian, but it instead raised new legal barriers.⁹¹ It defined an "Indian," and then created the conditions under which an Indian could become "enfranchised," or a non-Indian.⁹² An Indian could voluntarily apply to become

⁸⁹ Ibid., 95-96.

⁹⁰ Doxtator, "What Happened to the Iroquois Clans?," 217-218.

⁹¹ *Statutes of Canada*, 20 Vict., c. 26, June 10, 1857.

⁹² The definition of "Indian" in this act is: "...members of Indian Tribes or Bands residing upon lands which have never been surrendered to the Crown (or which having been so surrendered have been set apart or shall then be reserved for the use of any Tribe or Band of Indians in common) and who shall themselves reside upon such lands, and shall not have been exempted from the operation of the said section, under the provisions of this Act; and such persons and such persons only shall be deemed Indians within the meaning of any provision of the said Act or of any other Act or Law in force in any part of this Province by which any legal distinction is made between the rights and liabilities of Indians and those of Her Majesty's other Canadian Subjects."

enfranchised if he was male, twenty-one years old, literate in French or English, of good moral character, and free of debt. The man who succeeded in being enfranchised was entitled to a new name and legal title to a parcel of up to fifty acres taken from the territory of his former community. He would give up any claim to rights he formerly had as a member.⁹³ The conditions for enfranchisement were so restrictive, including literacy, freedom from debt, and high moral character, that few Euro-Canadians at the time would have been able to meet them. "The 'civilized' Indian," concludes Tobias, "would have to be more 'civilized' than the Euro-Canadian." This law was a dismal failure in any case, as only one Indigenous person was enfranchised before 1867.⁹⁴

The Indian Department ended its practice of distributing presents in 1858 and cut back on the number of its employees. The only paid employee for Canada East, the superintendent, accomplished his tasks with the help of local agents who were authorized by the department to take a portion of the land revenues they collected. The 1858 commission on Indian affairs made the argument for putting agents on a salary in order to make them more responsive to the needs of the department. The commission also recommended selling Indian lands to pay for department expenses, but this recommendation did not extend to Quebec where First Nations were already recognized to be land-poor.⁹⁵ The 1867 British North America Act gave the federal government exclusive jurisdiction over Indians and Indian lands. The next year, the Dominion of Canada passed an act which summarized and standardized Indian legislation from all four

⁹³ The act, because it allowed the alienation of Indian land to individuals without tribal consent, was in violation of the Proclamation of 1763.

⁹⁴ Francis, *A History of the Native Peoples of Quebec*, 36; Tobias, "Protection, Civilisation, Assimilation," 130.

⁹⁵ Francis, *A History of the Native Peoples of Quebec*, 39.

of the founding colonies.⁹⁶ In the words of Duncan Campbell Scott, who would later head the DIA, this act brought together all the "best features" of previous legislation.⁹⁷ With the passage of the Enfranchisement Act of 1869, it was clear that the central goal of Indian policy was now assimilation, and that the short-term objective was the transformation of Indigenous political institutions. Aimed squarely at the Rotinonhsiónni and other eastern First Nations with a long history of European contact, it gave the governor in council the power to impose elected councils on Indigenous communities. These band councils would then have the power to pass by-laws on relatively minor municipal matters, but these would only have the force of law with the approval of the Superintendent General of Indian Affairs.⁹⁸

Although some of the legislative changes of this period were in response to their requests, First Nations leaders recognized that other represented a very real threat to their communities. The Chiefs of the Seven Fires (the loose confederacy of First Nations along the St. Lawrence River whose capital was Kahnawá:ke) gathered five years after the passage of the 1850 and 1851 acts, and summarized their experience with these laws for the colonial government. The laws had been drafted ostensibly to protect Indian land and to deal with the growing conflicts between Indians and non-Indians, but the gathered Indigenous leaders detailed effects on their communities that had not been anticipated by those who drafted the laws:

We have considered both the Act which passed the one at Toronto and the other at Quebec an Act to repeal in part and to amend an act entitled an act for the better protection of the lands and property of the Indians in Lower Canada. Those who were not entitled to Indian right before became entitled to Indian rights by the passage of the act of A.D. 1850 which has

⁹⁶ Tobias, "Protection, Civilisation, Assimilation," 127, 131.

⁹⁷ Scott, "Indian Affairs, 1867-1912," 593.

⁹⁸ Tobias, "Protection, Civilisation, Assimilation," 131.

done us a great deal of harm, such whites residing amongst us paid rent even for Cattles pasturage before the Act of A.D. 1850 but after the passage of said Act, no rent is paid either for cattles pasturage. We then became as it were slaves although we are principal men of our Tribes. It (the Act) does us a great deal of harm and trouble.⁹⁹

While the aim of the legislation had been to stop Indian land loss, it appeared in 1856 that it had emboldened non-Natives to stop paying rent for pasturing their cattle on their territories. The Chiefs of the Seven Fires also complained that certain non-Indians had gained Indian status because of the laws. After spelling out the problems that resulted from these laws, they went on to suggest that all Canadian Indian legislation related to land be based on the laws in effect at Kahnawá:ke. They wrote:

The different nations and Tribes of Indians all have principal men to each which superintend all the affairs in common and we desire that the foregoing should become a Law and that all the remote nations and Tribes should abide by the same as the law of Caughnawaga, when it becomes a law concerning land affairs, such as interests for Rents on Seigniories.¹⁰⁰

The following were the aspects of Kahnawá:ke customary law these chiefs agreed should be part of Canada-wide Indian legislation:

1. An Indian should not have the right to sell land house or wood to a white man and that a punishment should be made for both the seller and buyer.
2. That an Indian should not have the right to let land, house or give farm to a white man to sow in half.¹⁰¹
3. An Indian if lawfully married to a white woman his wife becometh an Indian and her Children reputed to belong to the particular Tribe or Body of Indian. But if male of the Children as above mentioned should marry to a white woman the Children issue of such marriages lose all rights of Indians.
4. An Indian woman who is lawfully married to a white man loses all her Indian rights.

⁹⁹ Speech of the Grand Chiefs of the Seven Fires to Edmund Walker Head, Aug. 8, 1856, RG10, vol. 232, pt. 2, p. 138229-138232, reel C-11541, LAC.

¹⁰⁰ Speech of the Grand Chiefs of the Seven Fires to Edmund Walker Head, Aug. 8, 1856, RG10, vol. 232, pt. 2, p. 138229-138232, reel C-11541, LAC.

¹⁰¹ This probably refers to the practice of leasing a field in exchange for half of the harvest.

5. That the Chiefs of each Tribe should be incorporated with full powers to superintend the affairs of their respective villages and to make a Law for the same subject to the approval of the Governor General.
6. That at the expiration of five years there should be a general election of grand Chiefs for each Tribe, and that the names of the Chiefs so elected should be submitted for the approval of his Excellency the Governor General.¹⁰²

There are some aspects to this list that would remain a constant feature, in different forms, of Indian law for many decades. It is still forbidden, for example, for reserve land to be sold or leased to non-Natives, and a woman's Indian status was dependent on the status of her husband until the passage of Bill C-35 in 1985. In their fifth point, the gathered leaders requested that the chiefs of each village be given the legal authority to make laws that for their communities that would be supported by the perceived legitimacy of the colonial state, and suggest the elimination of Indian agents. In the final point, they asked for a standardized practice of chiefly elections and that these elections would also be certified by the Governor General. Such a request should not be seen as an indication that these First Nations intended to submit to the authority of the Crown. Instead, they were asking for the right to govern themselves in much the same way governments of British colonies aspired to govern themselves. As an elected prime minister would later make laws with the assent of the governor general, so also the First Nations of the St. Lawrence Valley wished to govern themselves without the interference of an unelected external power.

That same year the governor general, Edmund Walker Head, received a petition from fifteen Kahnawá:ke Mohawks who represented another point of view from that spelled out by the Seven Fires chiefs. These Kahnawakehró:non, who presented

¹⁰² Speech of the Grand Chiefs of the Seven Fires to Edmund Walker Head, Aug. 8, 1856, RG10, vol. 232, pt. 2, p. 138229-138232, reel C-11541, LAC.

themselves as the enlightened minority in the community with an interest in agriculture, said that they had followed "les recommandations, avis et conseils" of the government and had built houses and cultivated land outside the village. The petitioners emphatically claimed that they had the right to clear land and use the wood to build their homes, and informed the department. They sent the petition to protest the fact that during the previous winter Kahnawá:ke chiefs and a large number of other Mohawks had "détruit, pillé et incendié leurs demeures." Furthermore, complained the petitioners, they were now faced with legal prosecution for having sold wood. They admitted to doing this, but explained that the buyers only purchased standing trees, and had to cut them down themselves. Added to that, the petitioners protested having to cover their own court fees whereas the chiefs used common funds to pay theirs. Finally, the petitioners asked:

Que leur Tribu s'élevant actuellement au nombre de treize cents, & dans le but d'éviter a l'avenir toute difficulté entre ses membres au sujet de l'occupation des terres communes et de venir en aide à ceux de ses membres qui veulent s'adonner a la culture vos Pétitionnaires croient qu'il serait grandement avantageux de faire le partage de ces terres.¹⁰³

The solution for these petitioners was to survey the boundaries within the reserve, or to have the reserve subdivided. The exact meaning of "faire le partage de ces terres" is hard to discern, but it is clear that they felt that individual private property with defined lot boundaries would lead to a more harmonious and agricultural community.¹⁰⁴

When asked about this petition, Agent Édouard-Narcisse Delorimier responded by saying several names on the petition had been forged and that the chiefs had never stopped anyone from establishing themselves on the territory. According to him, the only

¹⁰³ Petition of fifteen Iroquois of Sault Saint Louis to Edmund Walker Head, May 3, 1856, RG10, vol. 231, p. 137028-137031, reel C-11540, LAC.

¹⁰⁴ Petition of fifteen Iroquois of Sault Saint Louis to Edmund Walker Head, May 3, 1856, RG10, vol. 231, p. 137028-137031, reel C-11540, LAC.

thing the chiefs were trying to do was to stop the petitioners from selling wood to whites, because the wood belonged to the community in common. If the petitioners had simply been cutting wood and cultivating land, no one would have bothered them. Delorimier said they had plundered several thousand cords of timber and that they had been selling pines and oaks valued at \$15-20 for 30-40 cents or a bottle of whiskey.¹⁰⁵ According to Delorimier, the chiefs did everything in their power to stop them, including sending messengers to ask them to stop what they were doing. One of the messengers was nearly killed when one of the petitioners, Kenthokwen, attacked him with a hatchet. When it was clear that the chiefs had no other options, "la population c'est levés en masse, contre les dis vendeurs de bois, qui sont au nombre de quinze à vingt qui s'approprie le bois appartenant à Treize a Quatorze cents." According to Delorimier, it had always been understood that selling wood to whites was illegal under any pretext. In defence of the attackers, Delorimier also wrote that the "houses" in question were merely log shacks without chimneys or floors. Finally, he utterly rejected the idea of a subdivision survey, saying that these men simply wanted the reserve to be sold at a very low price, and that this outcome would be "un grand malheur pour cette tribu."¹⁰⁶ It is clear that the chiefs, along with many of their constituents (as well as the Indian agent), were enforcing the customary laws of the community in the face of a small number of dissidents who wanted to be governed by laws more like those in place outside the community.

¹⁰⁵ Delorimier wrote "15-20 louis" which was likely a colloquial term for dollars. The *Louis d'argent* was a coin that circulated in New France and during the period immediately after the conquest. Personal communication, Raewyn Passmore, Assistant Curator, National Currency Collection, Bank of Canada, Aug. 3, 2011.

¹⁰⁶ Édouard-Narcisse de Lorimier to Duncan C. Napier, July 30, 1856, RG10, vol. 227, p. 135212-135214, reel C-11539, LAC.

Doutre on Kahnawá:ke

An unusual outside observer of Kahnawá:ke at this time was Montreal lawyer Joseph Doutre, whose 1852 speech is discussed at the beginning of this chapter. He was the president of the Institut Canadien, a literary and scientific society whose membership was composed of several hundred of Montreal's Francophone liberal professionals, and it was to this society that he gave his speech on Kahnawá:ke in 1852. Doutre's presentation was based on a Sunday visit he had made to Kahnawá:ke. He travelled to the village by train and canoe, and was given an extensive tour by a Kahnawá:ke resident named George Delorimier. Like most of his colleagues, the only Mohawks Doutre had encountered previously were the women who sold "des souliers d'orignal et de chevreuil" in Montreal. Doutre's speech conveys his impressions of Kahnawá:ke behaviour, dress, and architecture, but thanks to his interaction with Delorimier, Doutre was also able to provide his audience with insights into Kahnawá:ke politics and culture. Delorimier, considered by many in the community to be a white man, gave Doutre a rather simplified explanation of his battles with the community concerning his own membership, saying that the root of the problem was that he was unwilling to wear a "couverte" which was the traditional dress for certain occasions.¹⁰⁷ In fact, the problem was rooted in the Delorimier family's accumulation of land and wealth at the expense of the community. On many other points, however, Delorimier helped Doutre to see beyond what an outsider could see in a Sunday afternoon.

Doutre made it clear that the chiefs had real power within the community, but that such power was being eroded by increasing numbers of Mohawks who were taking cases

¹⁰⁷ Doutre, "Les sauvages du Canada en 1852," 201.

to outside courts. He reported that there were seven clans,¹⁰⁸ each of which had a grand chief elected for life, and that the government of Canada recognized their power over Kahnawá:ke people and territory, confirmed their election, and gave them medals. Grand chiefs were responsible for governing land issues within the territory, including the management of the common pasture, seigneurial rights, and the seigneurial mill. Doutre was particularly impressed by the matrilineality of Iroquois society and governance. At the death of a chief, his medal would remain in the hands of his mother, if she was alive, or his sister, brother, or closest maternal parent.¹⁰⁹ Incredulously, he reported that Kahnawakehró:non (including men) actually believed that children belong to the mother, and that women are morally superior to men. All of this sounded so unusual to Doutre that he had to have them confirmed by several people before he accepted them to be true.¹¹⁰ He finally justified this belief with a curious explanation based on long-term contact with whites:

...le commerce des blancs a jeté dans les tribus, tant de *bois-brûlés*, tant d'épidermes disparates, qu'ils ne mettent plus en doute la suprématie des femmes, sous ce rapport. Ils tiennent pour maxime, que l'enfant appartient à la mère, et que le père n'en est, comme disait Balzac, que l'éditeur responsable. Alors pour opérer une transmission légitime des insignes de l'autorité, du chef mort à son successeur, ils ont voulu que la mère et son *estoc et ligne* en fussent les dépositaires, jusqu'à l'élection du successeur. Le père du chef n'est considéré que comme un étranger à cet effet.¹¹¹

"Bois-brûlés" likely refers to a person of mixed ancestry (dark on the outside but white on the inside).¹¹² If matrilineal values and practices had been in decline, it is likely that

¹⁰⁸ According to Doutre, there were five clans, but the Bear and Turtle Clans were split into two, making a total of seven.

¹⁰⁹ Doutre, "Les sauvages du Canada en 1852," 204-205.

¹¹⁰ Ibid., 205, 217.

¹¹¹ Ibid., 205.

¹¹² Kahnawá:ke resident Karhó:wane (Cory McComber) suggests that this term is the equivalent of a Mohawk word used to refer derisively to a person whose father is white and mother is Onkwehonwe

Doutre would have seized on the chance to speak of this as a sign of the times, and the inevitable disappearance of the original inhabitants of the continent. That there is no hint in his speech that matrilineality at this time was weak or weakening is a good indication that the end of longhouse living had little bearing on the continuity of matrilineal values and practices.

In describing Mohawk jurisdiction over Sault Saint-Louis, Doutre emphasized the collectivity of their ownership. According to him:

Au Sault St.-Louis, les Iroquois jouissent collectivement, mais non individuellement, d'une manière incontestée d'une seigneurie de trois lieues de front, sur deux lieues de profondeur entre Chateauguay et Laprairie. Les blancs cultivent une partie, à titre de censitaires et le reste se compose de bois debout ou haute futaie, d'une partie cultivée par les sauvages, d'une prairie commune et du village de Caughnawaga.¹¹³

Kahnawá:ke leaders have always emphasized the collective nature of their territorial sovereignty, and Doutre picked up on this. Doutre also learned that Mohawk individuals could gain a kind of ownership over pieces of land, but that the rights of individuals were always subject to the right of the collectivity. Doutre understood the territory in seigneurial terms, with French-Canadian farmers as censitaires who paid rent to Kahnawakehró:non. He did not seem to be aware, however, of the highly contested nature of the ownership and boundaries of the Seigneurie of Sault Saint-Louis, nor the frequent Mohawk delegations to England on this matter. There is also no sense in this speech that the Mohawks he spoke to understood the legislation of 1850 and 1851 as changing the nature of their ownership of the seigneurie. Doutre understood the territory in seigneurial terms, with the whites as censitaires who paid rent to Kahnawakehró:non,

(literally "person," but in this case "Mohawk"). The word in Mohawk is *rotientatson* if a male and *iakotientatson* if a female. Personal communication, Aug. 5, 2011.

¹¹³ Doutre, "Les sauvages du Canada en 1852," 202.

who acted as seigneurs. Doutre's speech discussed Kahnawá:ke customs related to landownership in some detail, comparing Mohawk customs to the ideals of communists and socialists of his day:

Ceux qui ont considéré le phalanstère,¹¹⁴ le communisme et le socialisme, comme des rêveries irréalisables, seraient bien étonnés, s'ils voyaient fonctionner un système presque analogue, avec une parfaite régularité, et s'ils savaient que cette espèce de communisme existe ici depuis des siècles et s'y trouve encore en pleine opération. Car le gouvernement actuel des Iroquois est le gouvernement traditionnel des Indiens d'Amerique, et la civilisation européenne n'en a rien changé.¹¹⁵

According to what Doutre had been told, every Kahnawakehró:non owned a piece of cultivated land, sugarbush, and timber, and anyone who needed a piece could ask for one.

Considering demographic trends, however, Doutre predicted problems:

Depuis longtemps, ils ont chacun un morceau de terre à cultiver, une sucrerie et une terre à bois, et tout cela compose un patrimoine que se transmet, sans l'intervention de la commune. Mais comme là commune est obligée de concéder les terres incultes à ceux des sauvages qui en exigent, on conçoit que de ce mélange de communisme et de la propriété individuelle auraient surgi de grandes difficultés, si la population en était arrivée à épuiser toutes les terres non concédées.¹¹⁶

Doutre even seemed to be aware that Mohawks could cut trees on parts of the seigneurie that had not be conceded, including those that grew on lots claimed by other Mohawks. But while Doutre admired the way the system of landownership seemed to run itself, he was concerned about how such a "commune" could function when there was no longer any uncultivated land left. He recognized that the increasing population density in Kahnawá:ke would mean that more people would be competing for land and resources, and that this would be at the heart of conflicts over land and membership.¹¹⁷

¹¹⁴ *Phalanstère*: a building designed for communal living.

¹¹⁵ Doutre, "Les sauvages du Canada en 1852," 203.

¹¹⁶ Ibid., 206.

¹¹⁷ Ibid.

Attempts to move the Community

Through the centuries, many Kahnawakehró:non decided to leave and not come back. But during the latter half of the nineteenth century, Kahnawá:ke witnessed some extraordinary attempts to move the entire community, or a large part of it, to a place where the Kahnawá:ke way of life would be less threatened. Devine argued that the first such movement was directly linked to the arrival of the first railroad in 1852. A number of Kahnawakehró:non were so disturbed by the expropriations and permanent changes caused by the Lake St. Louis and Province Line that they asked the Saugeen First Nation, who inhabit the shore of Georgian Bay, if they would allow them to settle in their territory. When the Saugeen Ojibwa and the Indian Department agreed to the plan in the early 1850s, some twenty Kahnawá:ke families moved there. All but three families returned to Kahnawá:ke in 1857.¹¹⁸ The following year the report by the Special Commissioners into the Affairs of the Indian Department stated that some Kahnawakehró:non had intermarried with the Potawatamies and were now incorporated with the Chippewas of Newash or Owen Sound. According to the report:

They originally formed a portion of a party who came from the Sault St. Louis in Lower Canada, whence they were induced to emigrate some years ago, in consequence of difficulties arising there, and were located in the Saugeen territory by the Earl of Elgin. Finding themselves however from their position there deprived of the serves of a Clergyman of their own persuasion, and from other causes, the majority of them returned last year to Caughnawaga and St. Regis, leaving a few of their number as above stated.¹¹⁹

¹¹⁸ Devine, *Historic Caughnawaga*, 393.

¹¹⁹ R.T. Pennefather, Fromme Talfourd, and Tho. Worthington, "Report of the Special Commissioners to Investigate Indian Affairs in Canada." in Appendix No. 21 to 16th Vol. of Journals of Legislative Assembly, Province of Canada, Feb. 25-Aug. 16, 1858, p. A21-78.

Despite this apparent end-of-story for the Georgian Bay Mohawk community, it appears again in the correspondence of 1872 and 1873. It was in those years that the "Caughnawagas" abandoned their "improved and fenced land at Cape Croker" and left it available for nearby First Nations, who were able to buy it in installments.¹²⁰ Little more is known about these families.

In the following decades there were also a number of efforts to sell the seigneurie, and to move the community elsewhere. Reid identifies the reasons for these attempts as land-loss, illegal wood-cutting and the overuse of resources.¹²¹ The first petitions to sell the seigneurie in its entirety dated from the early 1860s and efforts continued until the mid-1870s.¹²² Kahnawá:ke chiefs began by asking the Indian Department to enforce Kahnawá:ke customary laws against commercial logging in 1859, and, when the response was inadequate, began to ask for their lands to be sold. A Kahnawá:ke referendum in 1863, conducted at the request of Louis-Victor Sicotte, a prominent Lower Canada politician, approved the sale of the reserve by majority vote. George-Étienne Cartier, co-premier of the United Canadas, also expressed his approval of the sale.¹²³ The sale was not ratified by the Indian Department, however.¹²⁴ In response to petitions for the sale of the reserve in 1870, Joseph Howe, then Secretary of State, wrote that "should any considerable number of the Indians resident in the Seigniorie of Sault St. Louis, desire to surrender their lands for sale, they should write in a proposition to do so, addressed to the

¹²⁰ W. R. Bartlett to DIA, Nov. 19, 1872, RG10, vol. 1878, file 1011, LAC, and W. R. Bartlett to DIA, May 31, 1873, RG10, vol. 1878, file 1897, LAC.

¹²¹ Reid, *Kahnawà:ke*, 22.

¹²² Alfred, *Heeding the Voices of our Ancestors*, 53; Zachary Deom, *Chronology of Political Events Relative to Kahnawake*; Reid, *Kahnawà:ke*, 22.

¹²³ Petition from Chiefs Francis Atoharishon, Joseph Taïoronhiote, Joseph [Kentarontie] and Thomas Asonnase to the Superintendent of Indian Affairs, June 17, 1875, RG10, vol. 1963, file 5029, LAC.

¹²⁴ Petition from Chiefs Francis Atoharishon, Joseph Taïoronhiote, Joseph [Kentarontie] and Thomas Asonnase to the Superintendent of Indian Affairs, June 17, 1875, RG10, vol. 1963, file 5029, LAC.

Superintendent General of Indian Affairs, and expressing therein the terms upon which they will be prepared to surrender their lands." ¹²⁵

A June 1875 petition from four Kahnawá:ke chiefs to the Indian Department again asked for approval to sell the reserve. The petition noted that:

...in March 1862 the Honorable George E. Cartier, as his predecessor in 1859, was of the opinion that the best means of putting an end to these complaints of the said Tribe, would be a Public Sale of the Reserve of Sault St. Louis. The said Mr. Cartier suggested at the same time a new division of the Reserve between the members of the Tribe, or the Cession, by the said Tribe of the Reserve to the Government in order to emigrate into another place of Canada or to the United States. But as the members of the Tribe were not unanimous on the best mode to adopt, it was understood that those of the Indians who would be willing to remain at Sault St. Louis, might buy there some lots or farms, the Government being bound to give them credit for their share out of the Product of the Sale of the Reserve, and as to those who would prefer to emigrate to a foreign country they were to receive in cash a proportionate amount out of the price of said Sale.¹²⁶

The subdivision proposed by Cartier and his predecessor (possibly Sir Antoine-Aimé Dorion, who preceded Cartier as joint premier of the United Canada) would have continued the Cadastre abrigé of 1860 onto unconceded Mohawk lands, so that the entire seigneurie would have been divided into lots and sold. The community would be compensated for the value of the land, and this money would facilitate their move elsewhere. Since the entire community would not agree to such a move, however, the petitioners suggested that those who wished to stay would be given the chance to buy one of the new lots with their part of the collective indemnity. Those who wished to leave both the community and the territory would receive a cash payment. The chiefs stated

¹²⁵ Petition from Chiefs Francis Atoharishon, Joseph Taïoronhiote, Joseph [Kentarontie] and Thomas Asonnase to the Superintendent of Indian Affairs, June 17, 1875, RG10, vol. 1963, file 5029, LAC.

¹²⁶ Petition from Chiefs Francis Atoharishon, Joseph Taïoronhiote, Joseph [Kentarontie] and Thomas Asonnase to the Superintendent of Indian Affairs, June 17, 1875, RG10, vol. 1963, file 5029, LAC.

that they had been complaining for twenty years about illegal wood sales; wood, which was the common property of the tribe, and this illegal activity was causing great damage to the community. They claimed that "the great majority of the members of the said Tribe, viz: over eight hundred, are ready and desirous to surrender their lands to the Government of the Dominion of Canada, for the price of twenty five dollars, currency, an acre."¹²⁷ A letter from four chiefs the month before (only one chief signed both letters) stated that they did not claim to have the unanimous support of the tribe but that they had majority agreement. They also noted that if the sale were to go through, "we shall pass the boundary line in the Dominion of Canada as we are going to be settled of Indian Territory or Charekee Nation if you would be answer to us in satisfactory then we shall commence of preparation."¹²⁸

In response to the June 1875 petition, Laurence Vankoughnet, Deputy Superintendent of Indian Affairs, wrote a memo explaining that this petition came from four of the seven chiefs, and claimed to represent the opinion of 800 of 1557 people, not the strong majority he was looking for.¹²⁹ He calculated that at \$25 per acre, it would cost the government \$393,575 to purchase the 15,743 acres of unconceded land. He noted, however, that the land along the riverfront was worth \$100 per acre and the rest \$40 per acre, and that there were some very valuable quarries located on the reserve. These quarries were estimated to yield about 2,420,000 toise (9,912,854 m²) of cut stone, which

¹²⁷ Petition from Chiefs Francis Atoharishon, Joseph Taiononhiote, Joseph [Kentarontie] and Thomas Asonnase to the Superintendent of Indian Affairs, June 17, 1875, RG10, vol. 1963, file 5029, LAC.

¹²⁸ Letter from Chiefs Jarvis A. Dione, Joseph [K] Delisle, Joseph T. Skey, Thomas Asennase to Merideth, May 14, 1875, RG10, vol. 1917, file 2764, LAC.

¹²⁹ If the May and June petitions are viewed together, it becomes apparent that at least five of the seven chiefs agreed with the initiative.

he valued at \$32 per toise or \$77,440,000. This estimate did not include stone of lesser quality, which would sell for \$8 per toise. Vankoughnet also noted that:

The reserve is very favorably situated being opposite Lachine with which there is constant communication by Steamer during the regular season of navigation, and twice a day during the winter as the ice never takes at this point. Caughnawaga is the terminus of the Caughnawaga and Plattsburg R.R. and all the traffic by that line for Montreal passes through this place for transportation by Steamer to Lachine.¹³⁰

Clearly the offer to sell the reserve for \$25 per acre was an attractive prospect to the DIA, and the outcome of the sale would have been in line with its stated long-term goal of eliminating Indigenous communities. Most of the community would move out of the country and those who stayed would be enfranchised. Furthermore, this prime land near Canada's largest city would be parceled out and sold, and would produce revenue.

Vankoughnet's memo does not include the reasons for not proceeding with the sale, but perhaps the United States did not fancy the idea of taking in another Indigenous group when it was in the midst of an aggressive campaign of dispossession against those already within its borders. Perhaps the \$400,000 price tag was also prohibitive. Although this money would have been recovered in the sale of reserve lots the Indian Department was unwilling or unable to access large sums of money for such purposes (Chapter 6). Agent Pinsonneault followed up on the chiefs' petition in September 1875, reiterating the wishes of those who "desire to go to the United States, to get land they propose to buy, if it suit them."¹³¹ No response is included in the file, and the sale did not go through.

¹³⁰ "Memo on a Petition from four of the Chiefs of the Iroquois of Caughnawaga..." by L. Vankoughnet, July 7, 1875, RG10, vol. 1963, file 5029, LAC.

¹³¹ Pinsonneault to David Laird, Sept. 15, 1875, RG10, vol. 1969, file 5348, LAC.

Conclusion

1875 was the last time Kahnawá:ke leaders tried to move the community to another location. From that time forward Kahnawakehró:non sought to find ways to continue to live on their lands while negotiating the efforts of the DIA to impose the Indian Act and dismantle the reserve. DIA actions to impose Canadian notions of private property would, by the 1870s, lead to a short period of chaotic open-access to land and resources, followed by the disappearance of the much of the Kahnawá:ke commons (Chapter 5). Using this chaos as justification, the DIA decided to survey and subdivide against the wishes of the community (Chapter 6). The goal of the department was to transform the territory into a private property grid and Kahnawakehró:non into enfranchised farmer-proprietors. In this light, Kahnawá:ke chiefs in the 1870s can be seen as forward-thinking and astute, since they foresaw trouble and tried to move their community to a place where they could live according to their own laws.

From the 1810s until the 1870s the Montreal region was dramatically transformed through rapid population growth and the rise of an industrial economy. Over the same period, Indigenous nations saw their political influence decline and their territories subject to increasing depredation and incursion. Although archival sources show that Mohawks continued to use their Kahnawá:ke lands much as their ancestors had done, these sources also reveal the ways in which new demographic, economic, and political realities required them to adapt. While outsiders claimed that Kahnawá:ke was an anarchic, underutilized space, and scholars have emphasized the economic activities of Mohawk men away from the village, this chapter shows that most families cultivated land and cut wood on the territory. Although a few men took up farming using Euro-Canadian

methods, women still produced much of the food for their families in much the same ways they always had, and although some Mohawks owned and enclosed land according to the legal customs of their Euro-Canadian neighbours, many continued to abide by Mohawk customary laws. The two legal regimes appear to have co-existed uneasily for much of the century, but came increasingly into conflict.

The demise of the seigneurial system and a new legislative regime meant that leaders lost an important source of revenue, as well as control over community finances. Also at mid-century, the position of women as leaders and power-brokers was being undermined, and in the 1850s Mohawk leaders promoted the legal marginalization of women. Archival sources do not indicate the level of support among men and women in Kahnawá:ke for this measure, but leaders believed it was the best way to protect the community land base against non-Native men who could otherwise gain access to land through marriage to Mohawk women. This action was made necessary because of a colonial legal system which restricted women's property rights to such an extent that women-owned properties in Kahnawá:ke were considered extremely vulnerable. By the 1870s, the largely self-governing seigneurie had been transformed, through circuitous routes of dubious legality, into a reserve. Local leaders had been stripped of some of their powers by federal legislation, and more such laws were on the way. The DIA continually tried to insert itself into the power-vacuum of its own making, but was never able to claim the entire balance of power. The conflicts over resources and lands described in this chapter were only the beginning of larger conflicts that would make the Kahnawá:ke commons seem untenable and private property inevitable. Chapter 5 relates the hesitant and reactive way the DIA attempted to step into the power-vacuum, and details the

human and environmental costs of this awkward transition. In the words of Joseph Doutre, the problems would not arise from "leur forme de gouvernement mais uniquement du mélange de races hétérogènes, soumises à une législation essentiellement différente."¹³² Doutre knew that the conflict was legal and political in nature, and that trouble lay ahead as one legal system looked poised to replace another.

¹³² Doutre, "Les sauvages du Canada en 1852," 203.

CHAPTER 5 "The Consequences of this Promiscuous Ownership:" A crisis of authority and open-access conditions 1867-1883

In the decade immediately following Confederation, legislators enacted a number of policy changes that enabled the Department of Indian Affairs (DIA) to interfere more and more in the daily life and governance of First Nations. In order to become the primary authority in the lives of Indigenous people, the department had to strengthen its own hand while weakening Indigenous leaders' ability to govern. This created a situation in Kahnawá:ke where, for a while at least, no one could act as an arbiter in conflicts between Kahnawakehró:non. The Indian agent who was the primary representative of the DIA was not usually a Mohawk or a village resident, and thus did not have access to the kind of information or legitimacy the chiefs enjoyed as respected local leaders. The DIA itself did not have the necessary local knowledge or 'muscle' to make its will felt in Kahnawá:ke. In the latter half of the nineteenth century, especially in the 1870s, it also became clear to many Kahnawakehró:non that their chiefs no longer enjoyed the support of the department as they had in earlier days when the department simply approved most chiefly decisions. Thus, when Kahnawakehró:non realized that their chiefs now possessed much less power, and that the actions of the distant entity replacing them were often clumsy and inept, several of them felt that they could take advantage of the situation. Many continued to live by the old rules, but there were increasing numbers of them who found that they could break old customs without facing punishment. Others saw that land and wood were being taken by others, and decided to take their share before it was gone.

Garett Hardin would diagnose what occurred in Kahnawá:ke as a "tragedy of the commons."¹ Hardin argued that commons are untenable because their resources are unowned and unprotected, and because the people using the commons are rational economic beings who seek to maximize individual gain. Using the example of a common pasture, he suggested that a herdsman has no rational reason for limiting the number of animals he allows to graze on the common, even as the pasture becomes degraded to the detriment of all. Many scholars and practitioners have shown that Hardin's thesis, while it has the appearance of common sense, has little in common with the way humans actually behave. One of them, English historian E.P. Thompson, declared that Hardin's "glum theses" were based on the rhetoric of English propagandists of parliamentary enclosure, and had no grounding in historical fact.² Users of commons have almost invariably developed institutions, customs, and community sanctions that regulated use.³

The problem in Kahnawá:ke was not that land and resources were owned in common. The Kahnawá:ke commons had existed for two hundred years without "tragedy." What this chapter describes is a tragedy that was brought about by opponents of the commons; one that made the commons untenable and the dominance of individualized landownership seem inevitable. While DIA officials often characterized Kahnawá:ke collective behaviour and customs as retrograde and primitive, they also tended to assume that Mohawks were motivated by individual self-interest. This was

¹ Hardin, "The Tragedy of the Commons."

² Thompson, *Customs in Common*, 107.

³ For more on the regulation of commons, see Bonnie M. McCoy and James M. Acheson, eds., *The Question of the Commons* (Tucson: University of Arizona Press, 1987); Gregory Clark and Anthony Clark, "Common Rights to Land in England, 1475-1839," *The Journal of Economic History* 61, no. 4 (2001); Brian Donahue, *The Great Meadow: Farmers and the land in colonial Concord* (New Haven: Yale University Press, 2004); Elinor Ostrom, *Governing the Commons: The evolution of institutions for collective action* (Cambridge: Cambridge University Press, 1990).

especially true in the 1870s, the period covered by this chapter, when wood resources were being over-exploited. Officials believed that self-interested individuals in Kahnawá:ke were acting rationally, and that the problem lay with the deficiencies or absence of private property. In the interest of establishing its own control over the community and establishing private property, the DIA repeatedly undermined the authority of Kahnawá:ke leaders. It then cited the ineffectiveness of local government in managing Kahnawá:ke lands as justification for further departmental interference, and disempowerment of local leadership.

Hardin confused common property with open-access conditions (a race to use resources), the former of which is very common in world history, and that latter of which is rare.⁴ Generally, when a number of people have had access to a common resource they have established norms, laws, and institutions that served to limit individual rights and protect the common resource. Nevertheless, Hardin was right to point out how very destructive open-access conditions can be to environments and communities. Conditions at Kahnawá:ke in the 1870s cannot be considered open-access because there were still some controls in place, but a number of factors conspired to weaken them. One of the factors at play in Kahnawá:ke was the transition from local ownership and governance to state ownership and governance. This transition has been experienced by Indigenous peoples and local communities around the world as local institutions and customs have been outlawed or discredited. Governments of nation-states, however, do not have a good track record for monitoring and policing resources, and open-access conditions have

⁴ Thomas Dietz et al., "The Drama of the Commons," in *The Drama of the Commons*, ed. Elinor Ostrom, et al. (Washington, DC: National Academy Press, 2002), 11.

often resulted.⁵ Such a transfer of resource management and authority occurred in the Kahnawá:ke of the 1870s: local resource governance was being unevenly replaced by state governance, and this resulted in degradation and conflict. One factor in this transition was the growing power of the DIA over Indigenous communities.

Confederation and the Growing Powers of the DIA

During the early decades of confederated Canada the federal government was focused on territorial expansion and asserting its control over territory it believed it owned. The Hudson's Bay Company transferred its legal title to Rupert's Land to Ottawa in 1869, which greatly expanded the territorial boundaries of the country, although Ottawa's claim on these lands was mostly theoretical at that time. When Ottawa tried to make good on this territorial claim, however, the Indigenous residents of Manitoba declared independence. After suppressing this challenge in 1870, the Canadian government employed surveyors to create an agricultural settlement grid that would allow for the dispossession of First Nations and the emplacement of Euro-Canadian farmers.⁶ Surveyors were followed by police officers whose job it was to protect Euro-Canadian settlers, and to supervise the continued dispossession and disenfranchisement of the original inhabitants. Federal officials and First Nations negotiated treaties requiring the latter to relinquish lands in exchange for small reserve territories as well as certain rights and privileges. All of this occurred while Indigenous communities on the Prairies faced ecological and economic disaster, in particular the decimation of the bison herds upon which they depended. While Ottawa took advantage of the circumstances to force

⁵ Ibid.

⁶ Rueck, "Imposing a Mindless Geometry."

treaty conditions that were in its own favour, many First Nations still felt they had negotiated deals that gave them unfettered access to their old hunting, fishing, and trapping grounds and allowed them enough land to make the transition to agriculture. However, the promises made to chiefs during these negotiations were not the same as the ones contained in the treaties, and even government promises in the written documents were broken.⁷

During the 1870s, all eyes in central Canada were on the Northwest as the newly constituted dominion strove to expand its reach across the continent. The central focus of DIA policy and action during this period was the dispossession and acculturation of Indigenous peoples on the Prairies, and a number of historians have written on this subject.⁸ In contrast, few scholars have studied the department's dealing with eastern communities like Kahnawá:ke during this period. Historian Sarah Carter argues that Indian policy was not driven by long-term planning or unified purpose. Instead it was tentative and ad hoc, driven by official ideologies and common beliefs, and not subject to public discussion.⁹ The department seemed unresponsive to warnings and appeared to do

⁷ Richard Price, ed. *The Spirit of the Alberta Indian Treaties* (Montreal: Institute for Research on Public Policy, 1979); Paul W. DePasquale, *Natives and Settlers, Now and Then: Historical issues and current perspectives on treaties and land claims in Canada* (Edmonton: University of Alberta Press, 2007); Walter Hildebrandt, Dorothy First Rider, and Sarah Carter, *The True Spirit and Original Intent of Treaty 7* (Montreal: McGill-Queen's University Press, 1996); Arthur J. Ray, J. R. Miller, and Frank Tough, *Bounty and Benevolence: A history of Saskatchewan treaties* (Montreal: McGill-Queen's University Press, 2000); D. N. Sprague, *Canada's Treaties with Aboriginal People* (Winnipeg: Canadian Legal History Project, Faculty of Law, University of Manitoba, 1991); Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories* (Toronto: Willing & Williamson, 1880).

⁸ For some examples of such scholarship in the Canadian context, see Helen Buckley, *From Wooden Ploughs to Welfare: Why Indian Policy Failed in the Prairie Provinces* (Montreal & Kingston: McGill-Queen's University Press, 1992); Carter, *Lost Harvests*; Sarah Carter, *Aboriginal People and Colonizers of Western Canada to 1900* (Toronto: University of Toronto Press, 1999); Maureen K. Lux, *'Medicine that Walks': Disease, medicine and Canadian plains native people, 1880-1940* (Toronto: University of Toronto Press, 2001); D. N. Sprague, *Canada and the Métis, 1869-1885* (Waterloo: Wilfred Laurier University Press, 1988); Ray, Miller, and Tough, *Bounty and Benevolence: A history of Saskatchewan treaties*.

⁹ Carter, *Lost Harvests*, 51-52.

very little advance planning, but legislation relating to First Nations had a clear direction: granting the DIA more and more authority and power over Indigenous people, leaders, and territory.

The 1876 Indian Act was a milestone in Canadian Indian policy. It summarized, replaced, and updated all previous Indian legislation, and was the foundation upon which all subsequent Indian policy was built. It moved forward the assimilationist focus of Indian Policy and maintained all aspects of previous legislation that were supposed to protect Indians from Euro-Canadian vices. It stipulated that a band council system could only be applied to a community if it first asked for it. The elected band council was also given a few more powers, with the aim of making this system more attractive.¹⁰ The Indian Act also maintained the 1851 membership rule that an Indian woman who married a non-Indian man lost her status, which also meant that men could not gain Indian status through marriage. Most amendments to the Act in subsequent years strengthened the hand of the DIA hand in its relationships with Indigenous communities. For example, Indian agents were given the powers of justice of the peace in the 1881 amendment to the Indian Act, and the same power as a Stipendiary Magistrate or a Police Magistrate a year later.¹¹

In terms of land, the Indian Act established stricter rules for the alienation and leasing of Indian lands. A key feature of the legislation was the "location ticket," which was seen as an important step to putting Indians on the path away from communitarianism towards enfranchisement and private property. The legislation

¹⁰ Reid, *Kahnawà:ke*, 61; Tobias, "Protection, Civilisation, Assimilation," 132-133.

¹¹ Statutes of Canada, "An Act to amend 'The Indian Act, 1880,'" c. 17, Mar. 22, 1881; "An Act to further amend 'The Indian Act, 1880,'" c. 30, May 17, 1882

envisioned reserves as surveyed and cut up into individual lots. Each of these lots would then be assigned to individual members by the band councils, and each individual owner would be given a location ticket as proof of his title to that lot. To be eligible for a location ticket, a man would have to prove his suitability in the same way as was spelled out in earlier legislation concerning enfranchisement: essentially, he had to be a literate, morally-upright, debt-free male. After the ticket had been issued, he had a probationary period of three years to prove that he was capable of behaving in a 'civilized' way, which included the improvement of his land according to Euro-Canadian standards. If he met all of these requirements he would become officially enfranchised, and would own the lot in the same manner as any Canadian. Those who held a professional degree (minister, lawyer, teacher, doctor, etc.) could be issued a location ticket and enfranchised without going through a probationary period.¹²

The Indian Act was designed to legally transform Indians into non-Indians en-masse, and to destroy Indian reserves by having each enfranchised person take a part of the territory with them. Historian John Tobias sums up the importance of the 1876 Indian Act by saying it was the "first piece of comprehensive legislation by which the government exercised its exclusive jurisdiction over Indians and Indian lands had as its purpose the eventual extirpation of this jurisdiction by doing away with those persons and lands that fell with the category of Indians and Indian lands."¹³ In the guise of promoting 'civilization,' the Indian Act attacked Indigenous customs related to marriage, divorce, and sexuality. It regulated inter-racial cohabitation, freedom of movement after nightfall,

¹² Tobias, "Protection, Civilisation, Assimilation," 132.

¹³ Ibid., 132-133.

the actions of Indigenous women, and the legal status of illegitimate children.¹⁴ It aimed at the eradication of First Nations practices, leadership, and identity, and the creation of a new person in the image of an idealized Euro-Canadian Christian.

First Nations east of Lake Superior, toward whom this legislation was primarily directed, generally rejected the Indian Act.¹⁵ Most initially opposed the band council system because they understood that it would put their leaders under the authority of the DIA, and preferred to maintain their own ways of governance. The department chose to interpret this rejection, at least officially, as yet another sign that these communities were not yet ready to make choices that were in their own best interest, and that they thus needed more direction and guidance. Subsequent legislation gave the department more power to impose its will on Indigenous communities. An important example for this dissertation is the 1879 revision of the Indian Act which gave the DIA power to allot reserve land, whereas this power had previously rested with the band.¹⁶

Resource Scarcity

In Kahnawá:ke, as in most Indigenous communities, there was general opposition to DIA interference in local affairs; however, there were a number of Kahnawakehró:non who favoured an elected band council system. A year before the Indian Act was passed in 1876, a petition, signed by more than one third (190) of Kahnawá:ke males, asked for an elected council in line with the Enfranchisement Act. Clearly unhappy with their currently leadership, these Mohawks asked that the number of chiefs be dropped from

¹⁴ Ibid., 133.

¹⁵ Western First Nations were initially excluded from operation of most sections of Indian Act because they were not considered adequately civilized to be governed by it. Ibid.

¹⁶ Ibid., 133-135.

seven to three, each of whom would be elected every three years.¹⁷ While Reid's argument that the dissatisfaction with Kahnawá:ke leadership was related to land inequalities and resource scarcity is no doubt true, it was specifically related to the chiefs' apparent impotence in the face of those who refused to abide by customary laws, and the DIA's unwillingness to back them. The understanding that authority and law enforcement were a serious problem, especially as it concerned land and wood, also appears to have been a major reason behind the push to sell the reserve and establish the community elsewhere (Chapter 4).¹⁸

In addition to Reid's contention that the factionalism of this era was age-based, with the younger men tending to prefer the change represented by the Indian Act, another divisive issue appears to have been landownership, with large landowners tending to favour change and those with less land favouring the status quo. Kahnawá:ke customary law limited the amount of land one person could claim, and allowed Kahnawakehró:non to cut wood anywhere on the territory. It was usually large landowners who asked to be protected from this custom by invoking the Indian Act. Reid dubs those favouring the changes represented by the Indian Act as the "Reform Faction," and those opposing the Indian Act as the "Conservative Faction." These divisions continued into the twentieth and twenty-first centuries, but as the issues changed over time, so did the make-up and relative strength of different factions. Personality conflicts and feuds between individuals also played into the political divisions that can be observed during the period.¹⁹

¹⁷ Sossoyan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 103.

¹⁸ Reid, *Kahnawà:ke*, 61-68.

¹⁹ Ibid.

There were a number of reasons for the decline in the ability of chiefs to govern, and one of the most important factors was their loss of control over Kahnawá:ke finances. Confederation marked the point when the federal government in Ottawa took control of Indian finances. In an 1875 letter to Deputy Minister of the Interior Edmund A. Meredith the chiefs made the explicit connection between the transfer of financial authority and more frequent cases of wood infractions. Ever since their funds began to be managed by the crown in 1867 they had "no power to chastise" those who broke laws. They also complained about the Indian agent J.E.R. Pinsonneault, who they said was unwilling to prosecute lawbreakers.²⁰ In addition, with the Indian Department now in charge of the purse strings (often acting on the advice of the agent) the chiefs could no longer direct funds to the projects they deemed most pressing. For example, when the chiefs complained in 1874 that the agent was doing nothing to help poor families in distress, the department showed little concern. The chiefs were told the budgeted money had already been spent on relief for the aged and poor, and that no more was available.²¹ In a society where the prestige of leaders depended on their ability to promote economic equality, their inability to provide for the most vulnerable members of the community would have been a serious blow to their credibility.

Although there had been some rumblings about resource and land shortages in previous decades, the 1870s saw them coming to a head. Outsiders, including Indian agents, continued to repeat the truism that Mohawks had abandoned subsistence pursuits (including agriculture), but this was not the case. There are numerous casual references to

²⁰ Chiefs Jarvis A. Dione, Joseph K. Delisle, Joseph T. Skey, Thomas Asennase to Merideth, May 14, 1875, RG10, vol. 1917, file 2764, LAC.

²¹ E. A. Meredith, Deputy Minister of Interior, to Chiefs, Mar. 12, 1874, RG10, vol. 1924, file 3055, LAC.

Mohawk agriculture in government correspondence throughout the 1870s. Added to this, smaller-scale farming widely practiced by women was not usually considered as farming by the outside observers even though most families engaged in it. Such cultivation, if outsiders ever noticed it, was referred to as gardening. Even families that relied on income from wage labour and itinerant professions depended to some extent on what the land in Kahnawá:ke had to offer. Most grew a significant portion of their food, and free firewood was available to anyone willing to cut it. In the 1870s, however, both land and wood were in short supply.

Everyone, including the DIA, saw the land and wood problem as extremely serious. Since most Kahnawakehró:non relied to some extent on the land for food, raw materials, timber, and firewood, shortages affected everyone. The DIA recognized that the issues of land shortages, inequality, White people living illegally on the reserve, and wood pilfering needed to be addressed, but disagreed with the chiefs on how. For example, when Agent Edward Delorimier resigned in 1873, the incoming agent, Joseph Pinsonneault, was instructed to focus on regulating wood-cutting and preventing non-Natives from squatting on Kahnawá:ke territory. The instructions also included the suppression of liquor sales, another area over which the chiefs were apparently having difficulty asserting their authority at the time.²² The DIA solution to Kahnawá:ke's problems rested in asserting its own authority through its agent. The chiefs, supported by a large proportion of the community, countered these efforts. Judging by their attempt to move the community to Oklahoma (Chapter 4), however, it would appear that a large number of Kahnawakehró:non saw a bleak future for themselves in their current location.

²² Copy of a report by the Crown Privy Council, May 19, 1873, RG10, C-11107, file 1802, LAC.

Without the ability to enforce the customary law, and in a situation where the DIA would simply not back them up, the chiefs thought it was more attractive to start over in a place where their authority and traditions would be respected. While this dramatic sale and move did not occur, the planned move is an indication of how dire the situation was in the eyes of many Kahnawakehró:non.

In winter of 1873-1874 the wood situation had deteriorated to such an extent that the chiefs employed a number of men to guard the trees on the territory from people who were cutting illegally.²³ Chiefs Sose Thaïoronhiote and Francis Otonharishon informed the department that spring that a number of people who had drawn "hundreds of saw-logs" to the saw mill had no intention of building houses, but intended instead to sell the wood. Writing in English (their second or third language), the chiefs said they wanted to seize cut logs whenever they found proof that someone had been selling them. "A few of them," they asserted, "had been cleared the wood or trees of their farms and had had sold to the white people and this time chopping their fuel to other's farms and selling to the said White to whom have no Ideas to sell keep for the tribe only. As we intend to punish with them by ceased of their annuities money although is not equal, to encourage of the obedience."²⁴ Deputy Minister Meredith responded by saying it was not the chiefs' responsibility to put an end to the sale of timber, but that of the Indian agent. He agreed, however, that the penalty for Mohawks selling wood would be to deduct the amount of the sale from their share of the distribution money (annuity).²⁵ The DIA subsequently berated Agent Pinsonneault for not keeping watch over the wood of the reserve. The DIA

²³ E. A. Meredith, Deputy Minister of Interior, to Chiefs, Mar. 12, 1874, RG10, vol. 1924, file 3055, LAC.

²⁴ Chiefs Sose Thaïoronhiote and Francis Otonharishon to Laird, Mar. 11, 1874, RG10, vol. 1924, file 3055, LAC.

²⁵ E. A. Meredith, Deputy Minister of Interior, to Chiefs, Mar. 12, 1874, RG10, vol. 1924, file 3055, LAC.

saw this, along with other failures on the part of the agent, as serious enough to justify firing him if he did not change his ways. Kahnawá:ke chiefs had already asked for his replacement.²⁶

Membership

Questions and conflicts surrounding resource and land management were closely related to questions of race and membership. Although the Indian Act did not specify any specific way for a non-Indian man to become an Indian (non-Indian women legally became Indians when they married an Indian man), the DIA in practice granted permanent residence permits to non-Indian men who had some reason for living on the reserve. The department was not consistent in granting such permits in Kahnawá:ke, and sometimes it was enough for a non-Mohawk man to be married to a Mohawk woman. Legally a man could not gain status in this way, but in the 1870s there were non-Mohawk men married to Mohawk women who lived in Kahnawá:ke with DIA permits. Perhaps they were on good terms with the Indian agent or had other departmental connections. In the next decade these perpetually renewed residence permits were sometimes interpreted as grounds for membership. In the case of the Delorimier family, the courts also played a role in imposing an outsider perspective on who could be a member. In most cases the department preferred to take no action related to a disputed person or family. Evicting people, from the perspective of the DIA, was expensive, controversial, and risky. Tacitly promoting the porousness of the membership boundary also served to weaken community cohesion.

²⁶ DIA to Pinsonneault (English-language draft for translation into French), May 2, 1874, RG10, vol. 1924, file 3055, LAC.

The inability of Kahnawá:ke leaders to enforce their own membership rules meant that 'vigilante' justice was sometimes used by people who were frustrated with the apparent impotence of their leaders to enforce the will of the majority. The longtime Indian Agent Georges Cherrier reported that the first barn fires occurred in 1865, when "deux granges furent brûlées...après les récoltes," the barns belonging to people considered to be white or Métis.²⁷ One night in 1878 the barn of Osias Meloche, a Kahnawá:ke resident considered by many to be white, went up in flames, and he died trying to save his animals. The *Montreal Daily Witness* reported that:

No doubt is entertained but this is the work of an incendiary, as this is the fourth attempt to fire the village within a short time. It is believed that these attempts are the outcome of animosities which exist between the Indians and the French-Canadians. The deceased was 48 years of age, and leaves a wife and family. He was an industrious man and owned considerable property in the village.²⁸

The following year there were five more barn fires targeting those considered to be white, and such fires continued into at least the next decade. Cherrier understood these tensions to be related to Mohawk antipathies toward "les Canadiens:"

Vous savez que de tout temps la tribu des sauvages a eu peu de sympathie pour les Canadiens qu'ils accusent de les avoir dépossédés du pays qui leur appartenait. L'histoire des origines nous apprend qu'ils s'alliaient de préférence aux anglais; cette antipathie est comme traditionnelle chez eux et semble s'être transmise de père en fils.²⁹

It is not clear if Cherrier meant that Mohawk antipathy toward French-Canadians was related to the loss of the conceded parts of the seignury, the continuing encroachment of

²⁷ Cherrier to Brosseau, Feb. 22, 1895, RG10, vol. 2774, file 155,133, LAC.

²⁸ "Fatal Fire at Caughnawaga: Animosity between Indians and French-Canadians," *Montreal Daily Witness*, May 13, 1878.

²⁹ Cherrier to Brosseau, Feb. 22, 1895, RG10, vol. 2774, file 155,133, LAC. This interpretation of events would suggest that only a century following the conquest, Kahnawakehrónon who were once great allies of the French, now felt greater kinship toward English-Canadians.

neighbouring farmers, individual French-Canadians who gained Indian status through marriage, or a combination of all of these. While Cherrier implied that the money spent by the chiefs on trips to Ottawa to protest the presence of whites in their community was poorly spent, it is likely that the chiefs were acting according to the priorities of their people. The court decision in favour of George Delorimier (Chapter 4), Cherrier wrote, had always been viewed in the community as a serious injustice.³⁰

Four Kahnawá:ke Chiefs sent the DIA a petition in the winter of 1872-1873 concerning membership and wood. The petition complained of non-Native men living illegally on the reserve, some of whom were cutting wood and taking it off-reserve. Secondly, the chiefs protested the issuing of a residence permit to a butcher named Narcisse Desprois, who had no right to be there. The chiefs' third complaint was about Charles Giasson, a French-Canadian who had a residence permit based on his marriage to a "half-breed" woman.³¹ Giasson's family was accused of allowing non-Mohawks to take wood out of the reserve.³² The petitioners protested the fact that some of the men in question had DIA residence permits that should never have been granted, and the men who had legitimate permits were not paying the annual rents to which they had agreed.³³ In response to the petition, the DIA sent Inspector J.V. de Boucherville to investigate the situation.³⁴

³⁰ Cherrier to Brosseau, Feb. 22, 1895, RG10, vol. 2774, file 155,133, LAC.

³¹ Chiefs Sose Taioweniote (Thaionronhiote), Atonwa Asennase (Haton8a Hasennase or Thomas Deer), 8o8i Taio8akri8on, Francis Atoharishon (or Otonharishon) to Joseph Howe, n.d., RG10, vol. 1880, file 1081, LAC.

³² The Walbank Survey includes three men named Charles Giasson, and it is not clear to whom the chiefs were referring.

³³ Chiefs Sose Taioweniote (Thaionronhiote), Atonwa Asennase (Haton8a Hasennase or Thomas Deer), 8o8i Taio8akri8on, Francis Atoharishon (or Otonharishon) to Joseph Howe, n.d., RG10, vol. 1880, file 1081, LAC.

³⁴ J. V. de Boucherville to Joseph Howe, Feb. 9, 1873, RG10, vol. 1880, file 1081, LAC.

Upon arrival in Kahnawá:ke in January 1873, de Boucherville called a public meeting and explained his mission to the large gathering in the schoolhouse. With the help of those present, he drew up a list of about twenty White people then living on the reserve and some notes on why each felt they had the right to stay. According to De Boucherville, the chiefs believed that the laws stipulating that white men could not gain Indian rights by marrying an Indian women would take effect retroactively. In other words, the chiefs believed that such men whose marriages predated the laws could still be excluded from membership. De Boucherville informed them that this was not the case. He noted that a primary reason for Mohawks' desire to evict White people was "on account of the wood, which is now getting very scarce in the Seigniory, and which the White people use in common with the Indians, thus diminishing their future supply." He added, however, that "there is no doubt but that the Indians themselves are a great deal to blame for they themselves sell wood to White people."³⁵ The chiefs understood that it was both Mohawks and non-Mohawks breaking the wood laws, but they felt that non-Mohawks had set a precedent by breaking the laws without consequences.

While de Boucherville agreed that measures should be taken to protect the wood supply and to evict White people, he left the responsibility for this to the Indian agent Édouard-Narcisse Delorimier. He admitted, however, that he did not have much hope the agent would be able to carry out these duties because he was very old and lived some distance from Kahnawá:ke. Before he left, de Boucherville took several depositions from people who had observed the wood pilfering, and suggested the agent could use these to prosecute the accused parties.³⁶ Although de Boucherville did not expect Delorimier to be

³⁵ J. V. de Boucherville to Joseph Howe, Feb. 9, 1873, RG10, vol. 1880, file 1081, LAC.

³⁶ *ibid.*

effective in enforcing the wood laws of the community, he did not propose other solutions. This would indicate that de Boucherville's investigation was not intended to actually resolve the issue, and that the department would not propose a resolution that would strengthen the authority of the chiefs. However, the department replaced Agent Delorimier with J. E. R. Pinsonneault that spring.

Louise McComber was on the list of White people drawn up by de Boucherville. Her husband, George Delorimier and his family, had been part of a number of controversies over membership (Chapter 4). A decade before his death, a Montreal court had declared him to be a Kahnawá:ke Indian, but this was disputed by the majority in Kahnawá:ke. A compromise agreement between different Kahnawá:ke factions in 1841 allowed Delorimier and his family to stay as long as his family agreed to leave upon his death. When he died in 1863, the family remained in Kahnawá:ke.³⁷ Probably due to informal community pressure in the decade following George Delorimier's death, Louise McComber asked to be enfranchised in 1874, along with her children.³⁸ Her petition included proof of her Indian status and the explicit request to maintain possession of the family's extensive lands and properties. This was her second petition in this regard, the first having been "misaid" by the DIA.³⁹ It is interesting to note that this petition was passed along to the Secretary of State by a law firm in which Joseph Doutre was a partner, likely the same Joseph Doutre who had given a speech on Kahnawá:ke to the Institute Canadien nearly twenty years earlier. His main source of information for that speech had been none other than George Delorimier (Chapter 4). The DIA rejected

³⁷ Sossoyan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 105.

³⁸ Louise MacComber to Dufferin, May 6, 1874, RG10, vol. 1887, file 1401, LAC.

³⁹ Joseph Doutre, Conzolve Doutre, and Matthew Hutchinson to Secretary of State, May 7, 1874, RG10, vol. 1887, file 1401, LAC.

Louise McComber's application on the basis that she, her late husband, and her children had never been recognized as members of the band. In making this unexpected judgment, the DIA ignored the court decisions in favour of the Delorimier family. The department also declared that "it would be manifestly unfair to allow any one individual Indian to acquire a Title to various Lots and tracks of land to the ... injury of the Members of the Indian Band," quite an unusual position to take in light of the existing legislation that aimed to achieve exactly what was described here as unfair.⁴⁰ Following this decision, the Delorimiers continued to face intense pressure to leave, and most eventually sold their land and moved to locations across the continent.⁴¹

While the DIA did not have a list of community members with the right to live on the territory in the 1870s, it tried to create definitive list of non-Mohawks who were living in Kahnawá:ke, including those with official permission and those without. Permits had not been granted in a standardized way and the DIA knew that its own list of permit holders was probably not complete.⁴² After making such a list, Agent J.E.R. Pinsonneault was to evict those without permits. Pinsonneault, however, acted with little enthusiasm and few if any evictions were carried out. In any case, Kahnawakehró:non were not consulted as to who would be eligible to receive a residence permit, and petitions suggest that many permit holders were not perceived in the community as having a legitimate reason for living there. In 1876, Thomas A. Dawes,⁴³ recently deputed by the DIA to enforce Canadian resource law in Kahnawá:ke, reported that Kahnawakehró:non were

⁴⁰ Departmental Memo, Mar. 1873, RG10, vol. 1887, file 1401, LAC.

⁴¹ Sossayan, "The Kahnawake Iroquois and the Lower-Canadian Rebellions," 106.

⁴² Vankoughnet to Pinsonneault, June 20, 1874, RG10, vol. 1934, file 3552, LAC.

⁴³ Thomas Dawes was deputed in Dec. 1875 to carry out provisions of Act 31 Cap 42, Sec 22, and prosecuting anyone cutting or removing wood, timber, stone, and soil from the reserve. Vankoughnet memo, Apr. 25, 1876, RG10, vol. 1972, file 5555, LAC. Thomas Dawes was the uncle of James P. Dawes who would later become DIA-appointed arbiter for Kahnawá:ke wood conflicts.

"continually complaining to me of the residence of whites in their reserve without permission to do so."⁴⁴ The department sent Dawes its list of those with permits, and authorized him to take legal action against anyone without one.⁴⁵ This is an indication that by 1876 the DIA had more confidence in the completeness of its list, but it was still hampered by not having an official list of Kahnawá:ke members.

The department tended to turn a blind eye to permit-holding non-Mohawks who did not pay the rents stipulated by their agreements, until pressured by the community to collect them. A good example is the case of Edward DeBlois, a French-Canadian who was married to a "half-breed" woman, and could therefore not be legally considered a member. "As a matter of convenience" he was given permission to remain for a year in 1869, and the right to remain permanently in 1870 if he agreed to pay \$25 per year for the land he occupied. He paid the first year and then stopped paying, arguing that no one else in his position paid either.⁴⁶ As a result of the department's leniency in allowing him to reside in Kahnawá:ke, DeBlois would sometimes be considered a member of the band by the 1880s, although all four chiefs voted against his inclusion during the Walbank tribunal of 1885 (Chapter 6).⁴⁷ The chiefs in 1874 confirmed DeBlois' assertion that none of the White people living on the reserve paid their rent, and blamed the agent for not collecting the rents. According to the chiefs, Agent Pinsonneault had told them that the department had no interest in collecting such rents.⁴⁸ This may have been a slip-of-the-

⁴⁴ Extract from a letter by Thomas A. Dawes to Vankoughnet, Feb. 14, 1876, RG10, vol. 1934, file 3552, LAC.

⁴⁵ Vankoughnet to Thomas A. Dawes, Mar. 7, 1876, RG10, vol. 1934, file 3552, LAC.

⁴⁶ Vankoughnet "Memo on the case of Edward DeBlois, a French-Canadian residing at Caughnawaga," Jan. 8, 1877, RG10, vol. 1934, file 3552, LAC.

⁴⁷ Edouard DeBlois is listed as Claimant No. 525 in the Walbank Survey. On his claimant form is noted: "Unanimously voted against by the Chiefs because he is a French Canadian and his wife is not a member of the band." Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

⁴⁸ Four chiefs to Laird, Apr. 28, 1874, RG10, vol. 1924, file 3055, LAC.

tongue by an inexperienced agent (Pinsonneault had been on the job less than one year at the time).⁴⁹ To save face, the DIA instructed Pinsonneault to collect these rents, but also acknowledged it would be difficult to collect arrears since no books on rents had been kept since 1848.⁵⁰ Agent Cherrier reported in 1877 that there were nearly twenty French-Canadians on the reserve who either owned land, rented land, or cultivated land in exchange for half of the produce.⁵¹

The Commons and Calls for a Survey

It is impossible to understand the history of racial tension and membership at Kahnawá:ke without taking into consideration the questions of land and resources. Nineteenth-century petitions against non-Mohawks living illegally on the reserve are invariably linked to reports of wood depredations, land inequalities, and resource shortages. Attempts to evict non-Mohawks were on one hand a simple matter of numbers (fewer members would mean more land and wood for all), but they were also based in contested understandings of what was meant by landownership. According to Kahnawá:ke customary law, upheld by the chiefs, those who claimed parcels of land could not legally stop other Mohawks from cutting wood on their parcel. From this point of view, Kahnawá:ke territory was a wood commons. The customary law on wood had been spelled out in some detail by chiefs in 1801 (Chapter 3) and had continued to be practiced since then (Chapter 4). Reform-oriented Mohawks and the DIA, on the other hand, supported an understanding of landownership that gave the owner exclusive rights

⁴⁹ Order in council recommending the appointment of Joseph E.R. Pinsonneault as Agent for Caughnawaga and Oka reserves, May 19, 1873, RG10, C-11107, file 1802, LAC.

⁵⁰ Memo by Vankoughnet, Apr. 30, 1874, RG10, vol. 1924, file 3055, LAC.

⁵¹ Cherrier to DIA, Sept. 11 and 17, 1877, RG10, vol. 1934, file 3552, LAC.

to the trees growing on his/her land. They saw the customary wood-cutting practices as the source of the problem but recognized that there was little they could do about this without transforming the way in which land was owned. The laws in effect at that time, however, did not allow the DIA to order a land survey without community consent.

In December of 1873 the DIA received a petition from five Kahnawá:ke landowners. The petitioners complained, "that that they and others are subjected to much annoyance and loss by a custom which prevails in the said Seignory from any member of the tribe to cut down and remove the timber from the said farms contrary to the wishes and without the consent of the owners thereof." Aside from the actual damage this caused, the petitioners saw this practice as "a serious impediment to the cultivation and improvement" of Kahnawá:ke lands, and as "the discouragement of agriculture generally among the Indians of the Sault St. Louis." They asked the government for an Order in Council (hereafter OIC) that would spell out the illegality of cutting trees on someone else's lot. One of the five petitioners was Louise McComber who, by that time, had already submitted her application for enfranchisement.⁵²

M. MacIver, the lawyer for the five landowners, further described the wood custom for the benefit of the DIA:

It has hitherto been the custom for any member of the tribe to appropriate to his own uses the timber throughout the Reserve, regardless of the rights of those who, in virtue of the usual Indian title, are acknowledged owners of lots of land which have long been in the possession of themselves, their predecessors or auteurs.⁵³ In most cases these lands have so passed or descended for many generations, that is to say, by inheritance, purchase or exchange.⁵⁴

⁵² Petition from five landowners to David Laird, Minister of Interior, Dec. 20, 1873, RG10, vol. 1917, file 2764, LAC.

⁵³ *Auteur*: someone who transmits a legal right to someone else.

⁵⁴ M. MacIver to David Laird, Dec. 23, 1873, RG10, vol. 1917, file 2764, LAC.

After describing the custom, MacIver went on to list "the consequences of this promiscuous ownership and destruction of timber" which "are most deplorable:"

Valuable trees are cut down for the most ordinary purposes, and not unfrequently to gratify a spirit of revenge; the farms are denuded of wood for building, fencing and firewood; and as a natural result few persons are inclined to spend money or labor in improving properties always liable to such ruinous depredations. To add to the evil, threats are now held out of cutting down several valuable "Maple Sugaries" which have hitherto been exempt from spoliation, and considered to be the exclusive property of those persons on whose land they were; and it is feared that perseverance in that design will be attended with serious breaches of the peace.⁵⁵

The petition and the accompanying letter are an indication of the continuity of the customs first put to paper in the "Twenty-One Laws" of 1801. MacIver, however, saw these practices as accounting "for the backward state of agriculture among the Indians of Sault St. Louis, for though many of them are anxious to cultivate their lands, they are deterred from so doing by the condition attached to the possession of them." MacIver went on to suggest that if this custom were allowed to continue the only outcome could be that the land would continue to lie unused (as he saw it) or that great chaos would ensue:

The irritation and mischief caused by the circumstances described may be realized by supposing that all the inhabitants of the Province held their lands burdened with a similar incident of tenure. Were it so, it is scarcely too much to say that the country would either be a wilderness (as the greater part of Sault St. Louis is) or the scene of lawlessness, strife and violence.⁵⁶

MacIver asked the DIA to arrange for passage of a regulation protecting landowners from these customs, and suggested that the 1868 Act on the management of Indian lands empowered the government of Canada to make such a law.⁵⁷ The lawyer quoted from

⁵⁵ *ibid.*

⁵⁶ *ibid.*

⁵⁷ *ibid.*

Section 37 of the act, reminding the DIA that the law authorizes the Governor in Council to "make such Regulations as he deems expedient for the protection and management of the Indian lands in Canada or any part thereof, and of the timber thereon or cut from off the said lands, whether surrendered for sale or reserve or set apart for the Indians."⁵⁸

Lawrence Vankoughnet, the head of the DIA, disagreed, saying that the rights of these landowners were already protected by the Crown Timber Act and that no new OIC was needed.⁵⁹ He added that an OIC had been passed which made this act applicable to Indian lands and made it so that "no Timber can be cut except under license or by white men or by Indians on Indian lands (save when cut by an occupant of land for his own use upon the lot occupied by him), and any cut without license may be dealt with as cut in trespass."⁶⁰ What Kahnawá:ke needed, according to Vankoughnet, was a survey to establish boundary lines between different lots. Until such a survey was completed, he believed, there was nothing that could be done about the disputes over wood. The department had, in effect, installed a legal framework in Kahnawá:ke that could only work after a completed survey, and it did not consider itself responsible for what happened in the meantime. The DIA would not enforce customary laws because it did not acknowledge their validity, but neither could it enforce the new laws because the boundary lines between lots had not been officially established. If the community were to request it, Vankoughnet offered to conduct a survey to define such boundaries.⁶¹

⁵⁸ Statutes of Canada, "An Act providing for the organisation of the Department of the Secretary of State of Canada, and for the management of Indian and Ordinance Lands," 31 Vict., c. 42, 1868.

⁵⁹ Chapter 23 of the Consolidated Statutes of Canada.

⁶⁰ Order in Council, May 5, 1862.

⁶¹ Vankoughnet to petitioners, Dec. 31, 1873, RG10, vol. 1917, file 2764, LAC.

In response to Vankoughnet's remarks indicating that he saw a survey as the only solution, nineteen Kahnawá:ke "possessors of farms and other real property therein" petitioned the DIA asking "to have a survey made" and to "establish division lines between the different properties."⁶² The petition was again forwarded by MacIver, who took the opportunity to inform the department that the OIC referred to by Vankoughnet in previous correspondence would not, in his opinion, be adequate for the Kahnawá:ke situation. The OIC, according to MacIver, protects "merchantable timber" only and the "mode of proceeding is so circuitous and dilatory as to render it almost useless for all practical purposes."⁶³ The DIA promised it would look into the matter, and would take steps to determine if Kahnawakehró:non generally supported having the reserve surveyed or if this was a minority opinion.⁶⁴ In response to DIA questions along these lines, Agent Pinsonneault reported that the majority of Kahnawá:ke residents were opposed to a subdivision survey that would create regular lots and distribute them among heads of households. He explained that the opposition of the majority was due to the fact that most had no wood and thus could never be expected to favour a land distribution that would put them in a position where they would have to buy wood to heat their homes.⁶⁵ The DIA also asked Pinsonneault, to put together an exhaustive list of all Kahnawá:ke landowners and the approximate area of land owned by each, in preparation for a subdivision survey. The list he produced, however, was incomplete because a number of families refused to cooperate.⁶⁶

⁶² Nineteen petitioners to DIA, Feb. 28, 1874, RG10, vol. 1917, file 2764, LAC.

⁶³ MacIver to Laird, Mar. 10, 1874, RG10, vol. 1917, file 2764, LAC.

⁶⁴ DIA to MacIver, Mar. 16, 1874, RG10, vol. 1917, file 2764, LAC.

⁶⁵ Pinsonneault to DIA, May 17, 1875, RG10, vol. 1917, file 2764, LAC.

⁶⁶ Pinsonneault to DIA, Apr. 22, 1875, RG10, vol. 1917, file 2764, LAC.

As if to place an exclamation mark on the agent's assessment that the majority was opposed, four Kahnawá:ke chiefs sent the DIA a remarkable and eloquent refusal of the department's offer to subdivide the reserve. Seemingly written without the help of a native-English speaker, this petition lays out the objections of the majority in detail. I quote from the petition at length because I believe it relates the perspective of more conservative Kahnawakehró:nnon in a relatively unmediated way. The phrasing of the English in the document is sometimes difficult to understand, so I introduce each one with some explanatory comments. The chiefs began the letter by emphasizing the fact that the request for a survey had come from a small group who did not have the community's best interests in mind whereas the chiefs were the legitimate leaders who represented the whole of the community. These chiefs, while they presented themselves as the only legitimate leaders of Kahnawá:ke, explicitly saw their task as protectors of those who did not own farms or sugar-bushes:

In a various opinions of the whole tribe and some of them nothing but wasting the Interests of the tribe, we are much complaining on it for there is quite evident in further will fall to a destitution part of our tribe, though they were been elected us as a Chiefs for maintenance and ruling to them as far as will stand the obedience as we acknowledge we had done in our duty as much as in our power even to these very days, desires to obtain of release and to protecting to them that they were not possessed a farm or sugar-bush and for using of our interests.⁶⁷

As for the few who requested a survey, the chiefs wrote that these were landowners who claimed an exclusive right to maple wood, even when they were no longer tapping the trees. Here the chiefs reiterated the longstanding principle that only *used* land could be

⁶⁷ Chiefs Jarvis A. Dione, Joseph K. Delisle, Joseph T. Skey, Thomas Asennase to Merideth, May 14, 1875, RG10, vol. 1917, file 2764, LAC.

owned, and that likewise maples could be claimed as individual property only as long as they were actively tapped for sugar production (Chapter 3):

As they were a certain party, they have an Idea (the owners of the sugar-bushes) of their own use of the Maple wood and even when will consumed the rest of the woods and one of the tribe had been tried and convicted by the judge of Laprairie, the act 1869. As in our general rule if a man has sugar-bush as long as he kept the maple for making a sugar. He have no privilege, for if he shall convert to a farm or chopping himself or servants and selling, there shall we have rights to chop or cut down the maples of our own use the way we understand by the treaty May 29th 1680, of Louis XVI Six Mile Square for the Iroquois tribe.⁶⁸

Ever since 1867, when Ottawa took control of their finances, the incidents of illegal woodcutting had been increasing. People evidently knew that the power of the chiefs was diminished and that the agent would not enforce customary laws:

Since disestablished the Act 1867 and the Officers resigned themselves by misunderstood of their duty and our funds are escheat to the Crown, ever since to them that they were misdemeanors have more chance to waste of fuel +c, because we have no power to chastise them and neither of any Agent willing to prosecute them.⁶⁹

The problem of wood pilfering, according to these chiefs, had begun about twenty-five years earlier (around 1850), and the problem was never more severe than it was now:

Some of them they were begun about 25 years ago and multiplying every year and in this year the greatest number ever employed of selling fuel +c, and the parties accusing the Chiefs and were the sellers of wood but we held the peace as our own concern if they were only obedient enough we should live in peaceably.⁷⁰

According to the chiefs, their people were well aware of how little land there was in comparison to the number of community members, and that such a survey would be very expensive. Furthermore, they were aware that the land was of uneven quality, and that in

⁶⁸ *ibid.*

⁶⁹ *ibid.*

⁷⁰ *ibid.*

the case of a redistribution some people would receive such poor land that they would not be able to meet their needs. People in this position would be forced to sell and move away:

For they were conscience most of the tribe it will [parpied]⁷¹ the interests of the tribe, and if to subdivide the land or reserve, for we have only a small piece of land according to the number of the tribe and beside we have to pay to be surveyed of the land and after received the shares some will oblige to sell and emigrant and nothing to take with the annuity or Indian's pound. For the shares it will containing swamps, rocky or stoney grounds and creared without fuel. As we are considered the present time some more illegal possessed of our land and to them that same license for [using] in the reserve the way one understand if we shall take these actions, all those illegal possessed it shall be theirs in future of the Seignory +c but part of the tribe shall be gone one place to another.⁷²

The chiefs, like all Kahnawakehró:non, knew that a subdivision survey and the installation of private property would end the status of wood as a common-property resource, and this is why they opposed it. What the chiefs wanted was for the government to remove non-Mohawks and to enforce the longstanding wood laws. If the DIA would not do this, the chiefs asked if it would be willing to approve the sale of the reserve (Chapter 4).⁷³

Since it was unclear which laws now applied to Kahnawá:ke land and resources, and since no one seemed capable of enforcing them, there was a rush to cut trees. In what were essentially open-access conditions, everyone understood that someone would cut the existing trees, so it was in every individual's best interest to cut as much as he could as fast as he could. DIA officials took for granted that this was the result of the actions of

⁷¹ Since this document is handwritten in poor English, I am not certain of what word this is. It could be "par pied," meaning that the territory would be cut up into small morsels against the interest of the community.

⁷² Chiefs Jarvis A. Dione, Joseph K. Delisle, Joseph T. Skey, Thomas Asennase to Merideth, May 14, 1875, RG10, vol. 1917, file 2764, LAC.

⁷³ *ibid.*

lawless men, defective Kahnawá:ke customary law, or both. They appear to have been convinced that the fault lay with Kahnawakehró:non and their system of common resource ownership which they did not believe capable of conserving trees for future generations. Kahnawá:ke chiefs, on the other hand, pointed the finger at the DIA and its agent for failing to enforce laws, customary or otherwise. The stalemate did not go unnoticed by Kahnawakehró:non, and the situation continued to deteriorate.

It was clear to the DIA in 1875 that the majority of Kahnawakehró:non opposed a subdivision survey. In fact, there is no indication that Kahnawakehró:non, except for a few of the wealthiest landowners, ever asked for a survey (except one that would define the boundaries of the reserve itself). Thanks to MacIver, the DIA also knew that existing federal legislation was not adequate to prosecute wood pilferers. Thus the department was aware that it had neither adequate information concerning lots and owners (no cadastral map), nor the legislation necessary to stop someone from illegal wood-cutting. The following year the DIA would attempt to transition out of this place of relative weakness.

The Order in Council of 1876

In November 1875, Tekanonnowehon (Alexander Delorimer),⁷⁴ a son of George Delorimier and Louise McComber, wrote the DIA on behalf of a number of "respectable" owners of sugar bushes, saying that they feared people would cut maple trees on their lands that winter:

⁷⁴ Tekanonnowehon (Alexander Delorimer), Walbank Claimant No. 471, born 1841 (still unmarried in 1885), owned about 85 acres in 1885, including 16 acres of sugarbush, all of it valued at \$1940, not including quarry lands which were not valued by Walbank. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

Up to this day only a few young men have dared to chop several trees in these bushes. This winter I have reasons to fear that some serious trouble will take place among them with regard to the maple trees. Such trees according to the usages here are not allowed to be cut down only by those who are actually in possession of them for their own private use but now the ill disposed parties or I may say those who have sold illegally their own portion to the white people have come to the conclusion of chopping these maple trees to the great detriment of the actual owners who wisely have had the good sense to preserve them.⁷⁵

It is not entirely clear whether Tekanonnowehon intended to tap or cut his maples, but in either case, he believed that no one else had the right to cut the trees in his sugarbush.

According to Kahnawá:ke custom, according to Tekanonnowehon's interpretation, maples could only be cut by the owners of the land they grew on, and then only for their own private use. He asked the government for an Order in Council to protect landowners' wood and the order in the community.⁷⁶ Tekanonnowehon's assertion, however, was not entirely in line with Kahnawá:ke customary law as it had been expressed through the previous decades. It is clear that maples used for sugar production were not to be cut by people who were not the owners of the sugarbush, but it is not at all clear what would happen when someone wanted to cut down their own sugarbush. If the owner of a sugarbush began to cut the maples, did that mean others could help themselves as well? Perhaps Kahnawá:ke had never faced this particular situation before. Agent Pinsonneault repeated Tekanonnowehon's narrative, adding that the troublemakers were those who had previously cut down their own trees in order to sell the wood illegally, whereas the petitioning landowners wished to preserve theirs. Without a new OIC to protect the sugarbushes, he claimed, landowners would cut down all of their maples pre-emptively.

⁷⁵ Alexander de Lorimier to David Laird, Nov. 4, 1875, RG10, vol. 1972, file 5555, LAC.

⁷⁶ Alexander de Lorimier to David Laird, Nov. 4, 1875, RG10, vol. 1972, file 5555, LAC.

The agent ended his letter with the plea: "Veuillez pour le bonheur des Sauvage donner une protection aux erables."⁷⁷

The chiefs agreed in principle that maples should be protected, and had presented the department with such a grievance nearly two years earlier, but they believed that no one should have the right to cut maples, not even the owner of sugar bushes. At that time they reported that some owners of sugar bushes were cutting, or planning to cut, their maple trees, and that this should not be allowed. In a letter to Laird, they wrote that, "in our opinion the owners of certain sugar bushes should in future be forbidden to chop wood or fuel off the said bushes unless the old Deed shall be altered."⁷⁸ The meaning of the last phrase is unclear. Perhaps the chiefs were under the impression that this rule concerning maples was contained in the original 1680 seigneurial grants.⁷⁹ At the time David Laird, the Minister of the Interior and Superintendent of Indian Affairs, responded with the rather typical suggestion that it was the agent's job to stop "irregular and objectionable timber cutting."⁸⁰ The DIA in the late nineteenth century was consistently opposed to the cutting of maple for the purpose of firewood.⁸¹ One assumes that this objection was due to the high value and productive potential of sugarbushes, and the fact that a stated goal of the DIA was the economic development of Indigenous communities. Mohawks and their chiefs wanted the best for their community, and they thus also wanted the maples preserved for the long-term. Again, however, Kahnawakehró:non differed with the department on how this should be done.

⁷⁷ Pinsonneault to David Laird, Nov. 17, 1875, RG10, vol. 1972, file 5555, LAC.

⁷⁸ Two chiefs to Laird, Mar. 11, 1874, RG10, vol. 1924, file 3055, LAC.

⁷⁹ Extant copies do not include such a rule, but if they thought the 1680 document included such a clause, it is an indication of how seriously they took this customary law.

⁸⁰ "Remarks by Deputy Superintendent General of Indian Affairs" and "Substance of Statement of Caughnawaga Chiefs," Mar. 11, 1874, RG10, vol. 1924, file 3055, LAC.

⁸¹ Pinsonneault to Ministry of Interior (translation), May 15, 1874, RG10, vol. 1924, file 3055, LAC.

The department wasted little time in moving forward to solve the problem its own way. On December 9, 1875, it had Thomas A. Dawes, part-owner of a major brewery in Lachine, specifically deputed for the purpose of carrying out provisions of Section 22 of the 1868 "Act for the organisation of the Department of the Secretary of State of Canada, and for the management of Indian and Ordinance Lands," and prosecuting anyone cutting or removing wood, timber, stone, or soil from the Reserve.⁸² Three weeks later the Order in Council was issued "for the protection from pillage of Timber on lands occupied by Indians on the Indian Reserve at Caughnawaga." The order stipulated that:

1. No timber shall be cut from off any portion of the Indian Lands known as the Caughnawaga Reserve, occupied by individual members of the Band, exception such as may be required by the occupants of such lands for their own use on the premises.
2. Any infraction of the foregoing Regulation shall subject the parties convicted thereof to a forfeiture of the timber cut and to a fine of not less than twenty or more than two hundred dollars for each such offence.
3. Any timber forfeited under the preceding regulations shall be handed over to the occupant of the land from which it was taken, and the amount of the fine paid shall be carried to the credit of the funds of the Band.⁸³

Section 22 of the 1868 Act forbids the removal of wood, stone, and soil from reserves, but it does not specify who owns the wood when it remains on the reserve. This OIC, for Kahnawá:ke only, made trees the property of the owner of the land on which they grew, and prohibited the cutting of trees by anyone except such an owner. Note that the OIC did not include any mention of maples, which were supposedly the reason for the OIC. Copies were sent to Agent Pinsonneault, one for each of the chiefs and one to hang on the church door.⁸⁴ The chiefs, alarmed by this development, asked to speak to the

⁸² Vankoughnet memo, Apr. 25, 1876, RG10, vol. 1972, file 5555, LAC.

⁸³ Canada, Order in Council, Jan. 1, 1876.

⁸⁴ Vankoughnet to Pinsonneault, Jan. [5], 1876, RG10, vol. 1972, file 5555, LAC.

Superintendent General in person, but were told that this was not necessary as they could more cheaply and efficiently communicate their views by letter.

In response to the alarm of the chiefs, Vankoughnet asked the agent if there was enough wood in the common areas of the reserve to provide for all of those who did not own a woodlot.⁸⁵ Pinsonneault assured him there was, and that there was enough to last for some years.⁸⁶ Unaware of Pinsonneault's assurances, Dawes sent the DIA a letter a day earlier that informed the department of wood shortages in Kahnawá:ke and asked the DIA to clarify the law concerning wood ownership. "It seems," he wrote,

...there is a growing scarcity of timber on the reserve and a consequent quarrelling about it. I would like to know if they possess the timber in common or if any number of them having selected certain portions of land are to have the sole use of the timber on those particular portions to the exclusion of the rest.⁸⁷

Dawes had a case before him involving one Mohawk who cut wood for construction of a roof on his outbuilding, and another who took possession of the cut logs because he was the owner of the property on which they were cut. Dawes had no idea how to act on the matter, which is why he asked the DIA to clarify.⁸⁸ Vankoughnet sent Dawes a copy of the Order in Council and, parroting the words of the agent, assured him that "as regards such Indians as have not enough wood on the land they occupy for their domestic use, there is sufficient wood for them on the portion of the Reserve held in Common by the Band."⁸⁹

⁸⁵ Vankoughnet to Pinsonneault, Jan. 19, 1876, RG10, vol. 1972, file 5555, LAC.

⁸⁶ Pinsonneault to Vankoughnet, Jan. 22, 1876, RG10, vol. 1972, file 5555, LAC.

⁸⁷ Thomas A. Dawes, to E. A. Meridith, Jan. 21, 1876, RG10, vol. 1972, file 5555, LAC.

⁸⁸ Thomas A. Dawes, to E. A. Meridith, Jan. 21, 1876, RG10, vol. 1972, file 5555, LAC.

⁸⁹ Vankoughnet to Thomas A. Dawes, Jan. 27, 1876, RG10, vol. 1972, file 5555, LAC.

Ignoring Vankoughnet's instructions to communicate with him by letter only, Kahnawakehró:non dispatched two chiefs to Ottawa with a petition asking that the OIC be repealed. They argued that Kahnawá:ke custom had always stipulated that all wood, except maples, could be cut anywhere on the territory. In their own words:

...That we should have heard with astonishment and grief that a certain party would have petitioned to the Government of Ottawa and by their instigation a measure would have been adopted in Council that an Indian would no more have right to cut any timber upon the property of another, that the occupant would henceforth have the sole benefit and whoever would infringe the law would incur an enormous penalty.

Honorable Gentlemen. If it is by pure movement of the Government, we do not blame him in issuing a such an order, we like to give him credit that he done is for the greatest benefit of the Tribe; but unfortunately he was not aware of the fatal consequences that would have resulted the the adoption of such measure and the real standing of the Domain, because our usages and habits of cutting wood wherever we find it excepting nevertheless the maple date of time immemorial.⁹⁰

Furthermore, the chiefs argued that those who favoured the OIC were only about one fifth of the population, and that these people's ownership of their lots was questionable because of the very low price at which they had purchased them, if they had paid at all. The main point of the chiefs, however, was that regardless of who owned the land the trees belonged to all.⁹¹ A few weeks later, at the verbal request of chiefs Thaironhiote (Joseph Skye)⁹² and Shatekaionton (Louis Beauvais),⁹³ Vankoughnet made an exception to the OIC. For the rest of that winter only, Mohawks would be allowed to cut wood as

⁹⁰ Petition from Chiefs [SoSe taironhiote], SoSe [Shentareontie], Francis [Athearishon], Louis [Tiovakaron], and Thomas [Asennouse] (and others) to David Laird, Secretary of the Interior, Feb. 7, 1876, RG10, vol. 1972, file 5555, LAC. Repeated words and spelling left as in original document.

⁹¹ *ibid.*

⁹² Joseph Taio[nn]iote is probably Thaironhiote (Joseph Skye), Walbank reference number 347. He was born 1819, and was listed at owning about 100 acres in 1885. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

⁹³ Louis Shatekaionton is probably Shatekaionton (Louis Beauvais), Walbank reference number 423. He was born 1833, and was listed at owning 10.5 acres in 1885. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

before (but not maples), but only with the written permission of the landowner.

Vankoughnet also suggested that Mohawks change their long-established habit of cutting wood in the winter, and begin to cut wood in the summer. This, according to Vankoughnet, would give the wood time to dry before use.⁹⁴

That same month, Dawes was busy arresting those who were breaking the OIC with the help of Chief Thaïoronhiote who provided him with information about lawbreakers. At least three of those he arrested were, according to Dawes, French-Canadians,⁹⁵ but it is not clear if the rest were Mohawks, neighbouring whites, or disputed people who lived on the reserve. As with previous cases, Dawes had a difficult time having anyone convicted unless they declared themselves guilty. Most of his cases were dismissed, but the burden of payment for the cases lay on the "band." Kahnawá:ke, in other words, was required to pay for the ineffective enforcement of the OIC.⁹⁶ A few weeks later Dawes asked the DIA to clarify its position on wood and property, upon which he was sent a copy of the OIC and the letter to the agent stating that exceptions would be made this year only. There was evidently a great deal of confusion on all sides about what rules were now in effect, and it was not at all clear that breaking either old or new rules would result in serious negative consequences.

The Enclosure Rush of 1876-1877

Kahnawakehró:non were no longer sure if the law concerning wood-cutting was their customary law or Canadian Indian law, but people were getting a sense that the

⁹⁴ Vankoughnet to Pinsonneault, Feb. 12, 1876, RG10, vol. 1972, file 5555, LAC.

⁹⁵ Thomas A. Dawes, to E. A. Meridith, Jan. 21, 1876, RG10, vol. 1972, file 5555, LAC.

⁹⁶ Thomas A. Dawes to DIA, Feb. 14, 1876, RG10, vol. 1972, file 5555, LAC.

latter would prevail and acted as such. It was clear to them that the DIA, by way of its OIC, would recognize only the land rights of those who had individual claims on particular parcels of land, and that there was not much time left to lay claim to whatever parcels that were not yet "owned." The customary way to claim land was to clear a lot and cultivate it. Now a number of Mohawks realized that their claim would be stronger in the eyes of the DIA if they enclosed their lot with a fence.

In the months and years immediately following the issue of the OIC, one can recognize the growing importance of fences in the discourse about landownership. Dawes described this scenario to the DIA:

This morning I had a visit from a number Caughnawaga Indians with reference to the right of cutting timber on their neighbors land. It appears that one Louis Tekentarasin⁹⁷ has a portion of land enclosed and which he uses for a pasture, and other purposes. There are a good many valuable trees on the land and lately some Indians from the village, the piece of ground is some 1 ¼ mile from the village, have gone and cut down a part of those trees and appropriated them for their own use. When remonstrated by Louis they told him the timber was as much theirs as his and defied him to prevent them from taking it. There has also been a considerable quantity of wood cut in sugaries belonging to indians for many years and who have been taking care of them and now the idle and thriftless say they have a perfect right to take what they want of the maple trees.⁹⁸

We do not know whether Tekentarasin had enclosed this land recently to strengthen his claim, or whether this was a fence that dated from earlier days. It is obvious, however, that the fence meant a great deal to Dawes, and that he had little sympathy for anyone who claimed the right to trees that were encircled by another man's fence.

⁹⁷ Tekentarasen (Louis Daillebout), Walbank claimant number 189, was born 1815, and was listed as owning two lots in 1885 totaling 43.25 acres and valued at \$859. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

⁹⁸ Thomas A. Dawes to DIA, Mar. 1, 1876, RG10, vol. 1972, file 5555, LAC.

The chiefs were very concerned about the trend toward building fences in the months and years following the issue of the OIC. Fences were being erected by those attempting to bolster their claim to a lot they already held as well as by those who would lay claim a lot they did not previously own. Kahnawakehró:non recognized that the DIA and its local officials placed great stock in fences as signifiers of ownership. Dawes reported the following in February 1877:

It seems some of the Indians have been more carefull of their property than others and have fenced in portions of the reserve for their own use part of which is under cultivation and part in wood the latter they wish to keep to use as fuel. Those who have not been so careful are now encroaching on the others and cutting down this wood for their own use. They say the whole reserve is owned in common and they have a right to cut down where and when they please provided they only use for domestic purposes such as fuel +c +c. Will you kindly let me know if those who have fenced in those portions of the land have a right to prevent other Indians from entering upon it and taking away the timber?⁹⁹

In previous years, DIA officials had described wood conflicts in similar terms but the presence of fences had not been noted. Now the presence of fences appeared to bolster, in the eyes of Dawes, an individual's claim to a lot, and increase the seriousness of taking wood from it. As for Dawes' questions to the DIA, the department avoided the question of fences by emphasizing that the rules from the year before were still in force, that only those with written permission from landowners might cut wood on others' land.¹⁰⁰ There was no precedent in Kahnawá:ke for claiming land by fencing it, or for claiming trees for an individual's exclusive use by fencing them. But thanks to the 1876 OIC, a number of Mohawks adopted the practice. In 1881, the chiefs confirmed that any fences constructed

⁹⁹ Thomas A. Dawes to DIA, Feb. 2, 1877, RG10, vol. 1972, file 5555, LAC.

¹⁰⁰ Vankoughnet to Dawes, Feb. 6, 1877, RG10, vol. 1972, file 5555, LAC.

"since eighteen hundred and seventy six [were built] for the sole purpose of depriving the community of the wood therefrom."¹⁰¹

The Ohionkoton Case

The most prominent enclosure case that year involved a part of the lucrative quarry lands in Kahnawá:ke. Commercial quarrying had gone on since at least the 1822, but the enlargement of the Lachine Canal caused a quarry boom in Kahnawá:ke in the mid-1870s,¹⁰² and in 1876 between forty and fifty Kahnawá:ke men earned their living in the quarries.¹⁰³ That year the chiefs leased a portion of the quarry lands to a firm named McNamee, Gaherty and Frichette with the approval of the DIA. In the spring of 1876 a man named Ohionkoton (Angus Jacob)¹⁰⁴ claimed that the chiefs had leased his land for quarrying without his permission and announced that he intended to sue the chiefs for damages. The chiefs suspected, however, that he had enclosed the land (with a makeshift fence) only after he knew that the land in question would be leased. According to Agent Pinsonneault, Ohionkoton "a fait des travaux sur ce terrain pour une valeur de \$20 à 25 piastres, il a semé l'an dernier du blé d'inde dans une grandeur de environ 1/4 d'arpent, en différentes parties de la dite carrière et il reclame la somme de \$50.00 pour une étendu de 4 arpents dont les travaux de la carrière en ont pri une partie de son terrain qui n'a pas encore été cultivé." Having both fenced and cultivated the land in question, Ohionkoton

¹⁰¹ Chiefs Thomas Assennase, Louis [Tahiorokaron], and Thomas Rice, Louis Shatekahienton to DIA, Mar. 16, 1881, RG10, vol. 1972, file 5555, LAC.

¹⁰² Canada, Annual Report of the Department of Indian Affairs, House of Commons, *Sessional Papers*, No. 11 (1877), pg. 9.

¹⁰³ Pinsonneault to DIA, May 30, 1876, RG10, vol. 1987, file 6411, LAC.

¹⁰⁴ Ohionkoton (Angus Jacob), Walbank claimant no. 582, owned about one acre of land in 1885. At that time he returned his tribunal notice, saying he would not cooperate because he liked things the way they were. See Chapter 6.

would appear to be meeting both the customary standard for claiming land (clearing and planting), and one of the most important DIA standards (enclosing with a fence). Having cultivated land also bolstered his claim in the eyes of the department because it would be considered "improved." The chiefs rejected his claim and refused to meet his demands, but Pinsonneault suggested that "il serait peut être bon qu'il serait indemniser, pour [éviter] tout trouble avec lui."¹⁰⁵ Vankoughnet agreed, asking Pinsonneault to convince the chiefs of the "propriety" of compensating Ohionkoton for his improvements.¹⁰⁶ The chiefs refused, and Ohionkoton made good on his threat, suing the chiefs \$500 for damages.¹⁰⁷ Neither Pinsonneault, nor Chief Louis Taiorakaron¹⁰⁸ thought the land was worth more than \$25, and Pinsonneault doubted Ohionkoton's claim, saying he was "certain this Indian wishes to make trouble, or to get some money for nothing." During the previous year, Pinsonneault recounted, Ohionkoton bounded about 5 acres next to the quarry (about $\frac{3}{4}$ of it uncultivated) and cultivated a portion of it for the first time, harvesting only half a bushel of Indian corn.¹⁰⁹ According to Pinsonneault and the chiefs, this man probably knew that the land would be leased and did what he could to claim it and raise its value.

After the suit had been launched the chiefs offered to pay Ohionkoton \$50, but he refused, holding out for a victory in court. Taking their cues from Ohionkoton's example when it looked like he would win, two or three others appropriated pieces of the same quarry that spring. Pinsonneault felt these men were simply opportunists who had no

¹⁰⁵ Pinsonneault to Laird, Apr. 29, 1876, RG10, vol. 1987, file 6411, LAC.

¹⁰⁶ Vankoughnet to Pinsonneault, May 16, 1876, RG10, vol. 1987, file 6411, LAC.

¹⁰⁷ Law Suit by Ignace Onniakoton brought by Doutre, Doutre, Robidoux +c+c, Advocates for Ig. Onniakoton, May 19, 1876, RG10, vol. 1987, file 6411, LAC.

¹⁰⁸ This is probably Chief Rowi Tehorakaron, mentioned by Reid as having died in 1886. Little else is known of him. He does not appear in the Walbank Reference Books. Reid, *Kahnawà:ke*, 60.

¹⁰⁹ Pinsonneault to DIA, May 30, 1876, RG10, vol. 1987, file 6411, LAC.

right to that land whatsoever. He suggested they be dispossessed immediately, especially considering the economic importance of quarry wages and royalties to the community.¹¹⁰

While Pinsonneault made judgements on the character of the men and the economic impact of their actions, Vankoughnet wanted to know whether the land had been appropriated before or after the lease was signed.¹¹¹ For him, enclosing a piece of common land was only illegal if it had already been leased.

In the context of Ohionkoton's trial the chiefs said they had "strong proof" that Ohionkoton appropriated the quarry land illegally. According to them, as soon as he heard they were going to lease the land in question, he encircled the lot with a crude fence of branches. The chiefs insisted that the land in that area was not cultivable, and that his 1/4 acre of planting served only the purpose of staking his claim. In the days before the trial, they asked the DIA to take the case seriously, as they were very concerned about the precedent that would be set if Ohionkoton were to win.¹¹² The action was dismissed by the court on September 19, 1877 for unstated reasons. However, the band was still on the hook for over \$200 in legal fees.¹¹³ Enclosures continued after this case was concluded, but Ohionkoton's failure to win his case meant that the chiefs' worst fears were not realized.

In the fall of 1876, the chiefs petitioned the DIA for the replacement of Agent Pinsonneault. Their first complaint was that "he is the author" of the action taken by Ohionkoton in appropriating part of the quarry, which they yet feared "may prove fatal to

¹¹⁰ Pinsonneault to DIA, May 30, 1876, RG10, vol. 1987, file 6411, LAC.

¹¹¹ Vankoughnet to Pinsonneault, June 7, 1876, RG10, vol. 1987, file 6411, LAC.

¹¹² Chiefs Joseph [Taiononiohte], Joseph [Kentarontie], Thomas [Asennase], and Louis [Taionakaron] to Laird, Sept. 9, 1876, RG10, vol. 1987, file 6411, LAC.

¹¹³ Lash to Meredith, Oct. 1, 1877 and Lash memo, Aug. 7, 1878, RG10, vol. 1987, file 6411, LAC

us." They also complained that Mohawks were not being hired for the best quarry jobs even though there were many with the capabilities. In regards to Pinsonneault, the chiefs could not "discover a single good act" in his tenure and informed the department that "we have dropped him, and no longer consider him our Agent." They warned the DIA that if nothing was done it was likely that one of their unemployed people "will make him pass a 'hard time.'" The chiefs also complained of his "defective education," ignorance of English and Mohawk languages, use of extortion in the quarries, getting women drunk so he could take advantage of them, and letting barges leave without the stone having been measured. On the latter point the chiefs suggested the problem was that Pinsonneault was not sufficiently "interested," whereas a Mohawk stone measurer "being interested would take more care."¹¹⁴ A sworn statement by two Mohawks indicated they had seen Pinsonneault that summer in the village completely drunk and asking for a woman.¹¹⁵ The agent had already been warned by the DIA that his performance was not satisfactory, and this was the final straw.¹¹⁶

Pinsonneault, although he defended himself vigorously, was dismissed in February of 1877, and replaced by Georges Cherrier.¹¹⁷ Cherrier's first point of ten instructions was the following:

1. All trespasses should be prevented upon the lands of the Caughnawaga Indians whether the same consist in the appropriation by others than members of the Band of locations thereon or by the removal therefrom of wood, stone or other materials without the written authority of the Supt. Genl. of Indian Affairs, being first had and obtained. You will therefore

¹¹⁴ Chiefs Sose [Kentrouitie], Sose [Taionkniote], Sose [Taioakrwen], [Sak Hasenserse], Louis Shatekainton to DIA, n.d., RG10, vol. 1998, file 7153, LAC.

¹¹⁵ Sworn statement by Ennias [Kanonsarionwe] and Sose [Anerarotonkwas], Oct. 14, 1876, RG10, vol. 1998, file 7153, LAC.

¹¹⁶ DIA to Pinsonneault (draft for translation into French), May 2, 1874, RG10, vol. 1924, file 3055, LAC.

¹¹⁷ Pinsonneault believed his dismissal was politically motivated and related to the political leanings of his father, A. Pinsonneault, M.P. for Laprairie.

act with promptitude and energy in stopping any attempt at the same and in punishing the trespassers in the manner provided by law.

With reference to the wood, timber, stone, sand or other material on the Reserve, members of the Band have only the right to appropriate such of the same as is held in Common, to their own use for domestic purposes, but they have no right to sell it; nor can they take any valuables of the above or other kinds for domestic use from lands (other than their own locations) occupied by individual members of the Band without the written consent of the occupant countersigned by you as Agent; and no sugar maples may be cut for any purpose whatever by occupants or others.¹¹⁸

These paragraphs are a good summary of the department's position concerning resource use in Kahnawá:ke at this time, and are restatements of the Indian Act and the 1876 OIC in regards to wood, stone, and soil.¹¹⁹ Seeing as Cherrier began his tenure in February, he height of wood-cutting season, he was immediately faced with complaints of illegal woodcutting. His first letters indicate a steep learning curve.¹²⁰

Land Disputes after the Enclosure Rush

DIA correspondence from the end of 1878, a time of year when the usual winter conflicts over firewood usually came to the fore, indicates that the enclosure rush of 1876 and 1877 had slowed or ended. That winter the DIA received a petition signed by eighty-seven Kahnawakehró:non, representing a large conservative faction in the community, protesting the OIC and complaining that:

...the proprietors of wood lands have decided to no longer allow us to cut wood on their lots, contrary to our laws existing till about two years ago when the government passed an Order in Council that henceforth the

¹¹⁸ DIA to Cherrier, Mar 8, 1877, RG10, vol. 2004, file 7600, LAC.

¹¹⁹ *ibid.* The other ten points of Cherrier's instructions can be summarized as follows: 2) prevent liquor traffic; 3) encourage agriculture or industrial pursuits; 4) collect seigneurial dues and other rents; 5) measure stone and regulate quarries; 6) forward money to the department every month; 7) maintain roads by Indian statute labour, or band funds if necessary; 8) inspect schools, 9) write annual updates; 10) be responsible for Kanehsatà:ke also, and for the sick and infirm.

¹²⁰ Cherrier to DIA, Mar 5, 1877, RG10, vol. 2004, file 7600, LAC.

proprietors of wooded lands should alone have the benefit of cutting wood, + this in spite of the protestation of the whole nation.

At present the majority find themselves deprived of this article so useful to a family, as there is no reservation belonging in Common, all being appropriated by enclosing parts with sorts of fences or even branches in places where there is small wood.¹²¹

The last sentence of the petition suggests that all (or most) common land (outside the village and common pasture) had by this time been claimed by individuals and enclosed by fences, often only with flimsy structures made from small branches. It is also significant that the petitioners no longer asked for the OIC to be overturned, instead asking simply "that every Indian shall have wood for his own use, otherwise great troubles may be anticipated."¹²² The petitioners probably knew that the DIA could not be made to respect Kahnawá:ke customary law, but since they had been deprived of access to free wood by the OIC, they asked the DIA to find an alternative solution.

Aside from being a period of relative land-management chaos, the five years following the enclosure rush can also be considered a period of adjustment, in the sense that Kahnawakehró:non were testing the boundaries of the DIA's newly imposed vision of land management. Similarly, the department was in unfamiliar territory. It was operating rather hesitantly under the yet unfamiliar Indian Act of 1876, and was attempting to impose its will on Kahnawá:ke while maintaining a kind of status quo within the community. In a great many cases related to land, however, the DIA found that the path of least resistance was the path of inaction: if it could avoid making a difficult decision it usually would.

¹²¹ Petition from 87 Kahnawakehró:non, n.d. [Winter 1877-1878], RG10, vol. 1972, file 5555, LAC.

¹²² *ibid.*

Although most land outside the village now enclosed, there were still those who continued to appropriate land in the old way. In spring of 1878, a man named Taretane (Tom Jacob)¹²³ "took" and ploughed a piece of land claimed by a man named Tewanitasen (Tom 20Months).¹²⁴ Tewanitasen said he had owned the land for ten years, and this statement, along with Agent Cherrier's intervention, ensured that the department found in favour of the supposed long-time owner.¹²⁵ The key issue for the department was determining the first claimant, whereas according to Kahnawá:ke custom Tewanitasen's claim would only have been legitimate if he had worked the land recently. If it lay fallow longer than three years, Taretane would have been well within his rights to take and use it, but the DIA did not take this custom into account in making its decisions. In the case of wood-cutting, the department can be considered to be working under a considerable handicap, since the actions of Kahnawakehró:non concerning wood could not be properly understood without taking customary law into account.

Even while the department was attempting to impose new rules on landownership and wood-cutting, Kahnawakehró:non continued to go about their business, apparently without worrying too much about what the DIA would do to them if caught. The first line of Cherrier's instructions as a new agent was to protect maples under all circumstances. He was even instructed to stop people from cutting maples on their own land, although there was no law to that effect on the books. In January of 1878 Cherrier confronted some

¹²³ Probably Taretane (Tom Jacob), Walbank reference no. 417. Born 1830, he was listed as owning four lots totaling about 67 acres in 1885. Walbank estimated the value at \$1563. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹²⁴ Probably Tewenitasen (Tom 20Months), Walbank reference no. 184. Born 1829, he was listed as owning 8.5 acres in 1885 (2.75 acres cultivated, 5.75 acres bush). Walbank estimated the value at \$56. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹²⁵ Cherrier to DIA, Apr. 26, 1878, and Vankoughnet to Cherrier, May 6, 1878, RG10, vol. 2057, file 9698, LAC.

Kahnawakehró:non after he noticed loads of cut green maple piled near their dwellings, but he said they simply laughed at him.¹²⁶ For unspecified reasons he did not lay charges, but the following winter he informed the department that many Mohawks continued to heat their homes with maple, and that he was ready to lay charges against Karhaienton (Matthew Jocks)¹²⁷ for having cut twelve maple trees located on his own land.¹²⁸ When Cherrier asked the DIA where he could find the law under which he could charge Karhaienton, Vankoughnet sent him a copy of the 1876 OIC and a copy of a letter to the previous agent in which he forbade the cutting of maples. While Vankoughnet insisted that after reading these, the agent would "perceive that it is strictly forbidden that maples shall be cut down or removed from the reserve,"¹²⁹ this was hardly the case. The OIC made no mention of maples, and a letter to the agent did not have the force of law. As in many cases at this time, the DIA hoped that by strongly insisting on a certain course of action it would convince Mohawks that there were laws to that effect. At Kahnawá:ke nobody was being fooled. Maples were being cut and there was apparently nothing anyone could do to stop it.

Other Mohawks tested out the new rules by taking actions that would have been illegal under customary law, but would seem to be legal under the Indian Act.

Sakoriatakwa,¹³⁰ a former chief, claimed and fenced a piece of land along the Primeau Road in October 1878, but other than fencing it he did nothing with it. Agent Cherrier,

¹²⁶ Cherrier to DIA, Jan. 24, 1878, RG10, vol. 1972, file 5555, LAC.

¹²⁷ Watio Jocks was probably Karhaienton (Matthew Jocks), Walbank claimant no. 457. Born 1845, he was listed in 1885 as owning 8 acres of land valued at \$209. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹²⁸ Cherrier to DIA, Mar. 15, 1879, RG10, vol. 1972, file 5555, LAC.

¹²⁹ DIA to Cherrier, Mar. 24, 1879, RG10, vol. 1972, file 5555, LAC.

¹³⁰ Sakoriatakwa (Martin Parquis), Walbank claimant no. 536, was born in 1819. In 1885 he was listed as owning a 48-acre lot, valued at \$1078. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

perhaps influenced by Mohawks' sense of injustice concerning someone who claimed land without using it, wrote the department that he considered Sakoriatakwa's actions to be unfair because they deprived poor people of firewood.¹³¹ Surprisingly, the DIA agreed, and asked Cherrier to remove him from the lot.¹³² This case shows that the DIA did not consistently follow existing legislation. There was no legal reason, for example, why Sakoriatakwa could not appropriate a piece of common land by enclosing it. Several cases from previous years indicated that, as long as his rights were not contested by another individual, the DIA would have recognized his claim. In this case, however, the agent's recommendation concerning wood took precedence.¹³³

Deeds and Witnesses: The Case of Thiretha and Tekaonwake

The DIA was remarkably unpredictable in its responses to various cases, sometimes making snap decisions, and other times leaving difficult decisions for the chiefs to decide. An example of such a case was the one brought before James P. Dawes in 1879. Dawes, a Lachine industrialist and nephew of Thomas A. Dawes, had only recently been deputed by the DIA to arbitrate land and wood disputes in Kahnawá:ke, and did not know how to make a decision in the case. Two men, Thiretha¹³⁴ and Tekaonwake¹³⁵ claimed the same piece of land. Thiretha, the occupant at the time, had

¹³¹ Cherrier to DIA, Oct. 17, 1878, RG10, vol. 2070, file 10,556, LAC.

¹³² DIA to Cherrier, Nov. 5, 1878, RG10, vol. 2070, file 10,556, LAC.

¹³³ Correspondence from a few years later reveals that Agent Cherrier was involved in grazing cattle on the territory, and opposed the fencing of individual lots for that reason. See correspondence from July and August, 1883, RG10, vol. 2162, file 33,790, LAC.

¹³⁴ Pierre Guillaume was almost certainly Thiretha (Peter Diome), Walbank claimant no. 577, owner of four lots totalling 194 acres of all land use categories, valued at \$1473. According to Walbank in 1885, "this man resides here upon his land which is very extensive, he refuses to attend here to make his statement." Walbank also identified Thiretha as one of the people who actively obstructed the survey in 1887. Walbank to Vankoughnet, Sept. 13, 1887, RG10, vol. 7749, file 27005-1, LAC.

¹³⁵ Tekaonwake (Louis Canot), Walbank claimant no. 4, born 1828, owner of 16 acres in 1885. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC

Tekaonwake arrested for cutting wood on it. Based on their actions in other cases, neither of these men can be considered to be particularly reformist or in favour of the Indian Act: both opposed the DIA in different ways at different times. Agent Cherrier felt that Thiretha was the rightful owner: he had a notarized deed proving ownership since 1864. Tekaonwake, however, was also able to prove by witness accounts that the lot belonged to him, and it was apparent that other Mohawks had often asked him for permission to cut wood there. Cherrier threw his weight behind Thiretha, giving as reason that he was the current occupant and that he wanted to protect his wood. Instead of helping Dawes to make a decision, the DIA left the difficult decision to the Kahnawá:ke council of chiefs.¹³⁶ The department tended to avoid decisions that would turn a large segment of the community against it. Forcing the chiefs to choose between the claimants was a thankless task that would harm their prestige and promote division within the community.

Chief Onasakenra¹³⁷ wrote to Prime Minister John A. Macdonald (who was also Minister of the Interior and head of Indian Affairs) on Tekaonwake's behalf, addressing the statesman as his brother. He began the letter by apologizing for the bad behaviour of certain Kahnawakehró:non who went to the courts "pour les choses qu'il ne comprend pas lui meme et dont il n'a aucune Connaissance personnelle." This appears to be less of an apology for bad behaviour than an apology for the fact that Mohawks were taking matters to Canadian courts. As for the case at hand, Onasakenra explained that there was no doubt that Tekaonwake was the rightful owner, that the land had been in his family for about forty-five years, and that numerous witnesses were willing to testify on his behalf.

¹³⁶ Cherrier to DIA, Apr. 17, 1879, and Vankoughnet to Cherrier, Apr. 28, 1879, RG10, vol. 2084, file 12,817, LAC.

¹³⁷ Joseph Onasakenra (or Onaskeur) does not appear in the Walbank Reference Books.

According to Onasakenra, Thiretha was a "fameux devastateur" of the domain, by which the chief likely meant that he cut and sold wood illegally. More seriously, wrote Onasakenra, he was a protégé of James P. Dawes (the father of the J.P. Dawes who was deputed to arbitrate Kahnawá:ke wood disputes) "Agent de Caughnawaga maintenant en retraite," and was married to one of one of Dawes' illegitimate daughters.¹³⁸ The mother of this daughter appears to have been a Mohawk woman, because Onasakenra claimed that it was only through this marriage that Thiretha became "Heritier d'une Dot consistant d'un permis d'occupation emmané par son auguste beau père. Quel Corruption!" The chief went on to explain that the current agent, "le pauvre G.E. Cherrier" was easily dazzled by old documents, but hoped that the department would not be so easily misguided as to dispossess Tekaonwake because he lacked such a document.¹³⁹ Considering that Cherrier spoke disparagingly of Mohawks who sought out notaries for drawing up deeds for their lands, it is interesting that Onasakenra had the impression that he was easily impressed by such documents.

The chiefs decided in favour of Tekaonwake, the man with many witnesses, and against Thiretha, the man with the deed.¹⁴⁰ Cherrier, incensed that they would decide against the party in possession of a contract of sale, thought the decision had been influenced by the widespread understanding that Thiretha had illegally sold wood.¹⁴¹ In the end, the department approved the decision of the chiefs. It justified this approval on

¹³⁸ The Walbank Reference Books do not include information on Thiretha's wife because he did not cooperate with the tribunal.

¹³⁹ Chief Joseph Onasakenra to John A. Macdonald, Apr. 23, 1879, RG10, vol. 2084, file 12,817, LAC.

¹⁴⁰ Chiefs Thomas [Asennase], Louis [Shatekaiouton], Louis [Taiorakaron] Council Resolution, July 10, 1880, RG10, vol. 2084, file 12,817, LAC.

¹⁴¹ Cherrier to DIA, July 18, 1879, RG10, vol. 2084, file 12,817, LAC.

the basis that Thiretha's deed of sale stated that the land had been sold by a Kanehsatà:ke Mohawk, and that the deed was therefore invalid.¹⁴²

Loans and Leases

In a number of cases, DIA officials decided not to apply the Indian Act strictly, preferring instead to find a compromise solution. An example of this is the case involving a Mohawk named Twenkarakwen (Michael Delisle)¹⁴³ who leased out his farm for two years to a French-Canadian by the name of Edouard DeBlois¹⁴⁴ in exchange for a loan of \$200. DeBlois was a merchant specializing in glass beads who had lived in Kahnawá:ke for about thirty years. His permit, however, dated only from 1874 and it had ostensibly been granted because he was married to a Mohawk woman named Tsawennoseriio (Catherine Desparois).¹⁴⁵ When the two years were up, and DeBlois realized Twenkarakwen could not pay, he sold the farm to a Mohawk named Akwirotokwas (Tom Phillips)¹⁴⁶ for \$300. Twenkarakwen then hired a lawyer to bring his case to the attention of the DIA. According to Cherrier, DeBlois did not have the right to own land on the reserve (more specifically, the right to sign a contract with right of redemption), but the contract was in the name of his wife, Tsawennoseriio, who did have this right.¹⁴⁷

When the DIA asked the Department of Justice for advice, a law clerk from that

¹⁴² DIA to Cherrier, Aug. 19, 1881, RG10, vol. 2084, file 12,817, LAC.

¹⁴³ Twenkarakwen, also spelled Teho8enkarak8en (Michel Delisle). There are several men named Michel Delisle listed in the Walbank Reference Books but none with this Mohawk name.

¹⁴⁴ Edouard DeBlois, Walbank claimant no. 525, was born in 1833. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC. DeBlois had a permit of occupation "until a further order" dating from June 3, 1874. Cherrier to DIA, Dec. 26, 1879, RG10, vol. 2100, file 17,475, LAC. In 1885 he was postmaster, and was listed as owning two lots totaling about 38 acres (mostly "bush") valued at \$192.

¹⁴⁵ Cherrier to DIA, Jan. 9, 1880, RG10, vol. 2100, file 17,475, LAC.

¹⁴⁶ Akwirotokwas, also spelled Kakwiratokwas or Ak8rhotonk8as (Tom Phillips), Walbank claimant no. 307, was born in 1845. In 1885 he was listed as owning five lots totaling 152 acres and worth \$2668.

¹⁴⁷ Cherrier to DIA, May 21, 1877, RG10, vol. 2016, file 8139, LAC.

department stated that, according to the Indian Act of 1876 (Section 3), Tsawennoseriio had ceased to be an Indian when she married DeBlois. Since the same legislation (section 66) also forbade any person (non-Indian) from taking security from an Indian or to offer anything resembling a mortgage to an Indian, the agreement between DeBlois and Twenkarakwen was illegal. In other words, both DeBlois and Tsawennoseriio were considered non-Indian, and neither had the right to own Kahnawá:ke land. Neither did they have the right to take property from an Indian who defaulted on a loan. The clerk suggested that the land should go back to Twenkarakwen, and that he should pay DeBlois what he owed.¹⁴⁸ The DIA appears to have taken no action based on this advice, and the land remained in the hands of Akwirotokwas.

Twenkarakwen complained again in 1879. This time, aside from arguing that DeBlois did not have the right to sell the farm, he added that it was worth \$800, \$500 more than DeBlois' selling price. DeBlois defended himself, saying their agreement stipulated that if the loan was not repaid in two years the land became his, and that his occupation permit gave him the right to own land in Kahnawá:ke. DeBlois suggested that it was Twenkarakwen's strategy not to repay the loan and to lease the land to another French-Canadian when the two years were up.¹⁴⁹ After visiting with both men, Agent Cherrier reported that DeBlois had lived on the reserve for thirty years and occupied about fifteen acres of cleared land and thirty-six acres of wooded land, including some sugar bush.¹⁵⁰ Vankoughnet informed Cherrier that DeBlois' permit did not include the occupation of woodland, and instructed the agent to dispossess him.¹⁵¹ However, after

¹⁴⁸ Department of Justice opinion, July 4, 1877, RG10, vol. 2016, file 8139, LAC.

¹⁴⁹ DeBlois statement, Jan. 8, 1880, RG10, vol. 2100, file 17,475, LAC.

¹⁵⁰ Cherrier to DIA, Jan. 9, 1880, RG10, vol. 2100, file 17,475, LAC.

¹⁵¹ Vankoughnet to Cherrier, Jan. 28, 1880, RG10, vol. 2100, file 17,475, LAC.

Cherrier reminded Vankoughnet of DeBlois' important role in the community (the nature of which is not disclosed), the matter was dropped.¹⁵² The DIA did not acknowledge Akwirotonkwas, the current occupant, as the legitimate owner of the lot, but it recognized that he had paid DeBlois and was in possession of the bill of sale. Thus, when Twenkarakwen offered Akwirotonkwas \$280 to get his land back, the department advised him to accept it.¹⁵³ This is a fine example of the DIA attempting to resolve conflicts through compromises that had little to do with the law. According to the Indian Act, all of the transactions in question were illegal and the land should have simply reverted back to Twenkarakwen. Instead of insisting on that course, however, the department attempted to find a compromise that would resolve a specific problem without stirring up any larger problems.

Of concern to both the chiefs and the DIA was the leasing of reserve land to non-Mohawks, but the two parties had different reasons for being concerned. An 1874 petition from the chiefs asked for the DIA to take action against thirteen people who had leased land to white men without permission. They asked that the department to seize the rent and add it to the annuities of the band. The chiefs argued that it was illegal both from the perspective of Canadian Indian legislation, which stipulated that Indians were minors and did not have the right to make such transactions with whites, and because of the fact that "we have only one deed of the whole tribe."¹⁵⁴ This assertion to collective ownership of the territory is entirely in line with a number of pronouncements over the course of

¹⁵² Cherrier to DIA, Jan. 30, 1880, RG10, vol. 2100, file 17,475, LAC.

¹⁵³ Michel Teho8enkarak8en statement, Apr. 12, 1880, and Vankoughnet to Cherrier, May 21, 1880, RG10, vol. 2100, file 17,475, LAC.

¹⁵⁴ Two chiefs to Laird, Mar. 11, 1874, RG10, vol. 1924, file 3055, LAC.

Kahnawá:ke history, and with the 21 Laws of 1801 (Chapter 3), of which the first law stated that:

Attendu que la Seigneurie du Sault St Louis est la propriété de la Nation Iroquoise dudit village et qu'elle est commune à tous les membres qui composent la dite Nation et qu'il y ont tous également part sans pour autant qu'il soit loisible à aucun en particulier ni la subdiviser ni la vendre ni l'aliéner en aucune manière, il est expressément convenu que la Seigneurie et les moulins qui peuvent ou pourront cy après lui appartenir ainsi que les revenus en dépendants, seront gouvernés et administrés par les chefs du village et leurs conseillers, ou par toutes autres personnes qui seront munies de leurs plein pouvoir par acte reçu devant notaire et délivré en plein conseil convoqué à cet effet.¹⁵⁵

In addition to this clear statement of collective ownership and revenue-sharing, Law 14 forbade any sale, cession, conveyance or lease of uncleared Kahnawá:ke land without the express consent of the chiefs.¹⁵⁶ What the chiefs wanted was for the income from leases to go to the community instead of to individuals who made deals with outsiders.

The DIA agreed that such leases were illegal, but for different reasons. The DIA was concerned that all rents should be collected by the agent, and that all leases be approved by the department. If a lease was not approved by the department, it considered it to be illegal.¹⁵⁷ The agent was instructed that any whites living on reserve land leased without DIA approval should be evicted. Agent Pinsonneault, however, noted that if he were to act on these instructions, "Indians who have much land, and who also have other occupations, are obliged to lease them to Whites or leave them uncultivated."¹⁵⁸ It is not clear why Pinsonneault would assume that unleased land could not be cultivated by Mohawks themselves, but perhaps other Mohawks would not agree to work for the large

¹⁵⁵ "Règlements établis par les chefs du Sault Saint-Louis," Feb. 26, 1801, RG10, vol. 10, p. 9446-9454, reel C-11000, LAC.

¹⁵⁶ *ibid.*

¹⁵⁷ E. A. Meredith, Deputy Minister of Interior, to Chiefs, Mar. 12, 1874, RG10, vol. 1924, file 3055, LAC.

¹⁵⁸ Pinsonneault to Ministry of Interior (translation), May 15, 1874, RG10, vol. 1924, file 3055, LAC.

landowners. As in many similar cases, the DIA did not follow through on its intention to evict those living on the reserve illegally, nor did it do anything about the unauthorized leases.

The Case of Léon Giasson vs. Tekaonwake

The DIA chose to do nothing even in cases that involved non-Mohawks living on Kahnawá:ke territory who illegally claimed land and wood for themselves. Such a case was reported by Agent Cherrier in the winter of 1880-1881, when on one day alone several Mohawks cut down sixty trees from the sugarbush of a farmer named Léon Giasson, and had threatened him with their axes when he tried to stop them. Cherrier did not mention that the Giassons were French Canadiens; he only said that were among those who wanted to preserve their wood and had always set a good example to "les indiens" in this regard.¹⁵⁹ According to Cherrier, nearly everyone in Kahnawá:ke was heating their homes with maple at this time. Léon Giasson estimated that three hundred maples in all had been cut on his land, along with many other trees.¹⁶⁰ It is possible that his entire sugarbush was cut down during this time because the Walbank Survey of 1885 lists Giasson as owning no sugarbush. Cherrier identified the instigator of this action as Chief Shatekaienton (Louis Beauvais),¹⁶¹ one of the chiefs who had been sent to Ottawa in 1876 to protest the OIC. According to Cherrier, Shatekaienton was careful not to risk his own standing by taking part directly, but constantly encouraged others to disobey the

¹⁵⁹ Cherrier to DIA, Jan. 19, 1881, RG10, vol. 2132, file 26,397, LAC.

¹⁶⁰ Léon Giasson alias Leon Akwirais to Sup Gen, Dec. 22, 1881, RG10, vol. 2132, file 26,397, LAC.

¹⁶¹ Probably Louis Beauvais (Shatekaienton), Walbank Ref. 423, born 1833, owned 10.5 acres. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

orders of the DIA.¹⁶² The department responded in typical fashion, asking Cherrier to warn Kahnawakehró:non that lawbreakers would be prosecuted, but not taking any action in that direction. The DIA also informed the agent that the Giassons were French-Canadians and had no right to wood on the reserve. Their permission to reside there did not give them any right to wood or to interfere in Mohawk wood-cutting.¹⁶³

The same winter (1880-1881) Léon Giasson had Tekaonwake (Louis Canot)¹⁶⁴ arrested and charged with trespassing and taking wood without permission.¹⁶⁵ He may have been motivated to follow this route because the DIA had not ruled in his favour, and did not take action to stop wood-cutting on land he considered his. The Lachine court condemned Tekaonwake to prison, but he appealed to the Court of Queen's Bench, where the ruling was overturned. It was decided he could not be condemned because Léon Giasson did not have a location ticket and "therefore [had] no legal title or right to occupy the lands upon which the pretended offence recited in said conviction was committed."¹⁶⁶ Following this unfavourable decision, Giasson wrote the DIA to explain the entire situation, asking for a location ticket, and to have his wood protected in the short term. He also asked the DIA to have his considerable court expenses covered by band funds. Quoting the superior court's verdict that he had no legal title to the land, he asserted that this was unjust because his title was beyond dispute, "if not legally at least by implication like that of all the other occupants in good faith." Giasson also referred to section 28 of the Indian Act of 1880 which prohibited trespassing on the land of anyone

¹⁶² Cherrier to DIA, Jan. 28, 1881, RG10, vol. 1972, file 5555, LAC.

¹⁶³ Vankoughnet to Cherrier, Feb. 3, 1881, RG10, vol. 2132, file 26,397, LAC.

¹⁶⁴ Tekaonwake (Louis Canot), Walbank claimant no. 4, born 1828, owner of 16 acres in 1885. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹⁶⁵ Cherrier to DIA, Nov. 28, 1881, RG10, vol. 2132, file 26,397, LAC.

¹⁶⁶ Court of Queen's Bench ruling, Nov. 11, 1881, RG10, vol. 2132, file 26,397, LAC.

who possesses "a title of occupation or is otherwise recognized by the Department as occupant of such land," which could include those who hold land without location tickets. If the judgment of this court were to be accepted, Giasson warned, "no Indian at Caughnawaga would have the right to protect land occupied by him against the trespassing of another whilst it is a fact that no ticket of occupation 'Location Ticket' has been issued at any time for the Caughnawaga Reserve." When the DIA asked the Department of Justice if this decision could be appealed in a higher court, however, it was informed that judgments rendered by the Court of Queen's Bench could not be appealed.¹⁶⁷ Léon Giasson appears to have had a number of enemies in Kahnawá:ke, a fact that was probably not unrelated to his frequent legal actions. In the five years preceding this particular case, he had taken legal action against four different Kahnawá:ke men more than twenty times, and all of them had been decided in his favour. Each time, the men were unable to pay their fines and the costs were taken from the funds of the band. This meant that every time someone was arrested for taking wood, the community was collectively punished. Giasson warned that this one lost case would set a precedent and further embolden Mohawks to cut and take wood on his land.¹⁶⁸

The Court of Queen's Bench decision against Giasson raised fears on the part of Kahnawá:ke landowners that there was now no way to stop others from cutting wood on their lands. Cherrier forwarded letters to the DIA from two such men, "principal members of the band," in November, 1881, which was about the beginning of the wood-cutting season. One of the men, Karonhiaktatie (Jean-Baptiste Jacques)¹⁶⁹ submitted a statement

¹⁶⁷ Vankoughnet to Lash, Deputy Minister of Justice, Dec 30, 1881; Lash to Vankoughnet, Jan. 19, 1882, RG10, vol. 2132, file 26,397, LAC.

¹⁶⁸ Akwirais Léon Giasson to DIA, Dec. 22, 1881, RG10, vol. 2132, file 26,397, LAC.

¹⁶⁹ Does not appear in Walbank Reference Books.

to the effect that he owned a fenced cattle pasture "by uncontested titles" on which he had been growing some small trees, "since the existence of our new laws." With "our new laws" Karonhiaktatie was probably referring to the 1876 Order in Council, which forbade the cutting of wood on others' property. Karonhiaktatie's statement implies that he would not have tried to grow trees on his land if it had not been for the passage of the new laws. He complained that there were now some who were cutting these small trees, the same people who "sold and devastated whole forests." He thought this was "probably the consequence of some strange rumours afloat that our laws for the protection of wood are set aside by the recent judgement of the Superior Court." He asked for the application of the Indian Act, section 17, which specified the punishment for Indians who trespassed.¹⁷⁰ The other "principal man," Kanatsohare (Thomas Patton)¹⁷¹ signed an almost identical statement.¹⁷² Cherrier explained that the reason for these petitions was the Court of Queen's Bench case of Léon Giasson versus Tekanowake in which the latter wood-cutter was let off because the former was not in possession of a location ticket. Cherrier said that neither of these two men had location tickets either (none had been issued in Kahnawá:ke), and so they were worried they were about to lose all of their trees as well.¹⁷³

¹⁷⁰ Jean-Baptiste Jacques alias [Karonhiaktatie] statement, Nov. 28, 1881, RG10, vol. 2132, file 26,397, LAC.

¹⁷¹ Kanatsohare (Thomas Patton), Walbank claimant no. 63, was born in 1832. In 1885 he owned 135 acres worth \$3717. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹⁷² Thomas Kanatsiohare statement, Nov. 28, 1881, RG10, vol. 2132, file 26,397, LAC.

¹⁷³ Cherrier to DIA, Nov. 28, 1881, RG10, vol. 2132, file 26,397, LAC.

The Influence of the Indian Agent

Several of the above cases show how influential the Indian agent could be in determining DIA decisions. The outcome of many cases could be almost entirely determined by the way the agent presented them to the department. Another such case arose in November of 1881 when Otsitsatakon (Michel Martin)¹⁷⁴ and his father burned underbrush on land they occupied along Primeau Road where they intended to cultivate land. They also intended to clear an adjacent piece of land for the same reason. Agent Cherrier ordered them to stop, and gave as his reason that Otsitsatakon was not interested in the wood and only wanted to cultivate the land.¹⁷⁵ When Vankoughnet asked Cherrier to explain his actions, he claimed that "cet indien a trompé le Département et qu'il n'y a pas mot de vérité dans tout ce qu'il dit." He was too lazy to clear the small piece of land he already owned, stated Cherrier, and he wanted to employ whites to clear even more land, and to pay them with the wood they cut. Otsitsatakon told the department that he was truly not interested in the wood and would be glad to let others cut and take it. Cherrier, however, complained that Otsitsatakon had fenced the land and had thus deprived "les pauvres gens du village d'y aller prendre du bois de chauffage."¹⁷⁶ It would appear that the land in question was not claimed by anyone else and was thus available for cultivation purposes according to Kahnawá:ke custom. There was also nothing in the Indian Act that prevented Otsitsatakon from fencing a parcel of common land. Based on Cherrier's report, however, the DIA agreed that Otsitsatakon should not be allowed to

¹⁷⁴ Michel Martin was probably Wishe OTsitsatakon, Walbank claimant no. 378, born in 1842. His wife died around 1880. He was listed in 1885 as owning three lots totaling about 45 acres, and valued at \$485. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹⁷⁵ Vankoughnet to Cherrier, Nov. 9, 1881, RG10, vol. 2162, file 33,644, LAC.

¹⁷⁶ Cherrier to Vankoughnet, Nov. 14, 1881, RG10, vol. 2162, file 33,644, LAC.

continue in his actions. Although Cherrier said he cared about the availability of wood for poor people, it is likely that Cherrier was attempting to prevent Mohawks from fencing their lands because these interfered with his own pasturing operations on the reserve.¹⁷⁷ There is no indication that Otsitsatakon's actions were counter to the provisions of the Indian Act or counter to Mohawk customary law, nor did he construct his fence for the purpose of keeping others from gaining access to firewood. Nevertheless, the DIA accepted Cherrier's council and refused to allow Otsitsatakon to take possession of the lot.¹⁷⁸

Another step in DIA efforts to transform landownership in Kahnawá:ke would be to regulate and record land transactions, and again the agent played a key role in directing this. In Fall of 1878, Agent Cherrier reported that "il existe des abus parmi les Indiens dans leurs transactions entr'eux qui ont de funestes conséquences." He said there were certain unscrupulous notaries public who went to Kahnawá:ke to draw up notarial conveyances for people. Some Mohawks were apparently willing to pay high fees for such documents, but Cherrier considered them to be of little or no legal value. To him, this activity was evidence that "plusieurs indiens sont les victimes, soit par leur ignorance ou à défaut de sages avis." As an example of the consequences of such practices, he relayed the story of a man named Sonowonhesse (Joseph)¹⁷⁹ who borrowed the sum of \$15.00 from another man named Kanonwatase (Louis Beauvais).¹⁸⁰ As collateral for the loan, the former gave the latter the deed to his land. When Sonowonhesse was unable to

¹⁷⁷ See correspondence from July and August, 1883, RG10, vol. 2162, file 33,790, LAC.

¹⁷⁸ Cherrier to Vankoughnet, Nov. 14, 1881, RG10, vol. 2162, file 33,644, LAC.

¹⁷⁹ Joseph Sonowonhesse does not appear in the Walbank Reference Books. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹⁸⁰ Louis Kanowontasse is probably Kanonwatase (Louis Beauvais), Walbank claimant no. 79, born in 1835. In 1885 he was listed as owning one 3.26-acre lot valued at \$28. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

pay, Kanonwatase demanded that he pay five dollars in interest every month until he was able to pay the entire amount. Cherrier said that cases like this were very common. To remedy the situation, he suggested that he keep a land register "ou seraient entrées les transactions des Sauvages." In this way, if anyone tried to conduct transactions "d'une nature immorale ou frauduleuse, l'Agent devra se refuser d'enregistrer dans ce registre ces sortes de Transactions." This, according to Cherrier, "serait une protection et une grande économie pour la Tribu."¹⁸¹ The DIA approved the suggestion and asked him to bring the idea before the chiefs, as they were empowered under the Indian Act of 1876 to establish such a register.¹⁸² There is no reason to think Cherrier was successful in establishing a land register, however, because decades later such transactions were still going unrecorded. It is also important to note that although Cherrier believed that the notarial conveyances drawn up independently were of little or no value, such documents would later be of great value to anyone wanting to prove ownership of a lot (Chapters 6-7).

A Chiefly Intervention Resulting in a Temporary Woodlot

By the spring of 1881 it would have been clear to most Mohawks that DIA attempts to regulate landownership and resource use had resulted nothing but confusion and degradation. The remaining chiefs decided to take action to address the wood crisis. They called a general assembly and asked the community for the authority to pass laws on wood. The majority voted for the chiefs to "be empowered to pass whatever measures, concerning the wood, they seem proper." Immediately following the vote, the chiefs gave every community member the right to cut any trees (except maples) anywhere on the

¹⁸¹ Cherrier to DIA, Oct. 16, 1878, RG10, vol. 2070, file 10,526, LAC.

¹⁸² DIA to Cherrier, Nov. 7, 1878, RG10, vol. 2070, file 10,526, LAC.

territory, including on fenced lots.¹⁸³ In the context of the wood shortage and the evident failure of the DIA to find solutions, a majority of Kahnawakehró:non chose to acknowledge the authority of their chiefs and the legitimacy of customary law. The resolution of the chiefs, delivered to Ottawa in person by Chief Shatekahienton, reads thus:

Considering the scarcity of fuel to a great number of our Indians, who are not holders of wooded lots, in consequence of the provisions of the law prohibiting them to cut any wood either on the ground pertaining to individuals who deny them the use of said wood taking benefit of the law favouring them; resulting grave inconveniences in many cases by the incarceration of our warriors, and entailing thereby considerable expenses of our funds.

That in future until further orders be it permitted to our Indians to cut any wood standing or on the ground in whatever place be found, either on lots fenced within ten years, as these fences being constructed since eighteen hundred and seventy six for the sole purpose of depriving the community of the wood therefrom, excepting always the cutting down of sugar maple trees.¹⁸⁴

Fences built before the 1870s, according to the chiefs, served legitimate purposes, but most constructed more recently could be disregarded because they represented a departure from customary law.

Alarmed by this turn of events, Agent Cherrier argued that if the department were to allow this decision to stand it would only lead to more disputes on matters he considered already resolved. According to Cherrier, the reason why some Mohawks had no wood was, "soit qu'ils aient vendu ce bois ou qu'ils l'aient gaspillé avant qu'une stricte surveillance eut lieu." Cherrier blamed the whole wood situation on Kahnawakehró:non themselves for wasting or selling their wood. The only way out of the current crisis,

¹⁸³ Chiefs Thomas Assennase, Louis [Tahiorokaron], and Thomas Rice, Louis Shatekahienton to DIA, Mar. 16, 1881, RG10, vol. 1972, file 5555, LAC.

¹⁸⁴ *ibid.*

according to the agent, was to set up woodlots that would provide for those Mohawks who needed firewood.¹⁸⁵ The DIA liked the idea and asked him to set up such woodlots with the help of at least one of the chiefs.¹⁸⁶ The next winter (1881-1882), Cherrier went out with Chiefs Taiorakaron¹⁸⁷ and Asennase (Thomas Deer),¹⁸⁸ and together they decided that the designated woodlot would be a piece of land owned by Thiretha (Peter Diome).¹⁸⁹ It is unclear why Thiretha would agree to such a designation for his land, but it is possible that, although he lost the right to the lot he occupied based on a decision of the chiefs in 1879, had never been forced off. Perhaps this was a compromise agreement with the chiefs in which he was allowed to keep the lot if others were allowed to cut on it.¹⁹⁰ Thiretha's only demands were that he retain the right to direct where people cut wood on his land (he was especially concerned that dead trees be taken first), and that wood-cutters clean up branches and debris.¹⁹¹

Soon after, however, Cherrier reported that those cutting on Thiretha's property were not following his instructions. He had the impression that this was their way of thumbing their noses at the authority of the DIA, and informing DIA officials that they saw their chiefs as the only legitimate authorities. He identified Tekanowake (Louis Canot) as a leader of this effort. While there were certainly Mohawks who openly

¹⁸⁵ Cherrier to DIA, Mar. 30, 1881, RG10, vol. 1972, file 5555, LAC.

¹⁸⁶ DIA to Cherrier, Apr. 13, 1881, RG10, vol. 1972, file 5555, LAC.

¹⁸⁷ Louis [Tarorakaron or Taiorakaron] does not appear in the Walbank Survey. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹⁸⁸ Chief Asennase (Thomas Deer), Walbank claimant no. 430, was born in 1813. Walbank noted that he had been Grand Chief for thirty years in 1885. Walbank listed him as owning two lots totalling 31 acres and valued at \$782. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹⁸⁹ Thiretha or Giretha (Peter Diome), Walbank claimant no. 577, had holdings of nearly 200 acres, according to Walbank in 1885, but refused to provide Walbank with information. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹⁹⁰ There is no way to know for certain because lots were not numbered before 1885 and no lot description is included in the file.

¹⁹¹ Thiretha to DIA, received Dec. 22, 1881, RG10, vol. 1972, file 5555, LAC.

opposed the department, the case should also be considered in light of the personal feud between Thiretha and Tekaonwake, dating back at least to 1879 when Tekaonwake's rights to a lot were supported by the chiefs even though Thiretha had a deed. Tekaonwake may well have had personal reasons for flouting Thiretha's instructions. Cherrier also reported that a man named Aronhiawaks (Basile Montour)¹⁹² had been arrested for taking wood from the property of Charles Giasson.¹⁹³ Cherrier blamed the recent court decision¹⁹⁴ in favour of Tekaonwake, which ruled that wood could not be considered private property in the absence of location tickets. This ruling, he argued, had emboldened Tekaonwake and his allies. Cherrier asked the DIA to give a final announcement on whether or not "les indiens ont le droit de se piller les uns les autres."¹⁹⁵ The DIA responded by saying that Charles Giasson was not an Indian in any case, and that his family's permit for residency did not give them any right to wood. As for Aronhiawaks, the DIA said it had no record of him.¹⁹⁶ In other words, the department had no answers to Cherrier's larger questions.

Setting up a community woodlot was not really in line with customary practice, but in the context of a territory that was now mostly enclosed and legislation that made customary woodcutting illegal, it was a compromise that allowed people with no trees on their own land to have access to free firewood. The woodlot solution continued to be used for some time, and chiefs continued the Thiretha precedent: designating a disputed lot as

¹⁹² Aronhiawaks (Basile Montour), Walbank claimant no. 515, was born in 1837. In 1885 Walbank listed him as the owner of about 55 acres. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹⁹³ Charles Xavier Giasson (Awennaratie), Walbank claimant no. 284, was born in 1832. In 1885 Walbank listed him as the owner of about 35 acres. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹⁹⁴ Court of Queen's Bench ruling, Nov. 11, 1881, RG10, vol. 2132, file 26,397, LAC.

¹⁹⁵ Cherrier to DIA, Jan. 30, 1882, RG10, vol. 1972, file 5555, LAC.

¹⁹⁶ DIA to Cherrier, Feb. 10, 1882, RG10, vol. 1972, file 5555, LAC.

a place for community woodcutting. For example, in the winter of 1883-1884 the chiefs decided that the lot claimed by both René Shatekaronhies¹⁹⁷ and Thiretha would be a communal woodlot. They did the same for a lot claimed by both Satekaronies (Arene Daillebout)¹⁹⁸ and the heirs of Ononkwatkowa.¹⁹⁹ Cherrier told the DIA that all the parties involved in these disputes had plenty of wood on their own lands.²⁰⁰

In what appears to have been a response largely to Cherrier's reports of widespread maple-cutting the previous winter, and specifically to the pleas the Giasson family, the DIA finally managed to have an Order in Council on maple-cutting passed in the summer of 1881. It is unclear why this OIC was issued in 1881 when the preservation of maples had been an obsession of the department for the previous decade. Apparently the DIA had long considered the provisions of the Indian Act, along with the 1876 OIC forbidding the cutting of wood on another's land, as adequate protection for landowners. The new OIC stated that "no Indian or other person may...cut, carry away, or remove... any hard or sugar maple tree or sapling." The OIC did not differentiate between maples growing on private or common land: no maples were to be cut.²⁰¹ It may seem surprising that a government dedicated to the implementation of private property rights would so severely restrict the rights of Kahnawá:ke landowners. It only makes sense in light of the paternalistic assumptions of the DIA regarding the child-like inability of First Nations to manage their own resources. The way DIA officials saw the cutting of maples at

¹⁹⁷ René Shatekaronhies does not appear in the Walbank Reference Books. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹⁹⁸ Antoine Shatehoronhies is probably Satekaronies (Arene Daillebout), Walbank reference no. 121. He was born in 1817. In 1885 Walbank noted that he owned two lots totaling 23.5 acres valued at \$647. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹⁹⁹ Resolution of the council of chiefs (Mic. Shakohentinetha, Thomas Asennase, Louis Shatekaienton, Louis Tairakaron) Jan. 14, 1884, RG10, vol. 1972, file 5555, LAC.

²⁰⁰ Cherrier to DIA, Jan. 17, 1884, RG10, vol. 1972, file 5555, LAC.

²⁰¹ Canada, Order in Council, July 14, 1881.

Kahnawá:ke was likely much the same as the way they interpreted the dubious reports of Prairie First Nations consuming seed grain and oxen in the 1870s.²⁰² Indians, by their very nature, were seen to lack foresight, and thus needed to be protected from themselves. Any other explanation (for maple-cutting as well as seed-eating) might have led to the conclusion that the policies and actions of the DIA were to blame, and this was unthinkable.

Conclusion

The 1870s represent a sea-change in the position of the chiefs and DIA in the everyday lives of Kahnawakehró:non, as well as in the relationship between Mohawks and their land. Every change to Indian law gave the department more powers over First Nations and new ways to undermine their leaders. Customary law and traditional leaders were still in place, but they were on ever-shakier ground. Chiefs had great difficulty asserting their authority in matters of membership and resource management, and they could no longer spend money according to their own priorities. Concurrent resource shortages were brought on by greater population densities, as well as lack of law (or agreement on what the law was) and order (enforcement). In the wake of their failure to move the community to another location, Kahnawá:ke leaders appear to have been at loss (or in disagreement) about how best to respond to the DIA challenge to their authority. Sometimes their actions and words suggest assent to the authority of the Canadian state while at other times they asserted their authority over the territory in much the same way as did their ancestors. This inconsistency probably reflects the different political positions

²⁰² Carter, *Lost Harvests*, 64.

within the community at the time, and is not so different from the conflicted and often contradictory actions of the DIA.

The initial spark of the conflict was brought on by a few large landowners who wanted to have the same land rights as landowners off-reserve. In particular, they wanted the right to keep others from cutting wood on their lands. Responding to petitions by these landowners, the DIA passed an Order in Council that aimed to put an end to the Kahnawá:ke wood custom and make wood the exclusive property of the person on whose land the trees grew. Many Kahnawakehró:non, recognizing the importance of this law and suspecting that it might have important long-lasting effects, wasted no time in claiming and enclosing any remaining common land outside the village. This enclosure rush also resulted in the replacement of an agent who was seen to have acted inadequately to protect landowners and especially privately-held sugarbushes. With most land outside of the village now claimed and enclosed, and little firewood available to those who did not own land, certain landowners were targeted for wood-cutting. Targets were largely those who were not considered to be Mohawks and those who were perceived to have been granted residency permits unjustly. Although setting up temporary woodlots was not in line with the way the commons has been managed to that point, this was a short-term solution to the firewood shortage.

What had been lost over the course of the 1870s was the common land outside the village. With most land now individually owned, and individual Mohawks barred from cutting wood on others' lots, Kahnawakehró:non had to find new ways to meet their needs in the context of these new laws. The DIA had, by the 1880s, succeeded in eliminating most of the common-property resources, but there was still no way the DIA

could efficiently prosecute lawbreakers in the absence of surveyed boundaries between lots. In 1880 the DIA had almost no information on landowners or lots: neither comprehensive lists, nor maps. Location tickets had not been issued, which meant that land was held on the basis of the testimony of witnesses or an assortment of deeds and conveyances. The most radical DIA moves were yet to come, and the 1880 Indian Act (section 16) included legislation that allowed the department to authorize land surveys, including subdivision surveys, without the approval of the community.²⁰³

Still simmering, as it had since the beginning of the century, was the membership problem. There existed no definitive list of members and the question of who was in and who was out was as constant as it was unanswerable. The chiefs often asserted their jurisdiction over this question but it was the DIA that issued permits, and chiefs were often overruled. Even non-Mohawks without permits were difficult to remove because of the reluctance of the DIA to take action on such cases. Added to this, the Indian Act of 1880 (section 14) specified that:

The Half-breeds who are by the father's side either wholly or partly of Indian blood now settled in the Seigniory of Caughnawaga and who have inhabited the said Seigniory for the last twenty years, are hereby confirmed in their possession and right of residence and property, but not beyond the tribal rights and usages which others of the band enjoy.²⁰⁴

This Kahnawá:ke-specific addition to the act was intended to settle a number of membership questions, but it did so in a way that was contrary to the wishes of the chiefs and the majority of Kahnawakehró:non. Three years later, a columnist for *The Catholic World* visited Kahnawá:ke and described the problem thus:

²⁰³ Canada, An Act to amend and consolidate the laws respecting Indians, Statutes of Canada, 1880, c. 28 (43 Vict.).

²⁰⁴ Canada, An Act to amend and consolidate the laws respecting Indians, Statutes of Canada, 1880, c. 28 (43 Vict.).

The French who marry Indian women and get possession of a portion of the Indian reserve may usurp the birthright of those for whom the land was set apart. The toleration of this by the government agent, as well as his offensively reminding the chiefs of their being as minors and unable to vote, etc., caused a commotion at Caughnawaga not long ago.²⁰⁵

The columnist then went on to say that the remedy to this problem, a subdivision survey, was in the works.²⁰⁶ The department intended for all Kahnawá:ke heads-of-household to become enfranchised landowners through this survey, which would solve both the membership and the land problem, from the perspective of the department. Chapter 6 describes the implementation of that ambitious subdivision survey.

Throughout the 1870s and 1880s, DIA officials continued to display their characteristic contradictions. In 1884, while the reserve was in the process of being surveyed and what remained of the commons was being enclosed, Agent Cherrier looked back wistfully to the times when there were still resources available to all. Instead of celebrating the individualist values and laws the DIA had championed during the time of his tenure, he regretted the fact that there were a number of Mohawks "qui ont des sucreries et qui sont à l'aise" who "refusent formellement de donner du bois aux pauvres." In his opinion, these people had a duty to help other members of the community.²⁰⁷ Cherrier did not see the irony in blaming the wealthiest landowners for their individual insensitivity when it had been his own work on their behalf that had deprived ordinary Mohawks of wood.

²⁰⁵ n.a., "At Caughnawaga, P.Q.," *Catholic World*, vol. 37, no. 221 (1883).

²⁰⁶ *ibid.*

²⁰⁷ Cherrier to DIA, Jan. 17, 1884, RG10, vol. 1972, file 5555, LAC.

CHAPTER 6 "Equal to an Ordnance Map of the Old Country:" The Walbank Survey 1880-1893

In the winter of 1884-1885 about sixty Mohawks from Kahnawá:ke were steering boats of troops and supplies up the Nile River in Egypt. Along with other Indigenous and Canadian voyageurs, they had been recruited by the British military for their legendary river-piloting prowess, and were part of an effort to provide military support to beleaguered British troops in Khartoum. At some point along the way they received urgent word that a land redistribution was about to take place in Kahnawá:ke, and they should return immediately if they wished to take part. Clearly concerned by this news, the Mohawk voyageurs quickly finished the work they had been contracted to do, and boarded ships back to Canada that spring.¹

At about this same time, Métis leaders Gabriel Dumont and Louis Riel set up a provisional government in what is today Saskatchewan, a government that was ultimately defeated by Canadian troops several months later. Although seemingly unrelated, the revolt against Canadian occupation of the Prairies and the return of Kahnawá:ke Mohawks (Kahnawakehró:non) from Egypt had one thing in common: both were responses to the loss of Indigenous control of territory to Canada's federal government, and both concerned the transformation of communally-held lands into individually-held,

¹ Benn, *Mohawks on the Nile*; Louis Jackson, *Our Caughnawagas in Egypt* (Montreal: WM. Drysdale & Co., 1885); James D. Deer, *The Canadian Voyageurs in Egypt* (Montreal: John Lovell, 1885). The latter two accounts are reprinted as appendixes in Benn's text.

commodified rectangles.² Previous chapters summarize the principles of customary nineteenth-century land tenure and resource management in Kahnawá:ke, and explore the actions of the Department of Indian Affairs (DIA) that resulted in a period of chaotic resource exploitation. This chapter examines the part of the enclosure process that was supposed to result in a 'regularized' system of private property in Kahnawá:ke.

One of the largest enclosure projects in history was being implemented at the same time on the North American Prairies or Great Plains. The 1885 uprising against the Canadian state in what is today Saskatchewan can be seen, in the words of economic historian Irene Spry, as "a last despairing attempt to protect the commons on which [Indigenous people] depended for their way of life."³ The enclosure of the Prairies, and indeed the entire North American continent, involved the transformation of common lands and resources into private property. Before the 1870s the lands and resources of the northern Prairies could be described as a commons, largely governed by Indigenous customary law and under the political control of Indigenous peoples. Although such common-property regimes have been falsely characterized by Garrett Hardin and many others as prone to over-exploitation,⁴ historical users of commons tended to carefully regulate their actions to ensure sustainable use.⁵ It was the transition period from common to individual property regimes that was characterized by a period of chaotic open-access during which resources were free to all comers and "were used without stint

² For more on the transatlantic context of the Metis Resistance, see Geoff Read and Todd Webb, "The Catholic Mahdi of the North West: Louis Riel and the Metis Resistance in Transatlantic and Imperial Context," *The Canadian Historical Review* 93, no. 2 (2012).

³ Spry, "The Great Transformation," 41.

⁴ Hardin, "The Tragedy of the Commons."

⁵ Daniel W. Bromley and Michael M. Cernea, *The Management of Common Property Natural Resources: Some Conceptual and Operational Fallacies*, vol. 57 (Washington, D.C.: The World Bank, 1989); Ostrom, *Governing the Commons: The evolution of institutions for collective action*.

and beyond their natural power of renewal."⁶ On the Northern Prairies in the 1870s and 1880s, Indigenous peoples saw their lands taken by newcomers who were supported by the government in Ottawa, a government made up of men who saw common-property regimes as backwards and dangerous. While First Nations lost nearly everything, they saw many of the newly-arrived settlers become wealthy on the basis of these newly-created property rights. The ecological and cultural catastrophes of this period (the collapse of bison herds being the most spectacular and tragic) were not primarily due to the introduction of horses and guns, but due to the influx of large numbers of people who did not care to know or obey the rules of the commons, and a colonizing power paving their way with surveyors, police officers, and railways.⁷ Historical geographer Cole Harris also makes the connection between enclosure and the process of confining Amerindians to reserves. He specifically makes the comparison with the evictions of tenants in Scotland's western highlands toward the end of the eighteenth century, which was characterized by a "reorientation of land away from custom and towards the market." He points out that in both cases dispossessed people were confined to small spaces (crofts, Indian reserves) where survival (cultural and often physical) was next to impossible, and that similar language was used in both cases to disparage those being dispossessed.⁸

Historian Allan Greer has argued that the greatest part of Indigenous dispossession was accomplished not by way of colonial enclosure, but by the creation of

⁶ Spry, "The Great Transformation," 42.

⁷ Legal historian Sidney Harring describes the way the North-West Mounted Police and the application of Canadian law on the Prairies contributed to the "tragedy of the loss of the commons." Harring also points to evidence suggesting that the Canadian government, although it (unlike the U.S. government) did not have a policy promoting bison extermination, deliberately took no action to protect bison herds because it knew this would force Indigenous peoples onto reserves. Harring, "'There Seemed to Be No Recognized Law'."

⁸ Harris, *Making Native Space*, 266-267.

colonial commons to replace Indigenous commons. Especially in the Spanish and English colonies of North America, settlers flaunted the rules of Indigenous commons: they allowed their cattle to destroy the crops of indigenous people, monopolized important resources like water in arid regions, and transformed environments to the detriment of the original inhabitants. The latter were often dragged into costly military conflicts with colonists, or forced to migrate in order to survive. By the time land was enclosed and privatized, Greer contends, "dispossession was already an accomplished fact." In Greer's compelling corrective narrative, what used to be known as the "frontier" is the space where the colonial commons met and eventually overwhelmed the Indigenous commons. He is right to point out that the dispossession of Indigenous peoples on the Prairies occurred first through the expansion of a colonial commons of industrial hunters and ranchers, but on the northern end of the Prairies this first wave of dispossession was followed almost immediately, and in some cases, simultaneously, with the enclosure project of the Dominion Lands Survey and the establishment of Indian reserves. Also, in such cases where the "colonial commons" existed for only one or two decades before enclosure there was hardly time for the users to develop management norms that would lead to sustainable use.⁹ It is for this reason that "open-access conditions" better describes the transition from Indigenous commons to private property in the cases under consideration in this dissertation.

While colonization of lands around the world was often achieved through a replacement of Indigenous commons with colonial commons, there are many examples of the Indigenous commons being directly replaced by private property. Chaotic periods of

⁹ Greer, "Commons and Enclosure in the Colonization of North America."

transition from common to private property have been observed around the world in the context of colonization. In such cases, Indigenous peoples governed their own resources in relatively egalitarian and sustainable ways until European colonists or their proxies introduced or imposed private property regimes, or offered payment for land and resources. In New Zealand, for example, open-access conditions were created when European settlers offered individual Maori "owners" money for trees to be cut for timber. Individual Maoris were willing to sell trees at a quarter the rate of non-Maoris, mostly because everyone knew that it would be easy to find another "owner" willing to sell if this one refused. In the words of legal historian Stuart Banner, "the difference was common ownership; each individual Maori timber owner would accept far less for a tree than he would have accepted had he been sure that the tree would not be sold by someone else tomorrow." The creation of these open-access conditions, as a result of the commodification of land and wood, reinforced colonists' beliefs that the Maori were incapable of effective self-governance. Open-access conditions and the accompanying despoliation of land, also gave the Maori further incentive to sell land which had been denuded and thus devalued. Writes Banner:

The deterioration of tribal authority and the sale of land ... each promoted the other. The more land was sold, the less the tribe could take on its traditional role of enforcing Maori property rights. The less the tribe could enforce property rights, the more commons-like and hence less valuable it remaining land became, and the more likely it was to be sold.¹⁰

Many more such examples could be given from different times and places. This dissertation tells the story of one such uneven and chaotic transition from common to

¹⁰ Stuart Banner, "Two Properties, One Land: Law and space in nineteenth-century New Zealand," *Law & Social Inquiry* 24, no. 4 (1999): 847.

private land and resource tenure, and this chapter focuses on the most concerted effort by the DIA to complete the transition it had tentatively begun in the 1870s.

This chapter describes the attempt by the DIA, in the form of the Walbank Survey, to make Mohawk people and land more visible to the state, and to radically simplify Kahnawá:ke land tenure.¹¹ It also shows how Kahnawakehró:non responded to this incursion into Mohawk affairs and territory, and explains the ways in which the survey represented an enclosure of common lands. The Walbank Survey is unique in Canadian history in that it attempted a complete redistribution of reserve lands already fully claimed and occupied, yet the only published analysis, a small section of Reid's *Kahnawà:ke*, does not fully address the environmental and material impacts of the survey.¹² New reserves on the Prairies were subdivided around the same time, but these subdivisions were conducted after Prairie lands had already been symbolically and legally enclosed, and thus did not involve the elimination of well-established property regimes. The numbered treaties and establishment of reserves (not to mention the near-extinction of the bison) had already served to eliminate the possibility of traditional ways of life before the reserves were subdivided. Kahnawá:ke at this time was a community of between one and two thousand people on a territory of some 12,000 acres whose ancestors occupied and worked that very territory for more than two hundred years (much longer if one considers hunting territories and villages in the region) and had well-established customs concerning land and resource use. The Walbank Survey was a kind

¹¹ Although the Kahnawá:ke case is quite unlike the case studies of anthropologist James Scott in his influential book, *Seeing Like a State*, it could be seen as a smaller-scale, less successful, and more complicated example of a similar trend in the modernist ambitions of nation-states. Scott, *Seeing Like a State*.

¹² Reid's interest is in what can be learned from the survey about Kahnawá:ke politics and factionalism. Reid, *Kahnawà:ke*, 36-49.

of enclosure project¹³ designed to do away with the Mohawk commons. It was supposed to destroy Mohawk land practices once and for all, and to replace them with practices that were in line with modes of landownership and land-use across North America.

Kahnawá:ke in the 1880s

Kahnawá:ke in the early 1880s was a relatively prosperous place with diverse economic opportunities. Annual reports suggest good harvests and a robust handicraft manufacturing economy.¹⁴ Many Kahnawá:ke men were employed seasonally in the timber industry and in railroad construction. Others traveled across North America and Europe as entertainers, lacrosse players, and sales people. The relatively prosperous times were reflected in a number of new houses under construction as well as in the clothes people could afford to wear. Cherrier revealed his paternalistic tendencies when he stated that he was concerned that even poor people carried their "love of dress" too far. He also reported that Kahnawakehró:non possessed a many horses, cattle and other livestock.¹⁵

While there was prosperity for at least some Kahnawakehró:non in the 1880s, the decade was also marked by intensified and interrelated incursions into Kahnawá:ke lives and lands. Mohawks experienced a significant territorial incursion in the form of the Canadian Pacific Railway (CPR) bridge and line, a serious political incursion in the form of the introduction of the band council system, and a cadastral incursion with wide-

¹³ "Enclosure" in this chapter does not necessarily refer to the literal construction of fences but to the construction of a market in discrete, bounded parcels of land to the detriment of a non-commercial regime that favoured the well-being of the entire community.

¹⁴ Annual Report of G. E. Cherrier, Indian Agent, Caughnawaga Agency, Sessional Papers 6, Vol. 15, No. 5, 1882, 12-13; Annual Report of G. E. Cherrier, Indian Agent, Caughnawaga Agency, in *Annual Report of the Department of Indian Affairs for the Year ended 31st December, 1883*, (Ottawa: MacLean, Roger & Co., 1884).

¹⁵ Canada, Annual Report of the Department of Indian Affairs, House of Commons, *Sessional Papers*, no. 5 (1883), xxxiv-xxxv.

ranging cultural and ecological consequences in the form of the Walbank Survey. While Kahnawakehró:non who experienced these kinds of threats in the 1860s and 1870s made plans to move the community to a distant location (Chapter 4), Kahnawakehró:non of the 1880s no longer considered this option. In fact, the sum of these incursions brought about a hardening of resolve among the majority of Kahnawakehró:non to defend the integrity of their territory, maintain their distinct identity, and resist all outside attempts to eliminate their way of life.

One of the most important concerns of Kahnawakehró:non throughout the 1860s and 1870s was the shortage of firewood, and the changes in landownership policies and practices that made access to wood more difficult for many (Chapter 5). In his 1882 annual report, Agent Georges Cherrier wrote that wood was becoming increasingly scarce and expensive in Kahnawá:ke. Because of this lack of wood, he anticipated that many of Kahnawá:ke's poorest would winter in the United States. He also pointed to the wood crisis as the cause of a recent burning of a barn owned by the Delorimier family, identified by Cherrier as half-breeds. Instead of seeing the root cause of the wood shortage as DIA interference in Kahnawá:ke government, and the resulting power vacuum, Cherrier blamed small-minded, vengeful individuals:

It is certain that the germs of hatred which have been sown in the village by certain individuals, and which have been stirred up involuntarily by others without leading to harm, indirectly excite the minds of the Indians against the half-breeds, and they do not stop talking of the necessity of the latter being expelled. These are some of the causes which lead to these sad results.¹⁶

¹⁶ Annual Report of G. E. Cherrier, Indian Agent, Caughnawaga Agency, Sessional Papers 6, Vol. 15, No. 5, 1882, 12-13.

To Cherrier, and other DIA officials, the blame lay squarely with defective Mohawk governance, primitive customs, and obstructionist individuals. Since the problem was located squarely within the community itself, the solution had to come from the outside.

According to Cherrier:

These periodical disasters show the necessity for introducing changes in the tenure of the Seignior. The system of [the] community which was well enough formerly is out of date. A great number of the Indians being jealous and lazy, always look with an evil eye on those who are prospering, even amongst those of their nation, and will be led to regard the goods and earnings of others as their own.¹⁷

The DIA wanted to carry out a subdivision survey to accomplish these "changes in the tenure of the Seignior," but few Mohawks were in favour of such action.

Boundary Survey and Lead-Up to the Subdivision Survey

While they opposed surveys inside Kahnawá:ke territory, the chiefs frequently requested a boundary survey. Such a survey would define the border around the seigneurie and around the unconceded parts of the seigneurie; a border that had been left undefined for so long that nobody knew exactly how much land had been lost.¹⁸ The DIA responded to these requests in the 1870s, saying it was willing to initiate a boundary survey, but only in the context of a subdivision survey that would define boundaries within the territory occupied by Mohawks, an idea the chiefs repeatedly rejected. In April 1880, the Kahnawá:ke council of chiefs once again requested a boundary survey "that the

¹⁷ *ibid.*

¹⁸ This boundary dispute has never been resolved and is of great importance to Kahnawakehrónon still today. For more on the history of the boundary and land claim, see Decroix, "Le conflit juridique entre les Jésuites et les Iroquois..."; Gerald R. Alfred, "To Right Certain Wrongs: A report on research into lands known as the Seigniorie of Sault St. Louis," (Kahnawake Seigneurie Office, 1995); Lambert, *History of Kahnawake Land Claims*.

lines of our property and of the Canadians which adjoins ours should be revised because it has been reported for many years that these neighbors have encroached on our land.”¹⁹ The boundary in question is one around the Seigneurie of Sault Saint-Louis, which is the territory granted to the community in 1680, to be managed by Jesuit missionaries. By the nineteenth century, two thirds of this land had been conceded to non-Mohawk farmers and the seigneurial boundary had been modified a number of times, generally not in favour of the Mohawks.²⁰ Kahnawá:ke leaders repeatedly raised their concerns with colonial officials and repeatedly sent delegations to London to seek support on this issue (Chapter 4). With the abolition of the seigneurial system in 1854 and the *cadastre abrégé* of the Seigneurie of Sault Saint-Louis in 1860, conceded land was eventually turned into freehold tenure and detached from Kahnawá:ke, an action that Mohawks have contested ever since. The new boundary line between conceded (not to be confused with "ceded") and unconceded land, between twelve and fourteen miles long, became the eastern boundary of the reserve as we know it today. Aside from the seigneurial land lost after 1854, the integrity of this subsequent boundary was also a serious concern because of gradual encroachment by neighbouring farmers. In the 1870s, Mohawks often raised this boundary as a pressing concern, and asked many times to have the boundary defined through a survey.

The DIA finally responded positively to this request in 1880, but not before asking one more time if the chiefs would also want the interior of the reserve to be surveyed. Indian Agent Georges Cherrier responded with a definite no: "...le désire et

¹⁹ Council Resolution signed by Joseph Williams, Apr. 12, 1880, RG10, vol. 2109, file 20,131, LAC.

²⁰ Decroix, "Le conflit juridique entre les Jésuites et les Iroquois..." 291.

l'intention des chefs n'est que de faire tirer les lignes autour de la Réserve."²¹ Tenders for the boundary survey were announced in June of 1880, and the offer of William McLea Walbank, Provincial Land Surveyor, was accepted in early August. By August 12 he and his staff were in the field.²² Walbank (1856-1909) was born in St. John's, Newfoundland, the son of lawyer and Conservative member of the Newfoundland House of Assembly, Matthew William Walbank.²³ The younger Walbank studied architecture and civil engineering at Queen's University in Ireland, and graduated from McGill University in 1877 with a degree in civil and mechanical engineering. He spent his short career in Montreal working as an architect, engineer, and land surveyor.²⁴ Walbank would later be involved in efforts to develop the hydro-electric potential of the Lachine Rapids.²⁵ In 1880, at the start of the boundary survey, he was twenty-four years old.

In December of 1880 Walbank declared all field operations for the boundary survey complete and wrote his final report.²⁶ In it he complained that the survey had been difficult for a number of reasons, first of which was the lack of maps. He searched high and low for a reliable map or field notes on the boundary, but none could be found, and he concluded that none had ever been made. His second complaint concerned the hostility of non-Native farmers who had gradually taken land from Mohawks over many decades.

²¹ Cherrier to Vankoughnet, May 25, 1880, RG10, vol. 2109, file 20,131, LAC.

²² Walbank, "Report on the Caughnawaga Reserve Survey," Dec. 31, 1880, RG10, vol. 2109, file 20,131, LAC.

²³ Joseph Roberts Smallwood and Robert D.W. Pitt, "Walbank, Matthew William," in *Encyclopedia of Newfoundland and Labrador*, vol. 5, ed. (St. John's: Newfoundland Book Publishers, 1981), 496.

²⁴ "William McLea Walbank" CAC Accession No. 20, Canadian Architecture Collection, McGill University, accessed Feb. 16, 2011, <http://cac.mcgill.ca>; "William McLea Walbank," CA601, S139, BANQ, accessed Feb. 16, 2011, <http://pistard.banq.qc.ca>.

²⁵ McNally, Larry S. "Pringle, Thomas," *Dictionary of Canadian Biography Online*, www.biographi.ca, accessed Feb. 16, 2011.

²⁶ Walbank, "Report on the Caughnawaga Reserve Survey," Dec. 31, 1880, RG10, vol. 2109, file 20,131, LAC.

Since "the ground had been in possession of the families of the settlers for over one hundred years...they were loath to give us any information respecting its limits." He lamented the fact that the farmers in question were "willing to swear anything advantageous to them."²⁷ After concluding his summary of the completed boundary survey Walbank suggested that subdividing the entire reserve would be the logical next step, and that he was well-situated to carry out this task. Such a project would be in the interest of "civilizing" Mohawks, according to Walbank, but he warned that it should be done very carefully. He opined that if Mohawks had the same land-rights as non-Natives, they would immediately sell their lots, and within five years the whole reserve would be in the hands of whites. Instead, he suggested "it might be beneficial to give [them] rights to sell or exchange their lands with each other (with certain restrictions) and so by degrees educate them into the manners and customs of the more civilized people."²⁸ This scenario can hardly have been an important concern of the DIA since the Indian Act prohibited the sale of reserve land to non-Natives. It is likely that the real concern to both Walbank and the DIA was Mohawk opposition.

The fact that Kahnawakehrónon were generally opposed to subdividing their territory should not be construed as indicating that they were unfamiliar with the concept. Seigneurial land concessions were a kind of subdivision of territory, and Mohawks were aware that it was these concessions had led to the loss of the majority of their seignury.²⁹ The idea of subdividing the remaining territory into lots was raised for the first time by

²⁷ *ibid.* Walbank's complaints bore fruit in the end as the department paid him more than three times his original bid.

²⁸ Correspondence between Walbank and the DIA, 1880-1881, RG10, vol. 2109, file 20,131, LAC.

²⁹ Concessions were largely stopped in the eighteenth century. Although there were requests for further concessions in the nineteenth century, it does not appear as though anything came of them. One example is the petition of Michel Perthuis, attached to letter from Duncan C. Napier to Henry C. Darling, Jan. 31, 1827, RG10, vol. 496, p. 31402-31403, reel C-13341, LAC.

the Duncan C. Napier, Superintendent of Indian Affairs, in 1839. He made an offer to Kahnawá:ke leaders to have the territory divided into thirty to fifty-acre lots, one for each "head of family." The chiefs and members of the council politely refused, saying this would have only been feasible when the land was still largely forest, but "now that most of the good land was cleared & become private or individual property, it would be impossible to lay out a farm of one hundred arpents without taking in several possessions."³⁰ In 1839, enough land was already taken up by individuals that it was not possible to create new lots without interfering with existing lots. But even if it had been technically possible, the chiefs objected to subdivision on the basis that "many of the young men to whom uncleared land might be apportioned would sell the timber growing thereon & then abandon the lands."³¹ This last argument is not an indication of Amerindian irresponsibility in the face of landownership, but an indication of the high monetary value of wood, a continuing association of agricultural work with women, and perhaps a pragmatism on the part of young men who did not see their future in farming. The response of the chiefs also shows their concern for maintaining the integrity of the territory.

The idea of commissioning a cadastral survey (a survey to determine boundaries between landowners) was raised in an 1856 petition by a handful of Kahnawakehró:non who wanted the right to cut and sell Kahnawá:ke wood to non-Mohawks. They argued that defining boundaries of lots would alleviate difficulties between the members of the community regarding the occupation and use of common land. Since the petitioners

³⁰ Speech by Sawenoeenne on behalf of the chiefs and members of the council to Duncan C. Napier, June 1, 1839, RG10, vol. 97, p. 40204-40205, reel C-11470, LAC.

³¹ *ibid.*

asked the department to "faire le partage de ces terres," it is possible that they were asking for a survey to create new lots, but the wording is too vague to know for sure. In any case, Indian Agent Édouard-Narcisse Delorimier made it clear that theirs was a minority opinion, and that such a project would be a great misfortune for Kahnawakehrónon. The agent's words are particularly striking because even though he did not represent the traditionalist party at Kahnawá:ke, he could see no good coming out of such a survey.³²

In the context of the conflicts over wood in the 1870s (Chapter 5), a number of the largest landowners petitioned for a survey of existing boundaries within Mohawk territory as part of their project to commoditize land and resources. It is clear from the wording of the petitions, however, that these requests were only for surveys to define existing property boundaries, not to establish new ones. Aside from the aforementioned 1856 petition, the exact meaning of which is unclear, there is no evidence that anyone at Kahnawá:ke ever asked for a subdivision survey: not the minority pro-reform landowners, not the agent, not the chiefs, and not the land-poor majority. Since no one asked for it, it would seem that the DIA began to simply interpret calls for surveys as calls for subdivision, and the chiefs were informed in 1874 that a subdivision was in the works.³³ When the chiefs sent two representatives to Ottawa to ask for details and "to ascertain if that provision will be better for the management of our affairs, than what we shall decide upon,"³⁴ the department's answer read thus: "Provided the Indians desire it,

³² Petition of fifteen Iroquois of Sault Saint Louis to Edmund Walker Head, May 3, 1856, RG10, vol. 231, p. 137028-137031, reel C-11540; Édouard-Narcisse de Lorimier to Duncan C. Napier, July 30, 1856, RG10, vol. 227, p. 135212-135214, reel C-11539, LAC.

³³ Two chiefs to David Laird, Mar. 11, 1874, RG10, vol. 1924, file 3055, LAC.

³⁴ "Remarks by Deputy Superintendent General of Indian Affairs" and "Substance of Statement of Caughnawaga Chiefs," Mar. 11, 1874, RG10, vol. 1924, file 3055, LAC.

the Reserve will be surveyed into farm lots' so that each family may have a homestead farm with regular boundary lines. If the Indians have any propositions relative to this matter, they should submit them to the Superintendent General by letter."³⁵ In response to this announcement the principal chiefs sent the DIA a powerfully worded petition stating that it was their duty to protect and represent those who would suffer most from such a subdivision, the poor majority. The lots produced by such a subdivision, they argued, would be small and of uneven quality, and with the loss of the common wood and pasture resources the community would no longer be viable.³⁶ Turning a deaf ear to these reasonable arguments, the DIA continued to plan for subdivision, but the conditions were not deemed right until the next decade.

The idea of subdivision was raised again in 1880 by James P. Dawes, a Lachine industrialist who had been hired by the DIA to arbitrate disputes over wood in Kahnawá:ke. He was frustrated by his inability to settle disputes related to wood at Kahnawá:ke and attributed his failure to what he saw as the lack of defined boundaries inside Mohawk territory.³⁷ Walbank made the same suggestion while working on the boundary survey, saying a subdivision survey "could now be done very cheaply in connection with our survey."³⁸ Indeed, the DIA intended to go forward with a subdivision survey after the boundary survey was complete but was worried about how Mohawks would react. Solicitor of Indian Affairs Zebulon A. Lash wrote to Dawes, without the intent of understatement, to say that subdividing the reserve would be "...rather a difficult

³⁵ E. A. Meredith, Deputy Minister of Interior, to Chiefs, Mar. 12, 1874, RG10, vol. 1924, file 3055, LAC.

³⁶ Chiefs Jarvis A. Dione, Jos. K. Delisle, Jos. T. Skey, and Thos. Asennase to E. H. Meredith, May 14, 1875, RG10, vol. 1917, file 2764, LAC.

³⁷ James P. Dawes to Vankoughnet, June 3, 1880, RG10, vol. 2113, file 21,156, LAC.

³⁸ Walbank to Vankoughnet, Sept. 7, 1880, RG10, vol. 2109, file 20,131, LAC.

matter to arrange as the Reserve has been allowed to remain unsurveyed so long that it will no doubt cause considerable dissatisfaction when some of the land held by the present occupants is taken from them and given to others desirous of cultivating land but not having any to cultivate."³⁹ Walbank would eventually find this statement to be all too true. DIA officials clearly wanted a landscape of defined rectangular lots that could be easily bought and sold, and an enfranchised population. But since officials had no clear ideas on how to bring this about, a plan was developed and carried out by people the DIA considered trusted experts on Kahnawá:ke land: Dawes and Walbank. Walbank, in particular, played a key role in planning the operation from beginning to end.

The Subdivision Survey

In February, 1882, Laurence Vankoughnet, the Deputy Superintendent General of the DIA sent J. V. de Boucherville, a clerk normally in charge of Indian land sales, to Kahnawá:ke to inform the chiefs that the department intended to subdivide the territory. He announced to them that the DIA was doing this "with a view to tickets covering each location being issued to those who would be entitled to the same." "Under the present system," he explained, "it was very difficult to protect their individual holdings from trespass" and the department hoped "that at no distant date the band or such members thereof as might be deemed fit for the change contemplated would be enfranchised and that the survey of their individual locations on the Reserve was an essential preliminary to their enfranchisement."⁴⁰ De Boucherville reported that the announcement was

³⁹ Zebulon A. Lash to James P. Dawes, June 16, 1880, RG10, vol. 2113, file 21,156, LAC.

⁴⁰ De Boucherville to DIA, Mar. 11, 1882, RG10, vol. 7749, file 27005-1, LAC.

translated into the Mohawk language, and that the Chiefs had manifested their contentment with the plan and their hope that the survey would be carried out quickly.⁴¹

There is no reason to believe that the chiefs were in fact happy about the announcement since they had consistently opposed any subdivision plan in previous years. The DIA also regularly misrepresented the views of Indigenous leaders to give its own projects an air of legitimacy, and misrepresented Kahnawá:ke public opinion by declaring in its annual report for 1882 that "the survey is greatly appreciated by the band generally."⁴² Even if some chiefs cooperated once it became clear that they could not stop it, such a decision should not be seen to indicate voluntary agreement when the implied threat of state violence lurked in the background.⁴³

The one leader who appears to have had a genuine enthusiasm for the project was Chief Skatsentie (Joseph Williams) (1846-1885), a young, wealthy trader whose father had done considerable business in Germany selling Indian curiosities. According to an advertisement placed in *The Montreal Gazette* in 1879, Skatsentie could help customers obtain "Lacrosses, Snowshoes, or any description of Indian work...of the neatest kind, and at moderate prices."⁴⁴ He had been elected as Grand Chief in 1878⁴⁵ but resigned in October 1880 when he lost popular support. At the suggestion of Agent Cherrier, the DIA refused to accept his resignation, and he remained in that position until September 1883.⁴⁶ An anonymous columnist for *The Catholic World* reported in 1883 that the thirty-

⁴¹ *ibid.*

⁴² Canada, Annual Report of the Department of Indian Affairs, House of Commons, *Sessional Papers*, no. 5 (1883), xxxiv-xxxv.

⁴³ Robert M. Cover, "Violence and the Word," *Yale Law Journal* 95, no. 8 (1986): 1607. Blomley, "Law, Property, and the Geography of Violence," 130.

⁴⁴ "Indian Work," *The Montreal Gazette*, Nov. 1, 1879.

⁴⁵ "City Items," *The Montreal Daily Witness*, May 1, 1878.

⁴⁶ Correspondence between Cherrier, Joseph Williams, and the DIA, RG10, vol. 2124, file 23,685, LAC.

seven-year-old Skatsentie, who lived in a luxurious house, was sanguine as to the survey "working well and benefiting his 'braves.'"⁴⁷ Soon after the subdivision was announced in 1882, Skatsentie appeared to downplay Kahnawakehró:non opposition to the subdivision in a letter to the DIA, saying that the people simply wanted more information "as to the character of such a subdivision."⁴⁸ According to Walbank's data from 1885, he owned at

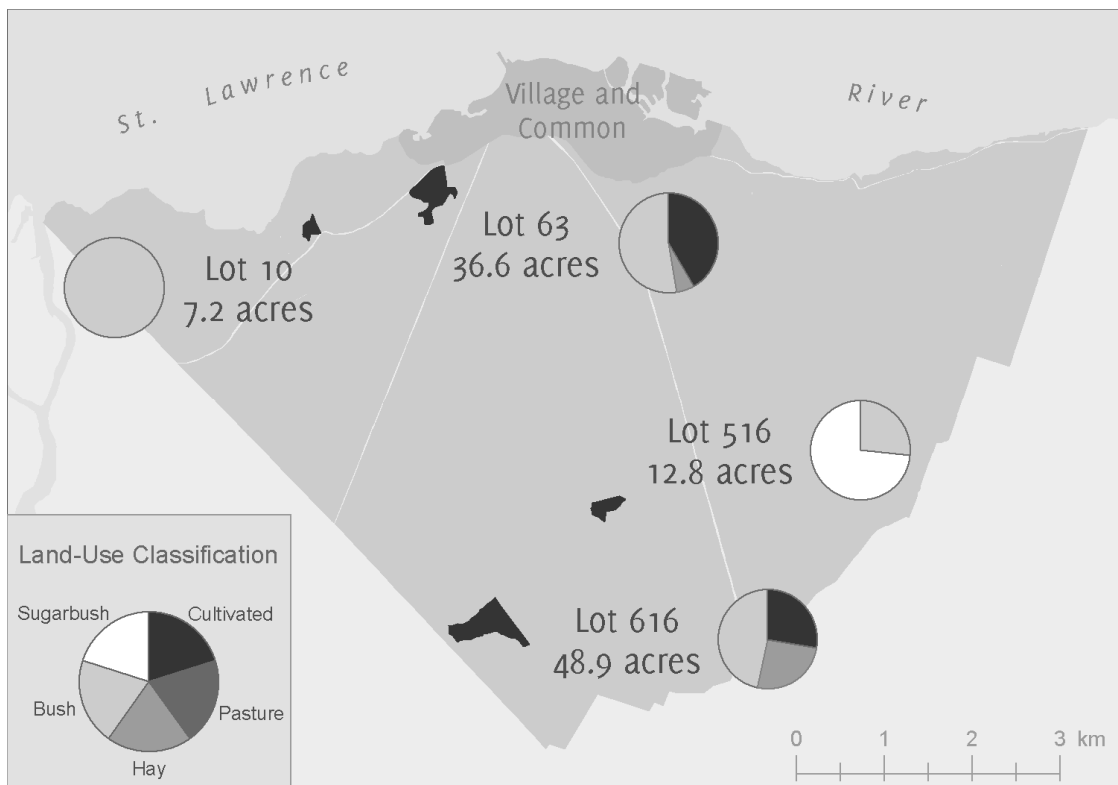


Figure 6.1 Map of Kahnawá:ke showing the lots owned by Skatsentie (Joseph Williams), ca. 1885, and Walbank's land-use classification for each. Map by Louis-Jean Faucher.

⁴⁷ n.a., "At Caughnawaga, P.Q.," *Catholic World*, vol. 37, no. 221 (1883).

⁴⁸ Joseph Williams to de Boucherville, Feb. 28, 1882, RG10, vol. 7749, file 27005-1, LAC.

least four lots outside the village, totalling 103.65 acres, as well as two barns. Walbank valued these properties at \$1127.⁴⁹ Figure 6.1 is a map made with data from the Walbank Survey showing the location and land-uses of each of Skatsentie's lots. Based on Skatsentie's support for the survey, it is clear that he was one of the progressives who was willing to work with the DIA. At times he had significant popular support, but when he lost this support he relied on the department to keep him in his position.

Having completed the boundary survey, Walbank did everything in his power to get the commission for the subdivision survey, which he knew would be larger and more lucrative. He wrote the department himself, and asked influential friends to vouch for him. At least one other surveyor heard about the big contract possibility and asked to be considered, but the DIA never requested tenders. The project was important enough that Vankoughnet informed Prime Minister Macdonald directly in April 1882 "that the Iroquois Indians of Caughnawaga have recently signified their consent to the lands comprised in the Reserve owned by them being sub-divided by survey into locations for each family and inasmuch as this sub-division is a necessary preliminary to the enfranchisement of an Indian Band."⁵⁰ According to Vankoughnet, everything was in place to begin the survey, including the consent of the Indians (which was never given, nor needed according to the Indian Act). He recommended Walbank for the job.⁵¹ A few days later he gave Walbank the go-ahead and asked him how he intended to proceed.⁵² Walbank knew what outcome the department wanted and was told that owners of

Joseph Williams Sose Skatsenhati (claimant 407), born 1846, died 15 May 1885, married 1869 to Anen Katsitsarokwas, owned four lots totaling 103.65 acres: 27.83 acres cultivated (\$529), 14.5 acres hay (\$149), 51.54 bush (\$159), 10.32 sugarbush (\$290). Total value assessed: \$1127 and included two barns. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

⁵⁰ Vankoughnet to Macdonald, Apr. 19, 1882, RG10, vol. 7749, file 27005-1, LAC.

⁵¹ *ibid.*

⁵² Vankoughnet to Walbank, Apr. 24, 1882, RG10, vol. 7749, file 27005-1, LAC.

improved lots would need to be compensated any losses incurred during the land redistribution, but it was up to him how those goals would be achieved.⁵³

Walbank's barebones plan was accepted without any serious scrutiny or concern, and in June of 1882 he had opened an office in Kahnawá:ke and had three teams in the field, each consisting of a surveyor and two Mohawk assistants.⁵⁴ Walbank expected to complete the job in 1883, but the work dragged on.⁵⁵ One reason for the delay was the absence of fences and other boundary markers in many parts of the territory. In many cases Walbank and his assistants had to ask Mohawks to point out what they considered to be their holdings, and Kahnawakehró:non were not always helpful (more on this below).⁵⁶ Throughout the year of 1883, the surveying continued, and money (and correspondence about it) continued to flow. Despite the delays and cost overruns, Walbank found time to involve himself heavily in the organization of the Kahnawá:ke agricultural and industrial exhibition, beginning in 1882. He used the occasion of the 1883 exhibition to display "plans of former tribal occupation" as well as maps of the reserve he had recently drawn.⁵⁷ He may have also been an organizer for a farming competition in the spring of 1883, where "prizes given to the steady workers" and outsiders had their prejudices shaken when a number of Kahnawakehró:non "compare[d] favourably with the best amongst themselves" and "the competition led to no act of

⁵³ Vankoughnet to Walbank, May 4, 1882, RG10, vol. 7749, file 27005-1, LAC.

⁵⁴ Walbank to Vankoughnet, June 22 and Sept. 27, 1882, RG10, vol. 7749, file 27005-1, LAC.

⁵⁵ Walbank to Vankoughnet, Nov. 20, 1882, RG10, vol. 7749, file 27005-1, LAC.

⁵⁶ W. A. Austin Report, Feb. 25, 1887, and Walbank to DIA, Mar. 7, 1887, RG10, vol. 7749, file 27005-1, LAC.

⁵⁷ "The Indian Exhibition," *Montreal Daily Witness*, Sept. 29, 1883, reprinted in Canada, House of Commons, *Sessional Papers*, no. 4 (1884), 152-158.

excess."⁵⁸ Walbank also found time to aid Cherrier in helping Kahnawá:ke merchants to "discover...that it is not the correct thing to sell on Sundays" and "explaining to them what they were laying themselves open to in not closing their shops on Sunday." Cherrier was clearly appreciative of Walbank's help on all of these fronts, and declared that "his presence among the tribe is productive of much good."⁵⁹ Vankoughnet visited Kahnawá:ke in the summer of 1883 to inspect Walbank's work and "found matters generally in a very satisfactory condition there."⁶⁰ The anonymous columnist for *The Catholic World* who visited Kahnawá:ke while the survey was underway was informed that the project was the brainchild of John A. Macdonald himself. If this was so, it would have been motivation for Vankoughnet to pay special attention.⁶¹

Cherrier's 1883 report indicated that Walbank hoped that the reserve could be subdivided into fifty-acre lots "with a view to a fair distribution of the land being made, and the location tickets being issued to the Indian occupants. This step, it is hoped, will be eventually followed by the enfranchisement of the majority, if not of the whole, of the band."⁶² In June of 1884 Walbank began the process of valuing existing lots and improvements. The DIA advised him not to value them as if they were owned by Whites; instead he was to value them based on a land market where Indians could only buy from each other. This had the effect of making Kahnawá:ke valuations much lower than

⁵⁸ Annual Report of G. E. Cherrier, Indian Agent, Caughnawaga Agency, in *Annual Report of the Department of Indian Affairs for the Year ended 31st December, 1883*, (Ottawa: MacLean, Roger & Co., 1884).

⁵⁹ *ibid.*

⁶⁰ Canada, Annual Report of the Department of Indian Affairs, House of Commons, *Sessional Papers*, no. 5 (1883), xxxiv-xxxv.

⁶¹ n.a., "At Caughnawaga, P.Q.," *Catholic World*, vol. 37, no. 221 (1883).

⁶² Canada, Annual Report of the Department of Indian Affairs, House of Commons, *Sessional Papers*, no. 5 (1883), xxxiv-xxxv.

valuations for similar lots on non-Indian land.⁶³ By December 1884 Walbank had completed the survey of existing lots and had plotted them on a map.⁶⁴

The map of Kahnawá:ke produced by Walbank (Figure 6.2), along with the record



Figure 6.2 Map of Kahnawá:ke produced by Walbank, 1885-1889, after geo-referencing (slightly altered to position it correctly against modern maps). The original is held by Library and Archives Canada.

books, is preserved by Library and Archives Canada, and forms the basis of the GIS analysis on which a number of the maps in this dissertation were constructed. The map is a composite of three main layers: existing lot boundaries, projected lot boundaries, and

⁶³ Vankoughnet to Walbank, July 28, 1884, RG10, vol. 7749, file 27005-1, LAC.

⁶⁴ W. A. Austin Report, Feb. 25, 1887, RG10, vol. 7749, file 27005-1, LAC.

land-use categories. The upper map in Figure 6.3 shows the layer of existing lot boundaries isolated from the other layers—these lots are of irregular shape and size. The lower map in Figure 6.3 shows the layer of projected lots, which are regular polygons

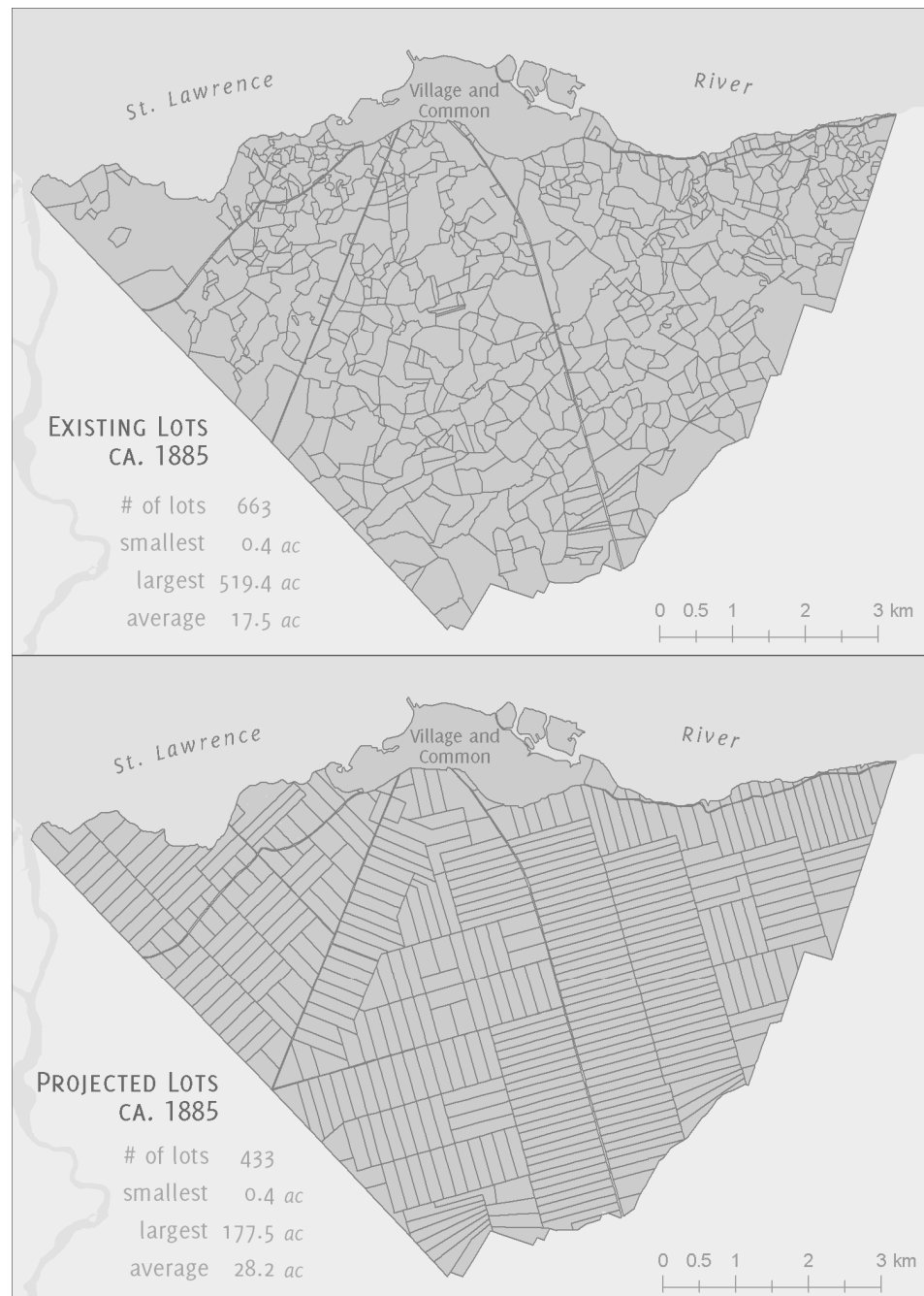


Figure 6.3 Maps of Kahnawá:ke showing existing and projected lots, ca. 1885. Maps by Louis-Jean Faucher.

representing the thirty-acre lots to be given to each head of household (more on that below). The two maps placed side-to-side give an easily-digested picture of what was at stake.

The third layer on the map depicts seven land-use categories: bush and hay, bush, bush and swamp, cultivated, pasture, beaver hay, and sugarbush. Unfortunately these seven categories are not the same ones as the five categories used in the reference books: cultivated, pasture, hay, bush, sugarbush, so direct comparisons are hard to make. Land-use data is coded on the map with a combination of colours and patterns, but these are extremely difficult to discern because the colours have faded, and the map is ripped and water-damaged. At this time it is only possible to map land-uses based on percentages included in the reference books for each lot, which reveals certain patterns over the entire territory. Appendix A includes maps of the reserve showing this land-use data.

DIA Arguments for the Survey

Why was the Walbank Survey initiated in the first place? There were a number of stated and unstated reasons. The DIA made five motivations known: poor Mohawk land-use, lack of protection for property owners, inability to resolve conflicts over land, inequalitarian land distribution, and the need for enfranchisement. The first was an argument that was used (and is still used) against Indigenous peoples around the world: that they let the land go to waste. Indigenous agriculture that falls broadly into the category of swidden or "slash and burn" has long been viewed (and still is widely viewed) by non-Indigenous agriculturalists and urbanites as disorganized, irrational, and

wasteful (Chapter 3).⁶⁵ The argument about Mohawks failing to properly farm their land is also in line with the depictions of Amerindians as lazy, drunken, and uncivilized.⁶⁶ These were powerful rhetorical tools for those who benefited from the caricatures, including land-rich Mohawks who depicted themselves as simply wanting to farm and make a living, and their traditionalist neighbours as wasteful, spiteful, violent, and irrational.⁶⁷ Dawes suggested in 1880 that more and more land on the reserve was being cultivated, that "most of the respectable" Indians wanted to go into agriculture more extensively, and that a subdivision survey was needed to encourage this trend.⁶⁸ These respectable Mohawks, according to Dawes, were reform-minded men who wanted to own and farm land on a large scale for commercial purposes. It was impossible, said Dawes, for these individuals to farm successfully under the present conditions of landownership.⁶⁹

⁶⁵ This was (and still is) a trope commonly applied to Indigenous peoples. For examples, see Scott, *Seeing Like a State*, 273. For more on the trope of the indolent Indian, see John S. Lutz, *Makúk: A new history of Aboriginal-White relations* (Vancouver: UBC Press, 2008), 147. For a study of how the DIA made farming on the Prairies impossible for Indigenous peoples, see Carter, *Lost Harvests*. Peasants and small-scale farmers have often faced the same kind of criticism. For examples, see Neeson, *Commoners*. In the Canadian context it was French-Canadian farmers who faced similar kinds of criticisms concerning their agriculture. Travel writer, George Sala serves as a good example. Describing farmland near Montreal he wrote that "to the European eye it looks shiftless and slovenly. The fields are too large (which would scarcely be a fault in the eye of a farmer); there are ugly posts and rails in lieu of hedges, and the trees are few." Sala, *Under the Sun*, 214-215.

⁶⁶ For more on the trope of the indolent Indian see: Lutz, *Makúk*; Brownlie, *A Fatherly Eye*. Similar tropes exist for Indigenous peoples and minorities around the world. For an example in Asia, see Emily T. Yeh, "Tropes of Indolence and the Cultural Politics of Development in Lhasa, Tibet," *Annals of the Association of American Geographers* 97, no. 3 (2007).

⁶⁷ An example is the petition of Michel Perthuis, attached to letter from Duncan C. Napier to Henry C. Darling, Jan. 31, 1827, RG10, vol. 496, p. 31402-31403, reel C-13341, LAC.

⁶⁸ James P. Dawes to Lawrence Vankoughnet, June 3, 1880, RG10, vol. 2113, file 21,156, LAC.

⁶⁹ The fact that many Amerindians did not practice agriculture was often used by colonizers to argue that they did not possess their land. A good example is Lieutenant-Governor of Upper Canada who declared the following to Ontario First Nations in 1836, "If you would cultivate your land it would be considered your property, in the same way as your dogs are considered among yourselves to belong to those who have reared them; but uncultivated land is like wild animals..." quoted in Anthony Hall, *The Bowl With One Spoon, Volume 1: The American Empire and the Fourth World* (Montreal: McGill-Queen's University Press, 2003), 435. At Six Nations of the Grand River, many non-Natives squatters who farmed Rotinonhsiónni land in the 1840s were eventually given legal title based on the belief that the Native

The second justification for the survey was the necessity of protecting property owners. Recently, Canada's nation-building project has been understood by historians as the construction of a liberal edifice founded on property rights.⁷⁰ Within this context, Indigenous land-use and tenure came to represent, in the minds of those building the Canadian nation, the exact opposite of what they were working to create. Building a nation-state on the security of property holders depended on the creation of rhetorical and legal distinctions between regimes that were based on law (rational, regulated, advancing common goals) juxtaposed against the "anomic or sectarian savagery beyond the law's boundaries."⁷¹ The very existence of a regime based on property depended on narratives concerning the absence of individualist property-holding. Critical legal geographer Nicholas Blomley describes the construction of this opposition thus: "Inside the frontier lie secure tenure, fee-simple ownership, and state-guaranteed rights to property. Outside lie uncertain and undeveloped entitlements, communal claims, and the absence of state guarantees to property. Inside lies stability and order, outside disorder, violence, and 'bare life.'"⁷² DIA documents from the late nineteenth century explicitly make the case that Kahnawá:ke was a place of chaos and violence where good people could simply not do business. "Wood-stealing" was frequently cited as an example of Mohawk lawlessness and the natural consequence of the absence of property rights. The

owners had not improved the land, whereas the white squatters had. Doxtator, "What Happened to the Iroquois Clans?," 225-230.

⁷⁰ McKay, "The Liberal Order Framework."

⁷¹ Austin Sarat and Thomas R. Kearns, "Introduction," in *Law's Violence*, ed. Austin Sarat and Thomas R. Kearns (Ann Arbor: University of Michigan Press, 1993), 5.

⁷² Blomley, "Law, Property, and the Geography of Violence," 124. For more on how law in a liberal society acts to create and enforce borders such as these, see Michael Walzer, "Liberalism and the Art of Separation," *Political Theory* 12, no. 3 (1994); Cornelia Vismann, "Starting from Scratch: Concepts of order in no-man's-land," in *War, Violence, and the Modern Condition*, ed. Bernd Hüppauf (Berlin: Walter de Gruyter, 1997).

Walbank Survey constituted a bold attempt to make manifest what previous orders in council and laws had failed to bring about.⁷³

The third justification for the survey was that it would enable the department to resolve land conflicts between Mohawks, something it had tried and failed to do in a number of cases. According to Vankoughnet, the problem was that lands had "been taken up, without reference to the rights of other Indians, by individual Indians on the Reserve from time to time, and the metes and bounds of the locations so taken up" had not been defined. As a result of the lack of definite boundaries between lots, "innumerable disputes were constantly occurring between the occupants of adjoining locations as to their respective rights to certain portions of the locations; and it was impossible to decide as to the rights of the respective parties, unless a regular survey was made of the locations thus occupied."⁷⁴

DIA sources also frequently emphasize the unfair nature of current land distribution at Kahnawá:ke, and the survey was initiated to rectify this. In 1886 *The Montreal Daily Witness* ran a story on the Walbank Survey which underscored the problem of land-inequality and the goal of land-equality:

In connection with the Caughnawaga Reserve Mr. McLea Walbank informed our reporter that the survey of the Reserve was completed in September last. The land had been common to all, and a man occupied just what he considered suited him. Thus one holding might consist of but three or four acres while another might run up to one hundred and forty acres. This seems to have caused dissatisfaction, and the Government ordered the survey which was recently completed.⁷⁵

⁷³ For examples, see Canada, Order in Council, July 14, 1881; and Canada, An Act to amend "The Indian Act, 1880," Statutes of Canada, 1881, c. 17 (44 Vict.).

⁷⁴ Vankoughnet to Deputy Superintendent General of Indian Affairs, Apr. 14, 1893, RG10, vol. 7749, file 27005-1, LAC

⁷⁵ "The Caughnawaga Ejectments: The Catechism on which Residents Established their Claims to be Indians," *Montreal Daily Witness*, July 13, 1886, pg. 6.

Vankoughnet wrote years after the fact that "complaints were made by those Indians who had no lands that the land on the Reserve had been monopolized by those who were able to purchase them or who had taken them up years ago without reference to the rights of [those] who were as much entitled to share in the land on the Reserve as those parties were."⁷⁶ While there had indeed been frequent complaints about this very point, Vankoughnet fails to mention that the petitioners did not request land redistribution but enforcement of Mohawk land customs that they believed would result in a more egalitarian land and resource distribution. Minister of the Interior and Superintendent of Indian Affairs Edgar Dewdney similarly made much of these egalitarian goals when defending the Walbank Survey in the House of Commons in 1890. The reason for the survey, Dewdney declared, was "that some of the more advanced Indians took up larger portions of the reserve than others thought they were entitled to, and they believed that the survey would give them more equal portions." The idea of giving everyone an equal share of the land held great appeal to Canadian government officials who were also deeply engaged in the colonizing of the Northwest on a model based closely on the U.S. homesteading ideal which gave a free 160-acre lot to men of European descent as long as they farmed and built buildings on it. While this project had egalitarian aims, it depended on the disenfranchisement and displacement of Indigenous peoples and did not make land available to women and non-Europeans.⁷⁷ Similarly, in the context of the Walbank Survey, equality maybe have been a stated goal, but even if one ignores the explicit

⁷⁶ Vankoughnet to Deputy Superintendent General of Indian Affairs, Apr. 14, 1893, RG10, vol. 7749, file 27005-1, LAC

⁷⁷ Rueck, "Imposing a Mindless Geometry."

exclusion of non-widowed women, equality of landownership was not a realistic projected outcome.

The final explicitly-stated reason for the Walbank Survey was the goal of enfranchisement. The supposed mandate of DIA officials was to quite literally work themselves out of their jobs by assimilating Indigenous people. More specifically, they were to protect, educate, and guide First Nations on the path from barbarism to civilization. When this had been completed, First Nations would no longer exist and the department could be eliminated. The Gradual Civilization Act of 1857 had translated this desire into law by setting the standards a male Indian would have to meet in order to leave his Indian status behind and gain the rights of a non-Native Canadian. The act stipulated that an Indian who met requirements like literacy, moral uprightness, and freedom from debt would also be given up to fifty acres of land from his former reserve. First Nations immediately recognized this law as an attack on their land base, since each enfranchised person would take a piece of the reserve with them. Almost no one became enfranchised until the law was later changed to allow the DIA to enfranchise people against their will. When the department announced the upcoming subdivision survey to Kahnawakehrónon in February of 1882, the goal of enfranchisement was front and center. The letter read to the chiefs by de Boucherville stated that "...as it is hoped that, at no distant date, the Band, or such members thereof as may be deemed fit for the change, will be enfranchised, the step proposed, namely the Survey of their individual locations on the Reserve, is an essential preliminary to their enfranchisement."⁷⁸ This goal was particularly important for the DIA because it considered the Kahnawá:ke "band" to be

⁷⁸ Vankoughnet to J.V. de Boucherville, Feb. 7, 1882, RG10, vol. 7749, file 27005-1, LAC.

"one of the further advanced in civilization in Canada." Since Kahnawakehró:non were already part-way down the supposed path to true personhood, the DIA intended to use them as poster-children advertising the possibilities, benefits, and ultimate inevitability of enfranchisement. And since enfranchisement required an individually-held piece of reserve land, the Walbank Survey would enable the enfranchisement of everyone at the same time.⁷⁹

The Walbank Survey should also be considered in the context of concurrent Canadian colonial expansion. In the late 1870s, the Canadian government was trying to deal with a food and resource crisis on the Prairies that was, in part, of its own making. The government encouraged a rapid influx of settler populations and simultaneous confinement of Indigenous peoples on reserves. Faced with increasing competition from settlers and a new legal regime that severely restricted their access to resources, Indigenous peoples found they could no longer adequately feed and clothe themselves.⁸⁰ The southern bison herd had been destroyed by 1875 (in part through deliberate genocidal policies on the part of U.S. lawmakers), and the northern bison were essentially gone by 1883.⁸¹ The Canadian government was obligated by treaty to provide for the suddenly impoverished First Nations, but because buying and shipping food to distant reserves was expensive, the DIA hurriedly drew up plans to subdivide reserves. It was hoped that dividing up the prairie reserves into small, individually-owned lots would induce Native people to grow their own food, thus saving the government money.⁸² The

⁷⁹ Vankoughnet to Deputy Superintendent General of Indian Affairs, April 14, 1893, RG10, vol. 7749, file 27005-1, LAC

⁸⁰ For example, the federal police on the Prairies prevented First Nations from keeping intruders out of their country by force. Government policies heavily favoured Euro-Canadian access to resources and criminalized Indigenous access. Spry, "The Great Transformation," 29-31.

⁸¹ Ibid., 26.

⁸² Carter, *Lost Harvests*, 81-83.

Walbank Survey was done under the same policy rubric, and possibly as a trial run for western allotments. Edward Dewdney, when defending the Walbank Survey in the House of Commons in 1890, drew connections between this survey and the concurrent reserve subdivisions in the Northwest. Just as in Kahnawá:ke, the "more advanced Indians took up larger portions of the reserve than others thought they were entitled to," and it was for this reason that the department felt it had to intervene. Speaking of newly-created reserves on the Prairies, Dewdney told the House of Commons: "We have already commenced to subdivide our reserves there into forty-acre sections, and, as far as we possibly can, we are inducing the Indians to settle on their own sections of land, not compelling them to remain there if they do not like it, but when they get there, we find that they make their improvements, and begin to look upon it as a home."⁸³ Given this background, it is possible that the Walbank Survey was conducted as a kind of test-run for the western subdivisions.

One of the unpublicized motives of the DIA was the expected construction of the St. Lawrence rail bridge spanning the river between Lachine and Kahnawá:ke. The driving of the final spike of the Canadian Pacific Railway (CPR) into the track linking British Columbia with eastern Canada is one of the most celebrated moments in Canadian history. The November 7, 1885 event marked the completion of the first Canadian transcontinental railway, which was both a symbolic and practical precondition for nationhood. What textbooks have generally failed to mention, however, is that while the CPR had "bridged" the Rocky Mountains, it had not bridged the St. Lawrence. The only existing span, the Victoria Bridge, was controlled by the Grand Trunk Railway which had

⁸³ Canada, House of Commons, *Debates*, Mar. 18, 1890, p. 2158.

no intention of allowing its competitor to use the bridge. Having foreseen such an eventuality, the CPR studied several locations in 1881 and chose the narrows between Lachine and Kahnawá:ke as the site for the future bridge, to be constructed during the years 1885 to 1887.⁸⁴ Government and railway officials hoped that the Walbank Survey would "regularize" landholding in time to facilitate the process of expropriation for the CPR Bridge and line. Walbank knew in 1882 that the bridge and line through Kahnawá:ke would be built, and wanted to incorporate its planned trajectories into his subdivision plan so that his lots would not be awkwardly cut at a later date.



Figure 6.4 Photograph, "Steel Bridge on the Canadian Pacific Railway," ca. 1885, Sandford Fleming fonds, LAC.

⁸⁴ Gerald Tulchinsky, "Across the Rivers with Steel: The first decade of Dominion Bridge: 1882-1892," unpublished manuscript, 1976, MG28 III 100, Dominion Bridge, vol. 21, file 6, pg. 50-52, LAC.

The DIA, however, told him not to worry about it.⁸⁵ James P. Dawes, hired by the department to act as arbiter in conflicts over wood at Kahnawá:ke, was also hired to arbitrate on compensation for land expropriated for the bridge and line. An active booster of Lachine industrial development with interests in banking, insurance and hotels, Dawes was vice president of the Dominion Bridge Company, the company constructing the bridge in question.⁸⁶ His overt interest in the matter explains his involvement in Kahnawá:ke land issues long before the bridge was constructed.

Another factor that made the survey attractive to the DIA was its potential usefulness in dominating Kahnawá:ke politics. The department wanted to replace the council of chiefs with an elected band council, but without a membership list there was no list of electors. The Walbank Survey, through its tribunal to determine membership, was to lay the groundwork for the installation of the band council system in 1889. The DIA also used the survey to establish its knowledge and control over Kahnawá:ke land. While the department had control over the collective funds of Kahnawakehró:non, it had no way to manage, or even know about, the status of individual lots except through its agent. DIA officials never considered Mohawk land practices as coherent and legitimate, which only served to heighten their confusion about Mohawk actions and words. The department lacked both a membership list and maps for Kahnawá:ke, and thus lacked the ability to see the land and its people in the way it wished. Walbank was commissioned to transform local ownership practices that were opaque to outside governments into a

⁸⁵ Walbank to Vankoughnet, July 28, 1882; Vankoughnet to Walbank, Aug. 11, 1882, RG10, vol. 7749, file 27005-1, LAC.

⁸⁶ Gerald Tulchinsky, "The Second Decade of Dominion Bridge: 1882-1892," unpublished manuscript, 1976, MG28 III 100, Dominion Bridge, vol. 21, file 7, pp. 10-11, LAC.

visible grid.⁸⁷ Existing lots would be defined, numbered, mapped, categorized, and valued. The people of Kahnawá:ke would likewise be named, numbered, categorized, and valued (in the sense of defining who owned property). Finally, existing irregularly-shaped lots would be erased and replaced by rectangular lots that would be even easier for a distant bureaucracy to view, understand, and control. The Walbank Survey is a great example, in the words of historian Raymond Craib, of a "state's fixation with proprietorial transparency."⁸⁸

Another motive for initiating the survey in the early 1880s may have been the amount of money in the band account. The Sulpician order had borrowed \$3333 from Kahnawá:ke to finance the construction of the towers of the Notre Dame Church in 1844, the largest church in North America at the time of its completion. That money, in turn, was the total amount paid to the community by the Lake St. Louis and Province Line Railway for expropriated lands in 1852.⁸⁹ After a protracted court battle between Ottawa and the Sulpicians over the principal of this loan, it was finally paid to Ottawa on behalf of Kahnawá:ke in 1883 along with interest.⁹⁰ The Kahnawá:ke band fund was also the beneficiary of a payment of \$10,039 in 1881 that was supposedly representative of the seigneurial indemnity for losses caused by the Seigneurial Act of 1854.⁹¹ The Walbank

⁸⁷ For another example, see Craib's excellent study on the role of surveying and cartography in Mexican nation-building: Craib, *Cartographic Mexico*, 91.

⁸⁸ Ibid., 93; See also, Scott, *Seeing Like a State*.

⁸⁹ R.T. Pennefather, Fromme Talfourd, and Tho. Worthington, "Report of the Special Commissioners to Investigate Indian Affairs in Canada." in Appendix No. 21 to 16th Vol. of Journals of Legislative Assembly, Province of Canada, Feb. 25-Aug. 16, 1858, pg. A21-21.

⁹⁰ Zachary Deom, *Chronology of Political Events Relative to Kahnawake*.

⁹¹ Lambert doubts that this figure is related to the indemnity because the indemnity had been fixed at an amount nearly ten times this amount in 1860. Lambert, *History of Kahnawake Land Claims*, 30.

Survey was financed almost entirely from the funds of the band, and the DIA would not have initiated the project if the money had not been there.⁹²

The Tribunal

In 1885, as Kahnawakehró:non were growing more and more concerned about the costs and impacts of the survey, Walbank was attempting to calculate the number of "heads of household" in Kahnawá:ke so that he would know how many new lots would be needed for the new property grid he was designing. To this end, Walbank set up a process by which anyone who claimed to be a head of household could present him or herself to a tribunal made up of the council of chiefs, the agent, and Walbank himself. Claimants appeared and were asked a series of questions, which were recorded on standardized forms (Appendix B includes a transcription of the questions). The questions were designed to gather information about each claimant for the creation of a band membership list, information that could be used to disqualify people, and information about lots and improvements. Aside from standard questions on names, birth dates, and birth places, Mohawks were asked many questions that reflected DIA concerns about race, sexuality, and absences from Canada.⁹³ The tribunal was in operation from February until June 1885. Once all claimants had appeared before the tribunal, special meetings were held regarding disputed lands and other more complicated claims. This tribunal

⁹² Since bands only had limited control over their own funds, money was sometimes invested in ways that did not reflect the needs and desires of the people. Something similar happened at Grand River where almost \$160,000 of Six Nations' funds was used, without consultation of the Rotinonhsiónni, to purchase stock in a steamship company that failed. The money was never recovered. E. Brian Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada* (Vancouver: UBC Press, 1992), 124.

⁹³ Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

aroused the interest of at least some in Montreal, as evinced by a *Montreal Daily Witness* article that included a transcription of all the questions on Walbank's claim forms.⁹⁴

There are many questions about the accuracy of information gathered in this way. For example, Walbank filled in answers to question ten ("Do you hold any land on the Reserve; and how did you acquire such land?") for the claimants because, in his words, "any information I might get from the individual Indians would be very unreliable and inaccurate."⁹⁵ Answers to other questions are standardized English phrases not written in the hand of the claimant. For instances, in response to the question, "How long have you resided on the reserve?" the standardized answer is "All my life" or "All my life except when at college," whereas one can imagine individuals giving a wide range of responses. Any answer in Mohawk, French, or English that included any variation was distilled into a uniform and standard response. Considering Walbank's young age, inexperience, and lack of empathy for those he judged uncivilized, it is likely that many Kahnawakehrónon claims are not fairly represented in his workbooks. In addition, the questions do not take into account Mohawk conceptions of ownership, and one can imagine the frustration and anger of people who were forced to respond to such inadequately-phrased questions. On the other hand, there is no reason to think Walbank set out to deliberately falsify information, and the involvement of the four chiefs on the tribunal served as a kind of counterweight.⁹⁶ They may not have had the full support of the community, but they were still subject to the kind of accountability that comes with living among their constituents.

⁹⁴ "The Caughnawaga Ejectments: The Catechism on which Residents Established their Claims to be Indians," *Montreal Daily Witness*, July 13, 1886, pg. 6.

⁹⁵ Walbank to Vankoughnet, Feb. 28, 1885, RG10, vol. 7749, file 27005-1, LAC.

⁹⁶ The council was made up of seven chiefs but the DIA had refused to allow new chiefs to replace those who died. The four remaining chiefs in 1885 were Shatekaienton (Louis Beauvais), Karatoton (Thomas Jocks), Sakoientineta (Michael Montour), and Asennase (Thomas Deer).

By June the majority of the claim forms had been completed and in July Walbank submitted a tabular statement about the value of current lots and improvements such as buildings and fences.

The process also allowed absent Mohawks to file claims. Walbank specifically mentioned people in New Orleans and Lake Superior who could not appear personally before the tribunal. To have their claim considered, these individuals were required to complete blank forms in the presence of the British consul, mayor, or notary of the town they were in.⁹⁷ One important group that was absent were the sixty men who were in Egypt participating in a military mission to rescue a besieged British force in Khartoum. Mohawks and Ojibwas had been recruited based on their reputation as skilled river pilots. Only months after leaving Montreal in September 1884 they received word that they should return if they wished to participate in the land redistribution. Most decided to return immediately. Upon arriving in Montreal from Egypt, one Mohawk, speaking for all the men, told the *Montreal Star* that they would have stayed on longer if it had not been for the subdivision.⁹⁸ It is clear that Walbank had not informed Mohawks of his tribunal timetable in advance. If he had, these men might not have agreed to go to Egypt in the first place.

After the tribunal heard from all claimants, the DIA (in consultation with the Department of Justice) reviewed all the contested claims. These were claims for which at least one chief had contested the person's right to membership. Of the 610 total claimants (513 men and 97 women), 175 (27 percent) were contested. Each of the four chiefs on the

⁹⁷ Walbank to Vankoughnet, Feb. 19, 1885, and Vankoughnet's response on Feb. 21, 1885, RG10, vol. 7749, file 27005-1, LAC.

⁹⁸ Benn, *Mohawks on the Nile*, 65, 225-227.

tribunal had the opportunity to either approve or contest each claim. Chief Skatsentie, an enthusiastic promoter of the survey, died of unknown causes in May 1885 and did not play a role in the tribunal decisions. In 122 of the 175 contested claims all chiefs agreed to reject the claim of the individual, but 53 disputed claims were not unanimous. It is nowhere made clear who defined the criteria upon which final decisions were made, but it is clear that the chiefs and the department were not operating based on exactly the same logic, and that the chiefs were not always in agreement with each other. Historical anthropologist Gerald Reid has analyzed the process in detail to better understand political rifts within the community and has offered a number of insights. Claimants were contested for a number of reasons: being underage, being non-widowed women, having been born elsewhere, having parents who were born elsewhere, having been absent from Kahnawá:ke for a long time, having been born out of wedlock, and for being 'white' or 'half-breed.' The final decisions were a result of the back-and-forth between chiefs and DIA, but the chiefs had little real power over the final results. In most cases the DIA applied Indian Act membership rules. The chiefs had the most say when it came to deciding who was excluded from membership on the basis of racial criteria. Since there was no complete membership list, the department usually took the chiefs' word on who was sufficiently Mohawk to belong and who would be evicted. The DIA intervened to contradict the chiefs only in the case of the Delorimier family, who were widely perceived as "white" but whose Indian status had been confirmed by an 1850 court case. The DIA also forced the inclusion of Mohawk women who had married non-Indians before the 1869 law which stipulated that such women lost their status. Aside from disputed claimants, there were also approximately 130 cases of disputed ownership of

lots that were brought before the tribunal for decision.⁹⁹ As Reid argues, the chiefs' motivation was primarily to limit the number of band members so that each would receive an adequate share of the small territory.¹⁰⁰

Opposition

Walbank's tribunal made the subdivision survey real and personal to Kahnawakehró:non, and local opposition grew as a result. The survey, however, coincided with events that circumscribed Mohawks' ability to resist it. Aside from the tightening noose of federal Indian legislation, public opinion across Canada was hardening toward Indigenous peoples as Saskatchewan Métis and their allies set up an independent provisional government in the spring of 1885. Thanks to a nearly-completed Canadian Pacific Railway, Ottawa was able to crush the uprising. Although most Indigenous peoples chose not to take part in the uprising, Canadian popular outrage directed at Indians did not really differentiate. Mohawks probably took this indignation into consideration as they registered their complaints about the survey. In July 1885, only two months after the end of the failed uprising, some fifty Kahnawakehró:non sent the DIA a carefully-worded petition expressing concern over the long duration and high cost of the subdivision survey and asked for an investigation into the matter. They wrote, "that it is with anxiety that we look for the completion of said survey: we are inexpert in the nature of the work, but assuredly one acting faithfully should have finished it by this

⁹⁹ W. A. Austin report to Deputy Minister of Indian Affairs, Feb. 25, 1887, RG10, vol. 7749, file 27005-1, LAC.

¹⁰⁰ Reid, *Kahnawà:ke*, 40-45.

time, comparing to the small size of the Seigniory."¹⁰¹ Although there were many problems related to the survey that Kahnawakehró:non could have protested, the petitioners framed their argument purely in terms of Walbank's technical competence and the expense of his operations. When the department asked Walbank about it he dismissed those behind the petition as nothing but a few pesky agitators: "The complaint," he wrote, "does not come from the respectable part of the tribe; but from some whom I have prosecuted for bringing intoxicants on the Reserve, and is composed of some fifty or sixty of the most troublesome men of the tribe, and who take no interest in any matters except opposing all progress."¹⁰² Alexander Brosseau, the newly hired Indian agent, backed up Walbank's version of events. He added that the complaints concerned some of Walbank's employees from several years before, but claimed he knew little about what actually went on at that time.¹⁰³

The work of the tribunal mostly complete by the fall of 1885, Walbank began the work of creating the new property grid. As long as the claims were in limbo he could not start subdividing because he did not know how many lots would be needed, so he started by marking out new roads that would serve as the basis for the new grid. He urged the DIA to process the disputed claimants quickly, but decisions were not forthcoming until the following summer.¹⁰⁴ In the meantime Walbank drew a map of the new subdivision and invited successful claimants to choose their new lots. In June he invited owners of existing lots to review the valuations he had given their land and improvements made

¹⁰¹ Petition from about fifty Kahnawakehró:non (in general council) to Vankoughnet, July 7, 1885, RG10, vol. 7749, file 27005-1, LAC

¹⁰² Walbank to Vankoughnet, July 27, 1885, RG10, vol. 7749, file 27005-1, LAC.

¹⁰³ Brosseau to Vankoughnet, Aug. 19, 1885, RG10, vol. 7749, file 27005-1, LAC.

¹⁰⁴ Walbank to Vankoughnet, Oct. 19, 1885, RG10, vol. 7749, file 27005-1, LAC.

thereon. These notices, written in both Mohawk and English, sparked another round of protests, this one mostly from large landowners.

After two clandestine meetings in early June of 1886, a group of Kahnawakehró:non sent the DIA a petition protesting the low valuations and the high cost of the survey.¹⁰⁵ These were the concerns of the privileged elite who often supported DIA initiatives, and perhaps it was the realization that they were losing their few allies that caused the department to crack down. On June 25, Walbank and Agent Brosseau called a general meeting to denounce the petitioners and to announce a ban on unauthorized public meetings. Some landowners hired arbitrators to attempt re-valuations of their properties,¹⁰⁶ but the DIA rejected such actions. Vankoughnet stated that "the valuation would be on the basis of values of such property in Caughnawaga, as between Indian and Indian and not as between White people," and there would be no exception to that rule.¹⁰⁷

One might have expected poor and landless Mohawks to support a project in which they were set to receive thirty acres. There may have been some who did, but there is little evidence of such. While the overt opposition came mostly from large landowners, there were also some small landowners who did not want this change. A good example is Ohionkoton (Angus Jacob) who returned his notice with the defiant message in the Mohawk language: "Now you gentlemen: I answer. I like the way that I have. I do not sell my land" (Figure 6.5).¹⁰⁸ Ohionkoton had also failed to appear for the tribunal

¹⁰⁵ Petition from several Kahnawakehró:non to Vankoughnet, June 15, 1886, RG10, vol. 7749, file 27005-1, LAC.

¹⁰⁶ Walbank to Vankoughnet, [July 26], 1886, RG10, vol. 7749, file 27005-1, LAC.

¹⁰⁷ Vankoughnet to Walbank, July 30, 1886, RG10, vol. 7749, file 27005-1, LAC.

¹⁰⁸ Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC. Translated by a contemporary interpreter, probably Owakenhen (Peter Stacey).

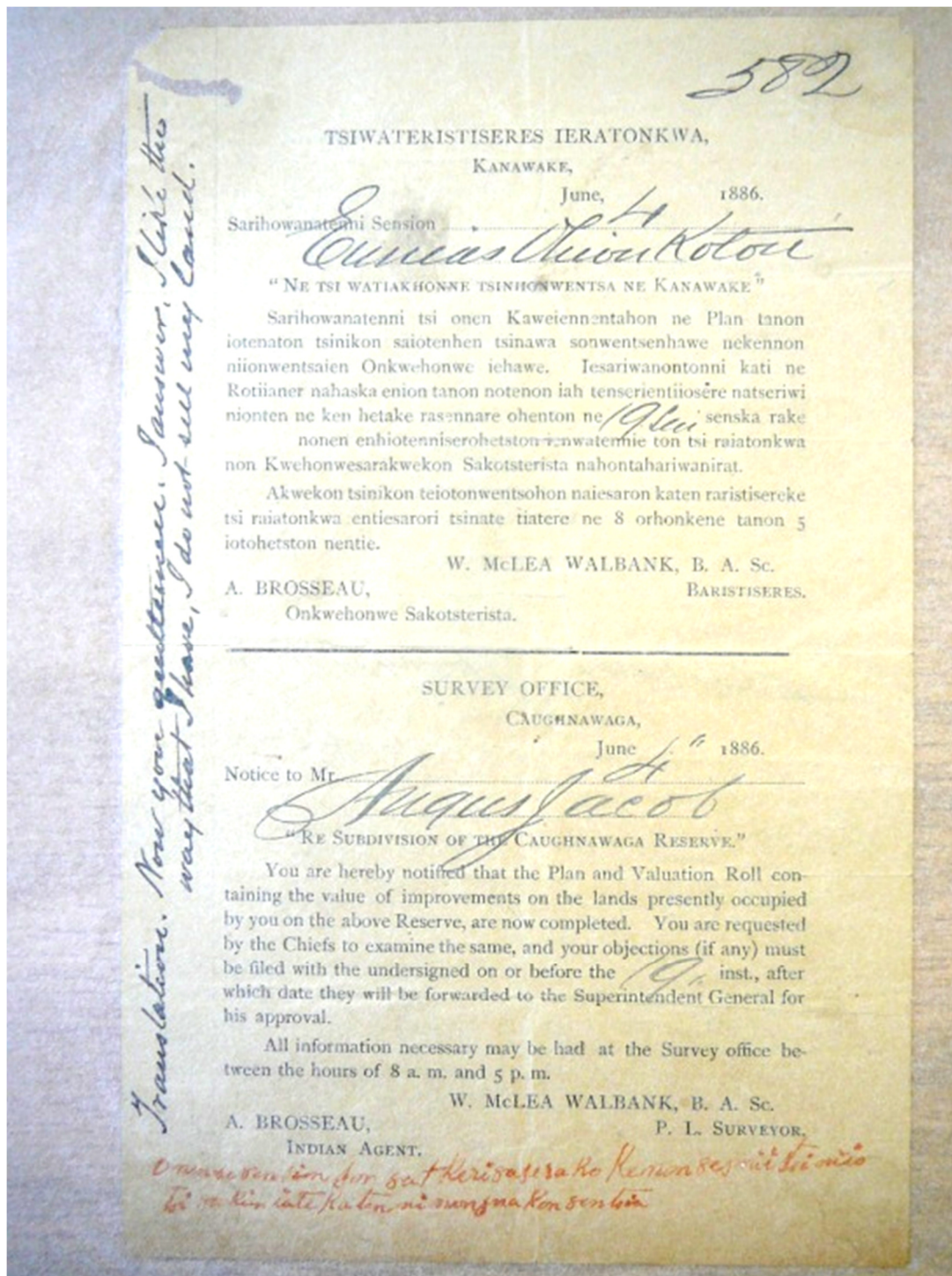


Figure 6.5 Notice returned to Walbank by Ohionkoton, 1885, LAC.

interviews the previous year. Walbank listed him as the owner of a 1.03 acre lot of cultivated land valued at \$13 (Figure 6.6).¹⁰⁹ Landless and land-poor Kahnawakehró:non knew that the new property arrangement would criminalize wood-cutting on others' lots. They probably opposed the project, in large part, because it would deprive them of this essential, hitherto free, heating and cooking fuel.

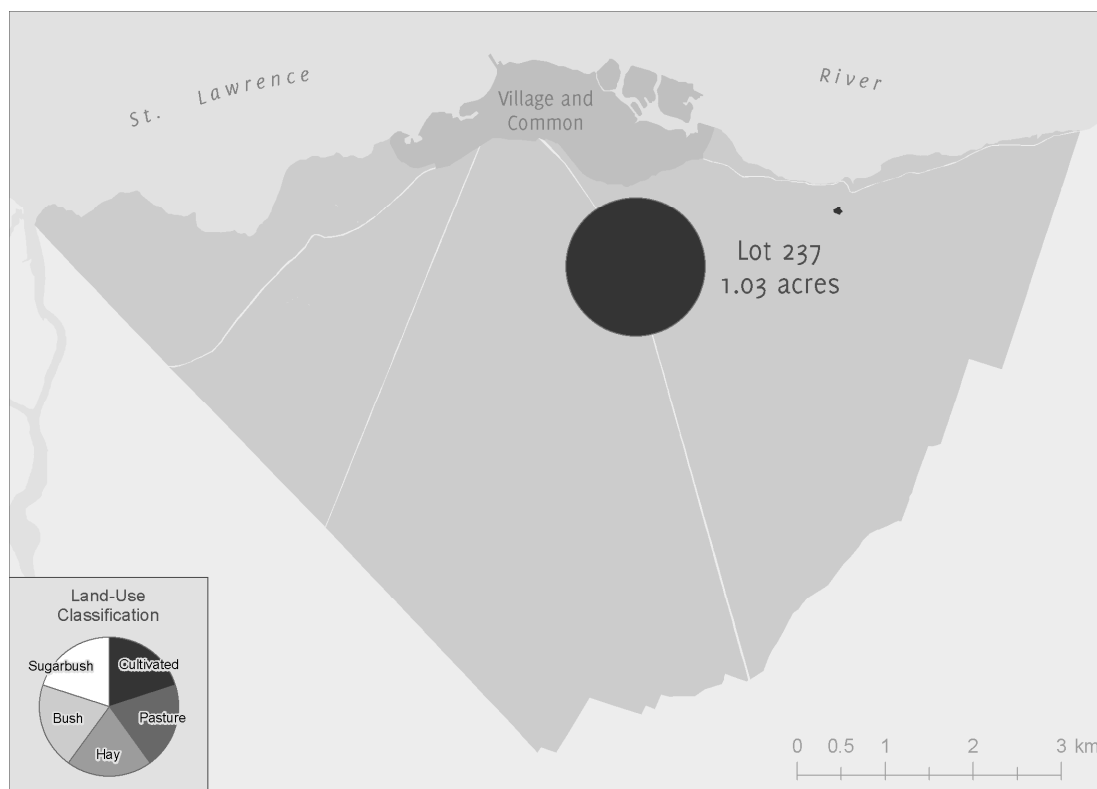


Figure 6.6 Map of Kahnawá:ke showing the lot owned by Ohionkoton (Angus Jacob), ca. 1885, and Walbank's land-use classification. Map by Louis-Jean Faucher.

¹⁰⁹ Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC. Ohionkoton's personal information is not included in the reference books (claimant number 582, lot number 237).

The Subdivision Stalled

In the fall of 1886 Walbank began the actual subdivision of the land, which aimed to make his hypothetical map reality. All of his projected 387 rectangular lots of about thirty acres each had already been assigned owners (Figure 6.3).¹¹⁰ The most difficult part of the process would be to reassign land that was occupied and improved, so he started by subdividing the "Grand Park," a 506-acre swampy area on the western side of the territory, known today as the "Big Fence."¹¹¹ But how would land be transferred from old to new owners? Since the department was legally obligated to compensate owners for improvements, owners of the old lots had to be paid for lost buildings, cleared land, fences, and orchards before new lots could be taken up by new owners. Walbank's problem was that this would be very expensive. Although his valuations were much lower than they would have been off-reserve, the total needed to compensate landowners was still staggering. At a time when the DIA was facing serious questions about the \$15,000 already spent on the survey, Walbank asked the department for a \$50,000 temporary fund. Owners of new lots would be instantly indebted to the department for any improvements found on the new lot, and would be asked to pay down this debt in installments. If they could not make their payments, Walbank suggested the DIA reserve for itself the right to lease out that lot until the debt was paid.¹¹² The largest landowners would lose more improvements than they would gain, and would thus come out ahead in financial terms. Without such a fund, Walbank wrote, he was at an impasse because people were not willing to abandon their current holdings without compensation. The

¹¹⁰ Not included in the area of these lots were 550 acres for the village and common (a community managed pasture), 30 acres for quarrying, and 60 acres for roads.

¹¹¹ Walbank to Vankoughnet, Sept. 10, 1886, RG10, vol. 7749, file 27005-1, LAC.

¹¹² Walbank to Vankoughnet, Mar. 29 and May 18, 1887, RG10, vol. 7749, file 27005-1, LAC.

DIA told him that no such money would be made available, but to continue his work.¹¹³

Walbank was probably right in saying there was no other practical way to complete the process, and the department's unwillingness to go along with his plan meant that officials either did not understand Walbank's logic or already saw the subdivision as doomed.

With the prime minister facing questions on the cost and duration of the survey in the House of Commons in the years 1887 to 1889, the survey was taking on the appearance of a political boondoggle.¹¹⁴ Cyrille Doyon, an independent Liberal member of parliament representing Laprairie, was the most vocal critic of the DIA actions in Kahnawá:ke in the House of Commons. After years of government obscurantism, Doyon's 1890 public demands for information on the costs, quality, and purpose of the survey could no longer be ignored. In a particularly poignant comparison, Doyon asked the government why this incomplete survey cost \$1.80 per acre when the cost of the Dominion Lands Survey on the Prairies was 4 cents per acre.¹¹⁵ In the face of this kind of questioning, the DIA did not have the luxury of continuing to spend money on an expensive survey of such dubious merit.

The DIA was in fact already worried about the delays and spiraling costs in 1886. W. A. Austin, a department surveyor, wrote in September of that year that all the time spent by Walbank's surveyors would add up to five full years of work by a single surveyor. He quoted a letter from 1882 in which Walbank said that he planned to finish the subdivision survey in one year, which would have cost \$10,000 according to Austin's

¹¹³ Vankoughnet to Walbank, May 21, 1887, RG10, vol. 7749, file 27005-1, LAC.

¹¹⁴ Canada, House of Commons, *Debates*, June 15, 1887; March 28, 1888; May 21, 1888; March 7 & 8, 1889.

¹¹⁵ Canada, House of Commons, *Debates*, Mar. 18, 1890, p. 2158.

calculations, instead of the \$15,000 Walbank had already charged in 1886.¹¹⁶ After Walbank staunchly defended his spending and timeline, citing numerous unforeseen complications and stating that this project could not be compared to any other project, Austin was sent to Kahnawá:ke to inspect Walbank's work. His subsequent report showed a great deal more sympathy toward Walbank's plight, and backed Walbank up in his justifications for time and money spent. In terms of what Walbank had accomplished in running the subdivision lines, Austin reported that forty lots and several roads had been laid out and that there were about 273 miles of lines left to run. He estimated that the rest of the field work would be finished by the end of August 1887.¹¹⁷ Early in 1887 Austin still came to Walbank's defense saying that although the survey had been expensive, it was money well-spent, and like Walbank, he claimed that the "peculiar features" of this survey meant that there was no other project with which to compare it.¹¹⁸

Figure 6.7 visually represents the way almost every proposed new lot took in lands from more than one previously existing lot. One can only imagine the tragic comedy that would take place on the ground if such a redistribution were actually realized. Existing roads and paths would cease to be useful, barns would be separated from fields, and the ecological, geographical, and cultural logics that had determined the original layout of the lots would become subservient to the bureaucratic logic of the rectangle and the grid. People would lose land, buildings, and improvements, and other people would gain those same things. The idea was to give everyone an equal portion of land, but the lots were not equal in quality. Aside from geographical differences, there

¹¹⁶ W. A. Austin memo Deputy Minister, Sept. 21, 1886, RG10, vol. 7749, file 27005-1, LAC.

¹¹⁷ W. A. Austin report to Deputy Minister, Feb. 25, 1887, RG10, vol. 7749, file 27005-1, LAC.

¹¹⁸ W. A. Austin memo to Deputy Minister, Mar. 11, 1887, RG10, vol. 7749, file 27005-1, LAC.



Figure 6.7 Detail of a part of the territory of Kahnawá:ke, ca. 1885. Dark-grey boundary lines represent existing lot lines drawn by Walbank. Rectangular light-grey lines represent the projected lots. Map by Louis-Jean Faucher.

were also great differences in how different lots had been used over the long occupation of the territory. It was inevitable that some would lose a great deal in the exchange while others would gain thirty acres for which they would be indebted. Walbank's scheme would transform the land-rich into money-rich (although landowners felt their improvements had been seriously undervalued), and would indebt the poor for land they did not request. It must also be mentioned that Walbank did not intend to offer compensation for unimproved land, land which was probably very valuable to their owners. Nevertheless the record books show that he did give unimproved "bush" land a dollar value, even if it was very small. Those who were due to receive the best

compensation were those who held land with notarized titles, owned buildings and fences, and cultivated land in a way Walbank recognized.

In a context where legal forms of protest had been taken from them, Mohawks increasingly turned to other means. Walbank informed the DIA in September 1887 that his surveyor had been impeded by a number of Mohawks who had "offered obstruction to the running of the new lines of Lots; and also threatened personal violence," and had removed pickets and destroyed marks.¹¹⁹ Walbank specifically pointed to three men whom he accused of these actions: Thiretha (Peter Diome), on whose form Walbank noted that "This man resides here upon his land which is very extensive, he refuses to attend here to make his statement." Thiretha was listed as owning four lots totalling 194 acres of all land-use categories, and valued at \$1473 (Figure 6.8).¹²⁰ The second man was Kataratiron (Joseph Jacob), born 1842, who is listed as owning an 80-acre lot, of which a significant portion was cultivated, valued at \$1804 (Figure 6.9).¹²¹ The third man, a medical doctor, could not be positively identified in the Walbank record books.¹²² Given that two of these men were land-rich and the third was a medical doctor, it is clear that for these men the most important issue was not losing common access to free firewood, but the imminent loss of property without adequate compensation.¹²³

¹¹⁹ Walbank to Vankoughnet, Sept. 13, 1887, RG10, vol. 7749, file 27005-1, LAC.

¹²⁰ Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC. Thiretha (Peter Diome), claimant 577.

¹²¹ Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC. Kataratiron (Joseph Jacob), claimant 210.

¹²² This was a certain Dr. Jacobs for whom not enough information is given for identification purposes. It is possible this was the same Dr. Jacobs many Kahnawakehrónon today remember as a medical doctor who took land deeds as payment (or as security for future payment) for medical services from people who could not afford to be treated otherwise, and became land-rich as a result.

¹²³ Walbank to Vankoughnet, Sept. 13, 1887, RG10, vol. 7749, file 27005-1, LAC.

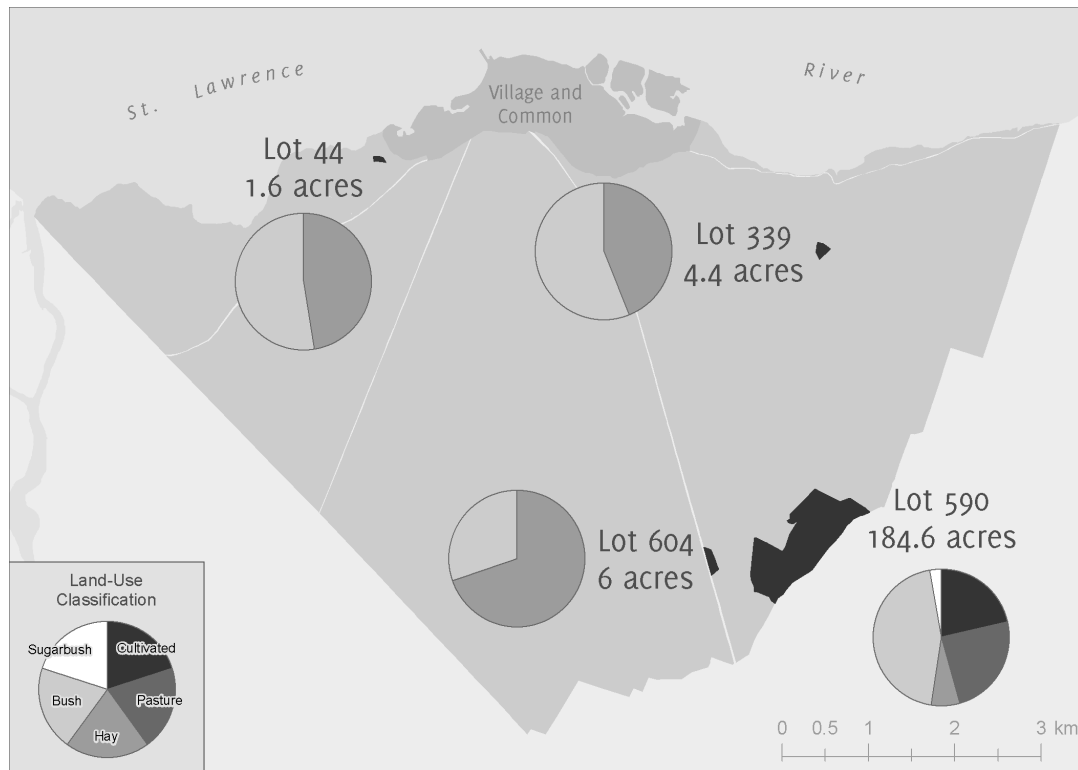


Figure 6.8 Map of Kahnawá:ke showing the lots owned by Thiretha (Peter Diome), ca. 1885, and Walbank's land-use classification for each. Map by Louis-Jean Faucher.

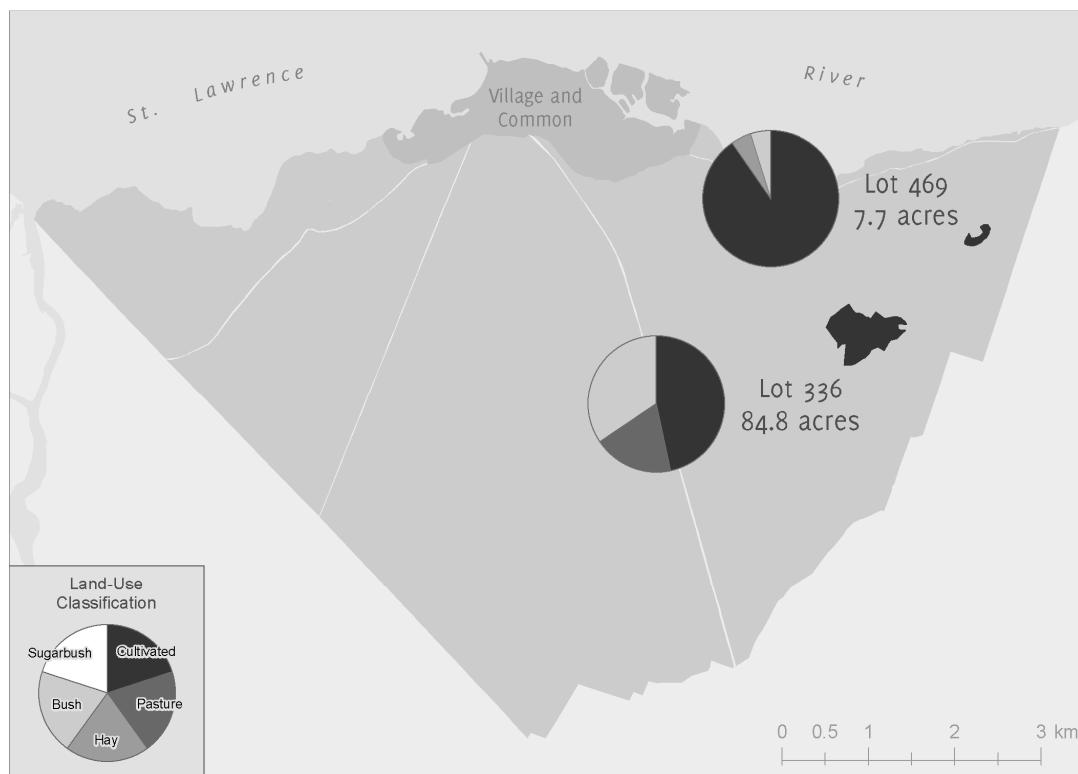


Figure 6.9 Map of Kahnawá:ke showing the lots owned by Kataratiron (Joseph Jacob), ca. 1885, and Walbank's land-use classification for each. Map by Louis-Jean Faucher.

These wealthier men were typically the only class of Mohawks the DIA had been able to count as allies, and several years into the survey even these had been lost the department.

In his 1886 annual report, Agent Brosseau expressed his hope that location tickets would be issued for all properties in the spring of 1887. Alluding to the enfranchisement that would follow on the heels of the location tickets, Brosseau wrote that the village, the population of which he estimated at 1591, already resembled at village of White people.¹²⁴ The spring of 1887 arrived and location tickets had not yet been issued, but Walbank was still working on it. In May of that year he staked out sixteen new lots, lined up a new owner for each, and asked the DIA for money to compensate them for lots they would be giving up. The department, however, refused to make money available.¹²⁵ In July, Walbank tried again, this time proposing to transfer title to just one new lot to Ohonwakerha (Louis Joco), who was willing to pay for the new lot if the department would grant him a location ticket—in this case there was curiously no mention of Ohonwakerha giving up the valuable properties he owned.¹²⁶ In this way Walbank intended to set a precedent, but the department refused to grant Ohonwakerha a title before he had been compensated for the lots he would give up in exchange.¹²⁷ In other words, the department was not prepared to pay to compensate owners, nor would it allow new owners to take up lots. This left Walbank with no way forward. He stopped working on the subdivision fieldwork in December of 1887 and said he was "extremely glad to be

¹²⁴ Canada. "Annual Report of the Department of Indian Affairs" Jan. 1, 1887, Sessional Papers, vol. 5, pg. xxvi.

¹²⁵ Walbank to Vankoughnet, May 18, 1887; Vankoughnet to Walbank, May 21, 1887, RG10, vol. 7749, file 27005-1, LAC.

¹²⁶ Ohonwakerha (Louis Jocko), claimant number 143, was born in 1841. He was very active in purchasing land around the time of the survey, so it is hard to specify which lots were his. He is also listed as a disputed owner of lot 143. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹²⁷ Walbank to DIA, July 4, 1887; R. Sinclair to Walbank, July 13, 1887, RG10, vol. 7749, file 27005-1, LAC.

finished with it." He went on to say "it is one of the most difficult and unsatisfactory surveys one could possibly have."¹²⁸ He finished his paperwork in spring of 1888,¹²⁹ and filed a lengthy report with the prime minister and head of the DIA, John A. Macdonald. After summarizing the entire project to date, he explained why he needed a large fund, and tried to calm financial concerns by emphasizing that if a new owner failed to pay the interest on his debt, the department could lease his land to someone else until the debt was paid off.¹³⁰ Nothing came of this either, and Walbank soon distanced himself from the project, saying he had done all he could. From then on his correspondence with the DIA consisted of debates over the quality of his work and the amount of money he was owed.

After years of enduring the uncertainty of the Walbank Survey, Kahnawakehrónon probably concluded by the late 1880s that the redistribution would never take place. On the other hand, considering that Walbank and the DIA had often acted without consultation or warning, perhaps some were still bracing for what was next. In November of 1887 a number of Kahnawakehrónon called on the department to allow them to elect chiefs, but they were told to wait until the subdivision was complete so that the Advancement Act could properly be applied to them.¹³¹ Non-Native farmers who had DIA permission to live and work in Kahnawá:ke were also left in limbo because they did not know from year to year if the land they worked would still be available the following year. Agent Brosseau wrote to the department on their behalf in July of 1889, asking if

¹²⁸ Vankoughnet to Walbank, Dec 31, 1887; Walbank to Vankoughnet, Jan 2, 1888, RG10, vol. 7749, file 27005-1, LAC.

¹²⁹ Walbank to DIA, Jan. 2, 1888, RG10, vol. 7749, file 27005-1, LAC.

¹³⁰ Walbank report to John A. Macdonald, June 14, 1888, RG10, vol. 7749, file 27005-1, LAC.

¹³¹ Brosseau to Superintendent General of Indian Affairs, Nov. 18, 1887, RG10, vol. 2394, C-11213, file 81,361, LAC.

the subdivision would be completed that year or not. If so, they wanted to know about it so that they could look for farms elsewhere. The department said that nothing had yet been decided.¹³² The following year Brosseau asked if Mohawks who were too old and weak to farm would be permitted to lease their land to non-Mohawk farmers and was told that this would not be possible until the land redistribution was complete.¹³³ DIA officials apparently expected everyone put their lives on hold for a few years while they sorted things out. Just as the survey itself attempted to overwrite existing cultural, economic, and environmental logics, so too did the bureaucratic process.

The End of the Survey

The finger-pointing began in earnest when it became clear that the subdivision would never take place. The department, seeking to shift blame away from its own officers, found numerous flaws and shortcuts in Walbank's work, but each time he made corrections, he charged the department extra.¹³⁴ In some cases these mistakes and omissions could be chalked up to inexperience: Walbank was in his twenties after all, and this was likely his biggest commission to date. In other cases, the fault lay with the DIA for not paying attention to what he was doing earlier on.¹³⁵ Another point worth considering here, which Walbank constantly emphasized in his correspondence, is the unusual nature of this work. There are many cases in world history of states appropriating

¹³² Alexander Brosseau to R. Sinclair, July 12, 1889, RG10, vol. 7749, file 27005-1, LAC.

¹³³ Brosseau to DIA, 19 Mar 1890; DIA to Brosseau, Apr. 11, 1890, RG10, vol. 2102, file 18,571, LAC.

¹³⁴ For example, his map did not include astronomical bearings or the length of boundaries of each lot. Austin remarked that should a fire obliterate the marks on the ground, it would be impossible to correctly retrace the lines using the map provided. Austin to Acting Deputy Minister, Sept. 7, 1888, RG10, vol. 7749, file 27005-1, LAC.

¹³⁵ An example of this would be when Samuel Bray, department surveyor, found in September of 1889 that Walbank had not made the new roads wide enough. Bray to Deputy Minister, Sept. 18, 1889, RG10, vol. 7749, file 27005-1, LAC.

the land of local people, and reorganizing and redistributing it according to the needs of the state,¹³⁶ but the DIA in this case tried to reorganize and distribute while making sure everyone paid for their gains and was compensated for their losses. Considering Walbank's mandate to take away everything and to redistribute it equally without doing anyone wrong, it is not really surprising that he failed. The challenges posed by this surveying project were truly extraordinary from a logistical standpoint.

The Conservative government, however, continued to defend the Walbank expenditures in the face of increasingly pointed questions from Doyon in 1890, particularly ones which compared its cost per acre to that of the Dominion Lands Survey of the Prairies. Minister of the Interior Edgar Dewdney tried to explain the survey to the House of Commons in this way:

This survey was made on a petition of the Indians themselves... Of course a survey of this character must cost a great deal more than the survey of the Dominion lands. The cost per acre of the Dominion lands survey, was calculated on millions of acres which had been surveyed. This survey, as the hon. gentleman knows, was cut up into small fields, resembling much the appearance of this chamber, the desks representing the little holdings of the Indians. The location of every house, and fence had to be surveyed, and a most complete and detailed map, *equal to an ordnance map of the old country*, I find has been made. Whether there was a necessity for such a detailed survey as that, I am not prepared to say. I know something about that class of work, and I can say that the map has been very well made, showing the topography of the whole reserve, as well as the various holdings.¹³⁷

Trained in Wales as a civil engineer, and with experience as a surveyor in British Columbia, Dewdney was indeed qualified to comment on the quality the Walbank Survey.¹³⁸ The comparison of Walbank's map to a British ordnance map is particularly

¹³⁶ Scott, *Seeing Like a State*.

¹³⁷ Canada, House of Commons, *Debates*, Mar. 18, 1890, p. 2158. Italics mine.

¹³⁸ E. Brian Titley, "Dewdney, Edgar," *Dictionary of Canadian Biography Online*, www.biographi.ca, accessed April 3, 2012.

striking when considering that this kind of systematic, highly-detailed, large-scale mapping was developed to facilitate the subjugation of the clans of the Scottish highlands in the 1740s and only later for defensive military purposes.¹³⁹

The total price tag for the Walbank Survey in February of 1890 stood at over \$22,000.¹⁴⁰ Walbank reported that he was back out in the field that spring and advised the department in June that he had picketed the four corners of every projected lot, but that by now much of his earlier work had been destroyed by fire and had to be redone.¹⁴¹ The Indian agent contradicted him, saying that Walbank has been doing nothing related to the subdivision for a very long time.¹⁴² After carefully examining Walbank's work in September of 1890, Austin concluded that Walbank had not run 105 miles of lines marked on the map and suggested that the department not hire him again.¹⁴³ As the DIA attempted to wrap up the project, Walbank was still demanding pay for work done years before. In January of 1891 he was paid the final \$3000 he was owed despite the fact that the Kahnawá:ke account was nearly empty. This was accomplished through a feat of creative accounting involving loans from Temiskaming and Sarnia Chippewa band accounts.¹⁴⁴

In April 1893 Vankoughnet reported to his superiors that the land redistribution had still not occurred but took no responsibility for this. "The occupants of the old locations," he claimed, "cling to the possession of the same, and are unwilling to part

¹³⁹ Tim Owen and Elaine Pilbeam, *Ordnance Survey: Map Makers to Britain since 1791* (London: HMSO, 1992); W.A. Seymour, *A History of the Ordnance Survey* (Folkestone, UK: Dawson, 1980); Whitworth Porter, *History of the Corps of Royal Engineers, vol. 1* (London: Longmans, Green, and Co., 1889), 167-168.

¹⁴⁰ Internal memo, Feb. 5, 1890, RG10, vol. 7749, file 27005-1, LAC.

¹⁴¹ Walbank to DIA, June 26, 1890, RG10, vol. 7749, file 27005-1, LAC.

¹⁴² Brosseau to DIA, June 25, 1890, RG10, vol. 7749, file 27005-1, LAC.

¹⁴³ Austin memo to Deputy Minister, Sept. 29, 1890, RG10, vol. 7749, file 27005-1, LAC.

¹⁴⁴ R. Sinclair memo to Deputy Minister, Jan. 30, 1891, RG10, vol. 7749, file 27005-1, LAC.

with any portion thereof." Vankoughnet went on to claim that landless Mohawks who had previously complained about others occupying more land than they were entitled to, now showed "no special anxiety...to acquire the thirty acre allotments." Drawing on the trope of the complaining, ungrateful, fickle Indian in order to draw attention away from the culpability of his own department, Vankoughnet implied that Mohawks had simply not gone through with what they said they wanted to do. Although the department had, according to Vankoughnet, done its part in agreeing to grant location tickets to anyone who paid for the improvements on the new lot, individual Mohawks had not done their part. There is no hint in Vankoughnet's report that the DIA might bear any blame for forcing an ill-conceived project on an unwilling community. Nevertheless, Vankoughnet had still not given up on the land redistribution and recommended that Mohawks be given a September 30th deadline for the "settlement of the land matters within the Reserve." Since it now "appears to be hopeless to expect...voluntary action," he recommended that the agent inform "those who have more land than they are entitled to" that they "must be prepared to part with the surplus land" and that those who "are without land, or who have an insufficient quantity" should be prepared to pay the agent for improvements on their new lots. Large landowners would be given first choice of lots, he added.¹⁴⁵ That Vankoughnet was promoting such an unrealistic idea as late as 1893 is an indication either of dishonesty, or an utter disconnect from the real world. It also happened to be the year of his retirement.

Vankoughnet's replacement, Hayter Reed, made Kahnawá:ke one of the first stops after being appointed to the position. In December 1893 he met with Kahnawá:ke chiefs

¹⁴⁵ Vankoughnet to Deputy Superintendent General of Indian Affairs, April 14, 1893, RG10, vol. 7749, file 27005-1, LAC

who demanded to be compensated for the band funds spent on the Walbank Survey. In response he promised to enlarge and renovate the existing school, improve roads and bridges, and pay for the cost of evicting trespassers. All of this, of course, was subject to parliamentary approval of his budget, and there is no evidence that this money was ever forthcoming.¹⁴⁶ There was apparently never a definitive moment when someone declared the survey officially over, but eventually everyone came to understand that the redistribution would never take place, and that the standardized thirty-acre lots would never become reality. Walbank's map and data, however, would be used for a number of purposes in the years to come.

Conclusion

Identifying the Walbank Survey as a land-redistribution scheme does not capture the full extent of its ambitions. It was an attempt to destroy a community and erase a way of living on the land. Over the course of the nineteenth century, Mohawks had adapted their land practices to new realities such as a permanently located village, a shrinking land-base, and the industrialization of Montreal (Chapters 3-5), but to outsiders it looked like chaos. They believed Mohawk land practices were defective because Kahnawá:ke lacked a standardized system of land titles and because Mohawks appeared not to respect others' property rights. Outsiders only rarely acknowledged that Mohawk land practices had their own logic and organization; namely that individuals should be limited in their ability to profit from Kahnawá:ke lands and wood, and that the community as a whole

¹⁴⁶ Heyter Reed to Chief J.W. Jocks, Jan. 18, 1894, RG10, vol. 7749, file 27005-1, LAC.

should profit from them. The survey reinforced the opposite idea: that land and resources should be treated as commodities for the benefit of certain individuals.

The Walbank Survey, designed to reshape property and land relations to the detriment of the commons, bears many similarities to the enclosure of common land in England in previous centuries. Most English commoners depended heavily on common lands for gathering food and raw materials for their daily needs because they lacked enough cultivated land to meet their needs. When they were barred access to these common lands, many found they could no longer sustain themselves, and were forced off of their lands.¹⁴⁷ Likewise, land-poor Mohawks had their access to free wood greatly restricted after the DIA replaced the Kahnawá:ke commons with a form of private property. Like English commoners, Kahnawakehró:nnon were horticulturalists who lived in a permanent village, and had been working that very land for a long time. Most Mohawks did not cultivate enough land to meet all of their material needs, and the commons provided crucial building supplies, firewood, medicines, foods, and materials used in manufacturing saleable items like baskets and snowshoes. The Walbank Survey succeeded in transforming land into commoditized lots and criminalizing land practices on which many Mohawks depended.¹⁴⁸

¹⁴⁷ For more on English commoners' uses of common-access resources, see chapter 6 in Neeson, *Commoners*.

¹⁴⁸ It is also worth noting that Rotinonhsiónni people had a historic antipathy toward English conceptions of property and territory, which they associated with anti-Amerindian violence. A number of authors have pointed out Rotinonhsiónni preference for "feudal" land tenure systems like the seigneurial one in New France. See Hall, *The Bowl With One Spoon, Volume 1*, 10-15. Of course, other First Nations also expressed their opposition to Anglo-American property norms. For example, John Wesley Powell, explorer of the American West, was told by Indigenous people he met that they saw private property as a heinous crime. Donald Worster, *A River Running West: The life of John Wesley Powell* (Oxford: Oxford University Press, 2001), 271.

The ideological rhetoric used to justify Kahnawá:ke subdivision was not unlike that used to justify enclosure in England. English proponents of enclosure in the late eighteenth century explicitly compared North American Indians to English commoners, including one who wrote sarcastically: "Let the poor native *Indians* (though something more savage than many in the fens) enjoy all their ancient privileges, and cultivate their own country their own way. For 'tis equal pity, notwithstanding some trifling dissimilarity of circumstances, that they should be disturbed."¹⁴⁹ Improvers believed it was irresponsible to allow lands and resources to be "wastefully" managed by commoners when these could be more efficiently harnessed by wealthier landowners. Promoters of enclosure assumed that Indigenous land-use was primitive, animal-like, and wasteful, and they believed it wrong leave the land and its inhabitants in that condition. Similarly, they called English commoners lazy, unproductive, conservative, non-enterprising, and wasteful. Like the common lands they depended on, these people were called wild, unproductive, dangerous, idle and disorderly. Common lands provided food and material that did not need to be cultivated, and improvers chose to see this in negative terms, tantamount to thievery and pillage. Enclosing common lands was said to increase the productivity of the land by placing larger portions under the control of one enterprising farmer, as well as increasing the productivity of the dispossessed who were subsequently required to exchange their labour for wages.¹⁵⁰ Kahnawá:ke chiefs in the 1870s recognized that a subdivision survey would likewise cut many people off from

¹⁴⁹ Italics are the author's. Neeson, *Commoners*, 30.

¹⁵⁰ *Ibid.*, 30-34.

resources, and they rejected the survey because they did not believe their community would survive without common-access resources.¹⁵¹

The DIA's decision to resurvey and redistribute land in Kahnawá:ke should be understood in the context of Canada's westward expansion. In the 1880s, the DIA was preoccupied with the thousands of Indigenous people west of the Great Lakes who had recently come under its jurisdiction. DIA officials viewed Indigenous people through a lens of crude stereotypes, but also in terms of financial expense. In contravention of longstanding traditions of nation-to-nation agreements and treaties, the Canadian state sought to speed the destruction of Indigenous political structures, cultural cohesion, and territories. The Walbank Survey can be seen as a trial run; an attempt to set a precedent on how to enfranchise an entire community and transform its territory into a private property grid. The failure of the Walbank Survey could therefore be seen to foreshadow the failure of the Canadian assimilation project as a whole. Despite all efforts by the Canadian state to the contrary, Kahnawá:ke (like many other Indigenous communities) has survived as a distinct political and cultural entity with a land base.

Although Walbank failed to achieve his most radical goals, his survey was part of a process of enclosure that had serious consequences for Kahnawá:ke Mohawks. The enclosure of common lands started around 1800 and continued throughout the nineteenth century, with some individual Mohawks claiming exclusive ownership to lots in ways that were at odds with customary rules. The Walbank Survey accelerated this process and gave it the legitimacy of state support. While Mohawk landownership and land-use had previously been a constantly-changing mosaic, Walbank's cadastral map froze a

¹⁵¹ Chiefs Jarvis A. Dione, Jos. K. Delisle, Jos. T. Skey, and Thos. Asennase to E. H. Meredith, May 14, 1875, RG10, vol. 1917, file 2764, LAC.

particular moment in time and served to preserve and privilege the boundaries it demarcated. Walbank's projected property grid never became reality but the existing lots were defined, numbered, mapped, categorized, and valued.

The people of Kahnawá:ke were likewise defined, named, numbered, categorized, and valued, but the success of the Canadian state in imposing its will on Kahnawá:ke should not be exaggerated. Due in part to the refusal of many Kahnawakehró:non to abide by the constraints for the Indian Act, land transactions post-1885 often went unrecorded. In some cases those who inherited certain lots were never informed, and generations went by without anyone consulting the records on particular lots. As a result, one of the major land-ownership concerns in Kahnawá:ke today is one of multiple ownership or "unsettled estates:" more than half of lots are owned by multiple people, often hundreds.¹⁵² This is seen as a blessing by those who want to see undeveloped landscapes preserved, as there is no easy way to get several hundred people to agree on selling or developing a lot, but it is seen by others as an impediment to development. The Walbank Survey also failed to establish an authoritative band membership list, and the elective band council, established in 1889, operated for decades without a list of members or electors.¹⁵³

In this way the Kahnawá:ke story no longer parallels the story of the Great Plains or the story of enclosure in England, where the enclosure of common lands created

¹⁵² Personal communication with a number of Kahnawakehró:non including A. Brian Deer on several occasions, and attorney Martha Montour on July 20, 2012. See also, n.a., "This is Indian Land: An exhibit on the state of Kahnawake lands," (Socio-Economic Development Program of the Mohawk Council of Kahnawake, [1982]).

¹⁵³ In 1915 the DIA still had no voting list for Kahnawá:ke. When the population voted in a referendum that year, the government had no exact way of knowing whether or not a number could be interpreted as representing a majority of electors. According to W.A. Orr, Officer in Charge of the Lands and Timber Branch, "the number of Indians entitled to vote can only be judged from the vote taken at the last election of chief." W.A. Orr memo, Mar. 18, 1915, RG10, vol. 3186, file 464,692, LAC.

landed winners and impoverished losers. In Kahnawá:ke the story is less clear-cut. While the creation of private property destroyed the Indigenous land regime and put lots into the hands of individual Mohawks, it did not succeed in destroying the community and breaking up the territory as intended. The very survival of Kahnawá:ke is testament to the failure of the Canadian state to impose its will on Kahnawá:ke, and of the strength and determination of this Indigenous community in the face of tremendous pressure to cooperate and assimilate.

CHAPTER 7 "It is Necessary to Follow the Custom of the Reserve Which is Contrary to Law:" Continuity and Rupture in Kahnawá:ke Land Management, 1880-1920

In the fall of 1881, a Mohawk man named Shorihowane (Louis Leclerc)¹ wrote to Deputy Superintendent of Indian Affairs, Lawrence Vankoughnet, asking for protection from Kahnawá:ke chiefs. Shorihowane said that he had recently cleared and cultivated a portion of the Grand Park (a swampy area today known as the Big Fence) and that the chiefs had demanded he give it up. He said he had a large family and that they were so poor they would starve if this piece of land were taken from them. To back up his claim to the land, he promised to produce four witnesses who could attest to the fact that the land had been forested and that he had himself cleared and cultivated it. In his letter to Vankoughnet, Shorihowane wrote, "...it was me that cultivated. I work hard a [illegible] for clear my Land it was not [illegible] it was in Bush its not in the pasture I'm telling the truth.... I have a witness y that me cultivated." His witnesses, according to Shorihowane, "seen me when I was working on my land my farm."² As the case unfolded, it became clear that the chiefs only opposed Shorihowane's claim because he already had another much larger parcel of land in his possession. The chiefs offered Shorihowane fifty dollars to pay for his family's move to the other lot, and granted him "the privilege of sowing the land of the grand parc next summer as it is already ploughed." In exchange for this

¹ Alternate spellings Shorio 8a ne and Sariowani. Rowi Shorihowane (Louis Leclerc), Walbank claimant no. 77, was born in 1830 and had married for a second time in 1880 to a woman named Onwari Katsitsaronk[wa]. In 1885, four years after this case, Walbank listed him as owning three lots totalling about 30 acres of which 13 were sugarbush and nearly 6 were cultivated. These properties were valued at \$605. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

² Louis Shorihowane to L. Vankoughnet, Nov. 10, 1881, RG10, vol. 2162, file 33,840, LAC.

leniency, Shorihowane agreed to sow the lot in hay before leaving.³ Vankoughnet accepted the judgment of the chiefs because they compensated Shorihowane for his improvements.

Shorihowane based his claim on his customary right to claim and cultivate uncleared land,⁴ and the chiefs did not dispute his right, but they overruled his claim because he already had another lot. According to the custom, one could not claim more land than one could work,⁵ and the chiefs' decision indicates they thought he already had enough. If the entire Walbank Survey had been successfully completed in the 1880s, Shorihowane might have been one of the last to claim land according to Kahnawá:ke customary law. But Walbank succeeded only in mapping existing lot boundaries and determining an owner for each, and failed in the larger project of land redistribution and mass enfranchisement. In addition, because the Walbank Survey became a political boondoggle by the end of the 1880s, the DIA distanced itself from land and membership issues in Kahnawá:ke for the next several decades and allowed these issues to fester.

This chapter reveals that although the Walbank Survey did not immediately change the way Kahnawakehró:non related to their lands, it had a significant impact in the long run. During the period from 1880 to 1920, both customary land laws and the Indian Act were unevenly applied in Kahnawá:ke, but customary laws were applied less and less frequently. Sometimes the DIA took Kahnawá:ke customs into account (as in the Shorihowane case); other times it did not. It is often difficult to understand which laws

³ Council resolution, Dec. 29, 1881, RG10, vol. 2162, file 33,840, LAC.

⁴ Law No. 6 of the Twenty-One Laws of 1801 states that any member of the nation may claim a lot that has not been worked for three consecutive years. See Chapter 3 for more on the Twenty-One Laws.

⁵ Law No. 3 of the Twenty-One Laws of 1801 states that no person may possess more land than he/she can work without having someone work in his/her place. See Chapter 3 for more on the Twenty-One Laws.

were being applied, which were being ignored, and which were being misrepresented. It is equally difficult to determine trends over time due to the inconsistency of departmental decisions, frequency of band council elections, and the personal allegiances of the Indian agent. Nevertheless, I have found no reference after the year 1900 to the customary land laws spelled out in the Twenty-One Laws of 1801 (Chapter 3). After the Walbank Survey, some Kahnawakehrónon continued to buy and sell land. Some provided themselves with notarized deeds while others still claimed and used land according to the old ways. There is no way to know how much land fell under each category because Kahnawá:ke did not have a systematic land registry, and many of the land records that existed were lost in the burning of the agency office in 1943.⁶ In addition, lands held without deeds did not leave paper trails unless there was a conflict. Nevertheless, this chapter presents a number of case studies that show that while the informal Kahnawá:ke land market and some associated practices continued well into the twentieth century, these practices (and the ideas behind them) were losing ground to other practices and ideologies.

This chapter begins with a summary of relevant Indian legislation, continues with an overview of some key moments and issues in Kahnawá:ke governance, and includes a discussion of Kahnawá:ke agriculture. The remainder of the chapter is made up of case studies, each of which reveal the changing and contested nature of land ownership and resource management. The Lot 205 Case, which was the result of land expropriations for the CPR bridge and line, was a dispute over compensation money. DIA records on this case, including the testimonies of sixteen witnesses, provide some of the most remarkable

⁶ C.H. Taggart to Harold W. McGill, June 14, 1944, Appendix G, in Taggart, *Caughnawaga Indian Reserve*.

and detailed documentary evidence of Kahnawá:ke land practices I have encountered. Further cases discussed concern land and wood rights around the turn of the century, and reveal the importance of the Indian agent in determining the outcome of disputes of this nature. These cases demonstrate that land and resource management continued to be a site of great contestation between the DIA and the multiple nodes of authority in Kahnawá:ke. Sometimes the DIA was able to assert itself with no apparent opposition; at other times the department seemed nearly impotent in the face of concerted political action by Kahnawakehró:non. While this chapter argues that customary land law was on the decline between 1880 and 1920, it also shows that this decline occurred in the context of dizzying political, economic, cultural, and environmental challenges that Kahnawakehró:non met with remarkable determination, creativity, and courage.

Indian Legislation

Canadian Indian legislation in the late nineteenth century was characterized by the continuing and growing empowerment of the DIA at the expense of Indigenous communities.⁷ Beginning in 1873 the Department of Indian Affairs was nominally overseen by the Minister of Interior, who was also the Superintendent General of Indian Affairs, but for all practical purposes the DIA was run by the unelected Deputy Superintendent General.⁸ In 1880 the Indian Act was amended to allow the DIA to impose the band council system with or without the consent of the community, and to

⁷ For a summary of Indian laws and DIA power from 1867 to 1880, see Chapter 5.

⁸ Brownlie, *A Fatherly Eye*, 31. Historian Sarah Carter argues that this position was one of the most powerful positions in Ottawa due to its legally disenfranchised and increasingly racialized constituency. Carter, *Lost Harvests*, 50.

depose traditional leaders or elected councillors at will.⁹ It also gave the Superintendent General the power to "authorize surveys, plans and reports to be made of any reserve for Indians, shewing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as may be required; and may authorize that the whole or any portion of the reserve be subdivided into lots."¹⁰ This power was used to authorize the Walbank Survey against the will of the majority of Kahnawakehrónon (Chapter 6). The 1880 legislation also included specific mention of "Caughnawaga half-breeds." Any Kahnawá:ke residents who by their father's side were either "wholly or partly of Indian blood" who had resided there for the last twenty years were "confirmed in their possession and right of residence and property."¹¹ This wording was chosen to allow certain families to retain their rights in Kahnawá:ke despite widespread opposition within the community.

The 1884 Indian Advancement Act ("An Act for conferring certain privileges on the more advanced bands of Indians of Canada with the view of training them for exercise of Municipal Affairs") was an aggressive assimilationist law that made the establishment of elected band councils, modelled on Euro-Canadian municipal governments, a principal objective of Indian Policy.¹² To make the band council system more appealing to communities still operating under their own forms of government, the Advancement Act gave band councils slightly expanded powers in terms of policing and public health. However, the act also greatly extended the power of the Superintendent

⁹ Tobias, "Protection, Civilisation, Assimilation," 133-134.

¹⁰ Canada, "An Act to amend and consolidate the laws respecting Indians," Assented to May 7, 1880, Section 16.

¹¹ *ibid.*, Section 15.

¹² Reid, *Kahnawà:ke*, 70.

General to direct the affairs of a community through the regulation of elections and size of councils, and the deposition of elected councilors. It also weakened band councils by requiring that elections be held every year, instead of every three years as it had been under the 1876 Indian Act. Because most communities refused to come under the Advancement Act voluntarily, the act was often imposed, or the support of a minority was interpreted by the DIA as community assent.¹³ The Indian Advancement Act also allowed the Superintendent General to lease reserve lands (held under location ticket) for revenue without obtaining a surrender of the land to be leased, as had previously been required. This measure undermined a band council's jurisdiction in regards to land by allowing an individual landowner to lease land without the consent of the band council as long as he or she had the backing of the department.¹⁴

An 1886 amendment to the Indian Advancement Act further strengthened the hand of the department by allowing the Indian agent to cast the deciding vote in the event of a tie in council.¹⁵ Further legislative efforts to empower the DIA continued in the following decade with an 1894 amendment to the Indian Act that empowered the DIA to depose leaders of communities that had not yet made the transition to the band council system of governance. The amendment also allowed the department to lease the land of the aged or orphans without their permission,¹⁶ and to commit children to boarding schools without parental permission.¹⁷

¹³ In a number of cases the DIA also used its power to depose uncooperative elected leaders. Smith, *Liberalism, Surveillance, and Resistance*, 123-127.

¹⁴ Tobias, "Protection, Civilisation, Assimilation," 134-135.

¹⁵ *The Indian Advancement Act*. Revised Statutes of Canada. 1886, Chap. 44 (49 Vict.) Section 3.

¹⁶ This was a way for the DIA to reduce operational costs by bringing in revenue from reserve lands, without the cooperation of the band council.

¹⁷ Tobias, "Protection, Civilisation, Assimilation," 135-136. In an 1898 amendment, the Superintendent General of Indian Affairs was further empowered to make "necessary" regulations for the policing and public health of individual communities and to expend band funds for this purpose.

By the turn of the twentieth century, Canadian policy makers understood that the reserve system was failing to assimilate Indigenous people. Rather, it seemed to be having the opposite effect. The legislation from this period was the outcome of a renewed push to create momentum for assimilation, including the eventual dismantling of the reserve system. The 1906 Indian Act and its subsequent amendments had the aim of removing a number of protective elements of reserves, and to force Indigenous people off-reserve where they would be more likely to assimilate.¹⁸ Amendments to the Indian Act made in 1911 allowed the DIA to alienate reserve land without consent of the community.¹⁹ The 1920 amendment to the Indian Act empowered the federal government to order the enfranchisement of individual Indians without their request or consent.²⁰ A summary of these amendments begins to have a repetitious feel, with new laws often copying old laws but further strengthening the hand of the DIA and weakening that of band councils. All of these measures had an impact on Kahnawá:ke, but perhaps the most disruptive was the implantation of the band council system, as laid out in the Indian Advancement Act.

The DIA and Kahnawá:ke Governance

As has been shown in the dissertation thus far, conflicts over land were deeply influenced by local politics. Ethnohistorian Gerald Reid has studied the political disputes of the 1870s to the 1920s in great detail, and I here recapitulate some of his findings along with my own in order to show the linkages. Because the Walbank Survey had

¹⁸ Ibid., 136.

¹⁹ Scott, "Indian Affairs, 1867-1912," 618.

²⁰ This amendment was repealed in 1922 and again reinstituted in 1933. Reid, *Kahnawá:ke*, 134.

failed to enfranchise Kahnawakehró:non and eliminate their reserve, and since there did not seem to be any realistic prospect of achieving these goals in the near future, the DIA pressed for the elected band council system to be applied to Kahnawá:ke in the late 1880s. The stage was already set through decades of departmental action or inaction which had the effect of discrediting the chiefs and taking away their powers (Chapters 5 and 6). The department also refused to allow deceased chiefs to be replaced, thus forcing the issue.²¹ In November 1887, fifty-four Kahnawakehró:non (11% of adult males) petitioned to have section 72 of the 1880 Indian Act imposed; that is, to elect chiefs in a general election to replace the sitting council of chiefs which, according to the petitioners "is defective on account of its quorum being insufficient."²² It is important to note that these petitioners specifically asked for such a measure under the 1880 legislation, not 1884 Indian Advancement Act, since the 1884 act offered a weaker band council and the potential of more interference by the DIA. In addition, the petitioners made it clear that they saw this simply as a temporary way to have a functioning government without resorting to the Indian Advancement Act. Ethnohistorian Gerald Reid shows, based on the political allegiances of petitioners, that this petition probably represented the conservative side of Kahnawá:ke politics which opposed the Advancement Act.²³

In January of 1888 only three chiefs remained on the traditional Council of Chiefs, and the DIA refused to allow the naming of new chiefs under that system. As for the remaining chiefs, Agent Alexander Brosseau reported "qu'il est très difficile de pouvoir réunir les trois Chefs ensemble lorsque j'en ai besoin en assemblée pour former

²¹ Gerald Reid, "Kahnawake's Council of Chiefs:1840-1889," Mohawk Nation at Kahnawake, <http://www.kahnawakelonghouse.com/index.php?mid=2&p=2>. Accessed Aug. 3, 2012.

²² As quoted in Reid, *Kahnawà:ke*, 70.

²³ Ibid., 70-73.

le quorum."²⁴ That month Brosseau called a general meeting in Kahnawá:ke to discuss the application of the Indian Advancement Act. He reported good attendance and unanimous support "aussitôt qu'il le jugera convenable vu qu'il n'y a plus que trois Chefs sur la Réserve les autres étaient morts."²⁵ Brosseau also noted at that time that the nearly complete Walbank Survey would facilitate the creation of electoral districts.²⁶ Although the agent's claim of unanimous support was almost certainly a misrepresentation of Kahnawá:ke public opinion, the DIA began the legal process of applying the Advancement Act to Kahnawá:ke.²⁷ In the weeks and months following Brosseau's meeting, large numbers of Kahnawakehró:non signed petitions demanding the department allow them to elect new chiefs under the old system. The DIA paid these petitions no heed.²⁸

The agent held a meeting in April 1888 to explain the way the new elections would work, and recommended to the department that the Advancement Act be applied soon so that elections could be held without delay.²⁹ But the DIA was in no hurry to take action. In January of 1889, nearly one year after elections had been promised, the agent said he received two or three delegations each week, asking for information on when an

²⁴ Brosseau to DIA, Jan. 18, 1888, RG10, vol. 7921, file 32-5, LAC.

²⁵ *ibid.*

²⁶ *ibid.*

²⁷ Three months later, Brosseau mentioned that at least one of the three remaining chiefs was opposed to the application of the Advancement Act. Brosseau to Vankoughnet, Apr. 10, 1888, RG10, vol. 7921, file 32-5, LAC.

²⁸ Immediately following Brosseau's meeting, 160 Kahnawakehró:non petitioned to be allowed to elect new chiefs pending the departmental decision concerning the application of the Advancement Act. Caughnawaga Indians to DIA, received Jan. 25, 1888, RG10, vol. 7921, file 32-5, LAC. According to Reid, thirty-two (57%) of those who signed the November 1887 petition also signed the January 1888 petition, and he concludes that these were last-ditch attempts to restore the traditional council of chiefs. There were also petitions from each of the seven Kahnawá:ke clans, asking permission to elect chiefs, presumably outside the parameters of the Indian Advancement Act. Reid, *Kahnawà:ke*, 71-74.

²⁹ Brosseau to Vankoughnet, Apr. 10, 1888, RG10, vol. 7921, file 32-5, LAC; *ibid.*, 73-76.

election would be held.³⁰ Also in January of 1889, 210 Kahnawakehró:non, representing all seven clans and making up 43% of the adult population, signed petitions asking for "the Election of Chiefs while waiting for the Indian Advancement Act applied to us."³¹ Like earlier petitions, these were denied.

The Indian Advancement Act was finally applied to Kahnawá:ke in March 1889.³² As a result the Council of Chiefs was abolished and Kahnawá:ke was officially designated "the Caughnawaga Indian Reserve."³³ The reserve was divided into six geographic electoral divisions, each of which would elect a representative to sit on the band council. A peculiar feature of these electoral divisions was that the village district represented hundreds of electors while the other five districts were rural, with an average of fifteen to twenty electors in each.³⁴ Although it was recognized that this system was hardly equitable, as it gave undue political power to those who lived outside the village, DIA officials hoped it would encourage Kahnawakehró:non to move onto the lots that had recently been defined by the Walbank Survey, and presumably take a greater interest in agriculture.³⁵

The first election under the Indian Advancement Act was held almost immediately after the application of the act. Tawehiakenra (Louis Jackson), a leading conservative, and captain of the Canadian voyageur contingent to Egypt in 1885, was elected by the majority of those who lived in the populous village district, but the first

³⁰ Brosseau to Vankoughnet, Jan. 9, 1889, RG10, vol. 7921, file 32-5, LAC.

³¹ Petitions, Jan. 13, 1889, RG10, vol. 7921, file 32-5, LAC; Reid, *Kahnawá:ke*, 74.

³² Order in Council, Mar. 5, 1889, RG10, vol. 7921, file 32-5, LAC.

³³ Superintendent General to the Privy Council, Jan. 31, 1889, RG10, vol. 7921, file 32-5, LAC.

³⁴ Brosseau to Vankoughnet, May 1, 1888, RG10, vol. 7921, file 32-5, LAC.

³⁵ The Indian Advancement Act specified that to vote in a particular district, an elector must be a resident of that district, but a candidate himself was not required to live in the district in which he ran. Vankoughnet to Brosseau, Apr. 28, 1888, RG10, vol. 7921, file 32-5, LAC.

band council was dominated by reformists elected in the sparsely populated districts outside the village. Although the council was controlled by reformists, however, the DIA was extremely slow to respond to council resolutions if it responded at all. Since the band council had no authority to act without departmental approval, this predicament was frustrating even to reformist band councilors who had believed this form of governance would be more efficient than the council of chiefs. Nevertheless, reformists continued to maintain a deferential disposition toward the DIA while conservative councilors boycotted meetings in protest of departmental unresponsiveness.³⁶

In the 1890 election Tawehiakenra was returned to office by a wide margin, this time as chief councilor, and with a conservative majority. In its first sitting, the new council requested the DIA to have the Indian Act amended to allow band councils to enact their own bylaws without the approval of the department. Fifty-two Kahnawakehrónon, mostly reformist-leaning landowners, petitioned against this expansion of band council powers. They argued that it was unjust for landowners to be ruled by those who owned no land (as was then the case). They also asked the DIA to have the franchise limited only to those who were educated and owned property. The possibility of expanding band council powers in Kahnawá:ke was debated in the House of Commons in March of 1890, with the Liberals supporting the idea, and the Conservatives firmly opposed. Cyrille Doyon, the Liberal Member of Parliament representing Laprairie, led the Liberals in this debate, arguing that Kahnawakehrónon were more advanced than other First Nations and should thus be given more responsibility in governing themselves. The leader of the opposition, Wilfred Laurier,

³⁶ Reid, *Kahnawà:ke*, 76-80.

went further, arguing that all band councils under the Indian Advancement Act should be given these expanded powers. Edgar Dewdney, the Minister of the Interior and Superintendent General of Indian Affairs, retorted that Kahnawá:ke was the one community that did not deserve expanded band council powers, citing the behaviour of Tawehiakenra's "obstructive party." Prime Minister John A. Macdonald added that band councils could not be allowed to act independently as long as all Indians, including the "wild and dissolute" were allowed to vote in band council elections. The proposed amendment was defeated.³⁷

Probably realizing that the band council system was designed to keep their leaders impotent, regardless of the political persuasions of those elected, many Kahnawakehró:non quickly grew dissatisfied with that governance model. At the end of 1890 the DIA received two petitions from Kahnawá:ke asking for a return to traditional governance: one from seven women of the Bear Clan, and another from 121 people demanding an end to "the republic form of government of electing persons" to continue the system of hereditary chiefs. The department paid these petitions no heed.³⁸

In the lead-up to the 1892 spring elections, Agent Brosseau reported that some people were moving from the village to areas outside in order to vote in those districts: "...plusieurs Sauvages du village de Caughnawaga sont allés se réfugier sur les diverses Sections de la Réserve, dans le but de donner la majorité à leur parti à l'Élection des Conseillers..."³⁹ Since few Kahnawakehró:non who owned land outside the village lived on those lands, even a small number of moves from the village to the outlying areas could

³⁷ Ibid., 81-88. Reid offers a detailed analysis of this debate and the related petitions.

³⁸ Ibid., 86-88.

³⁹ Brosseau to Superintendent General, Feb. 3, 1892, RG10, vol. 7921, file 32-5, LAC.

greatly affect the outcome of an election.⁴⁰ While this was exactly what the electoral divisions had been designed to encourage, the agent and the department found it alarming. To stop the trend, Brosseau suggested that the department disqualify anyone from voting in a district if they had moved there in the last six months, and the DIA agreed.⁴¹ In 1896 Brosseau recommended that the six-district system be eliminated. He argued that the point of the system had been to encourage Kahnawakehrónon to establish themselves outside the village, but this had not occurred. In fact, the population of some districts was decreasing.⁴² The department initially agreed with Brosseau, but after 110 Kahnawakehrónon (likely those who lived in outlying areas and others who enjoyed a political advantage under the existing arrangement) signed a petition asking the system be kept as is, the department took no action. That system was only replaced by a single-district system in 1906.⁴³

As soon as the band council system was established, many Kahnawakehrónon expressed their dissatisfaction with it, and their desire to return to the traditional council of chiefs. In the 1890s and the early twentieth century such discontent was often expressed in the form of petitions, including one in 1894 signed by 245 Kahnawakehrónon demanding a return to traditional governance.⁴⁴ In response, T.M. Daly, the Minister of Interior and Superintendent General of Indian Affairs, and his

⁴⁰ Reid, *Kahnawà:ke*, 102.

⁴¹ DIA to Brosseau, Feb. 16, 1892, RG10, vol. 7921, file 32-5, LAC. This would appear to be an example of the penchant of the DIA for making and attempting to enforce rules that were convenient but contrary to law. See Haring, "'There Seemed to Be No Recognized Law'."

⁴² Brosseau to DIA, Dec. 12, 1896, RG10, vol. 7921, file 32-5, LAC.

⁴³ Reid, *Kahnawà:ke*, 102. It is interesting to note that it was found in 1934 that the 1906 Order in Council replacing the six-district system with a singly district had not been legal, and was thus null and void; however, all actions taken under that Order in Council since 1906 were declared valid and lawfully made. Canada, "Caughnawaga Indian Reserve Act," S.C. 1934, c. 29. The Indian Advancement Act required a minimum of two electoral districts.

⁴⁴ Ibid., 97.

deputy, Hayter Reed, visited Kahnawá:ke. They met with about four hundred Mohawks to discuss the possibility of giving up the band council system and reverting back to the Council of Chiefs. Also present at the meeting were representatives from Ahkwesáhsne, Kanehsatà:ke, and other Indigenous communities in the area. One newspaper reported that "the day was regarded as a gala occasion, the houses were decked with flags, and the assemblage singularly bright and animated."⁴⁵ The meeting could perhaps be seen as a continuation of the tradition of large council meetings at Kahnawá:ke between Laurentian First Nations communities and colonial governments.⁴⁶ Chiefs gave speeches in their respective languages. Several used their speeches to argue that the current law was unacceptable, that the old system of governance should be reinstated, and that Indian agents should be removed from their communities. One reporter noted, however, that "others were found" who had only small grievances with the band council system.⁴⁷ Minister Daly, in what must have been an extraordinarily disappointing speech for many gathered, promised to seriously consider their request if there were unanimous support for a return to the old system. Like everyone else, Daly knew that unanimity on this matter would be impossible to achieve. Daly ended his speech by encouraging Kahnawakehró:nnon to give more attention to the cultivation of their land.⁴⁸

This dismissive response from an influential minister was disheartening and infuriating to those who opposed the band council system. Shatekaienton (Louis Beauvais), who had been named a traditional chief in the 1850s at the age of 20 and

⁴⁵ "Indians in Council," *Daily Nor'Wester*, Feb. 21, 1895, pg. 4.

⁴⁶ For more on the Seven Nations, see Beaulieu and Sawaya, "L'importance stratégique des Sept-Nations du Canada (1650-1860); Beaulieu and Sawaya, "Qui sont les Sept-Nations du Canada?."

⁴⁷ "Indians in Council," *Daily Nor'Wester*, Feb. 21, 1895, pg. 4.

⁴⁸ *ibid.*

continued in this position until the council was abolished in 1889, published a letter in the *Montreal Daily Witness* to rebut Daly's version of the Kahnawá:ke meeting and to inform the public of the majority's desire to return to the traditional system. Shatekaienton took particular issue with Daly's assertion that the governance system of the Advancement Act would lead to the "enlightenment" of his people, and that returning to the old system would be to step back in time to a less civilized time. Shatekaienton argued that it would be better to "draw back, even as far back as one hundred and fifty years, to save our reserve from ruin, for the new system, the Indian Advancement act, has created nothing but divisions, enmity and separation among us, it has degraded us rather than promoted."⁴⁹

Two years later, in 1897, eighty-eight women from Kahnawá:ke petitioned for a return to traditional governance, maintaining that the band council system had increased sorrows, eliminated advantages, and caused disputes. The response of the DIA was to say that a return to the traditional system was not in the best interest of Kahnawá:ke, and that such a request would never be considered. Although there appeared to be no hope of success, Kahnawakehró:non kept petitioning to have the Advancement Act revoked. Such petitions continued to be sent in the first decade of the twentieth century, but were either ignored or rejected.⁵⁰ Opposition to the band council system never went away but by the first decade of the twentieth century it must have been clear to Kahnawakehró:non that the DIA had no intention of allowing a return to a governance model based on Kahnawá:ke tradition.

⁴⁹ As quoted in Reid, *Kahnawà:ke*, 100.

⁵⁰ Ibid., 103-104.

Against the wishes of most Kahnawakehró:non, the DIA replaced the main Kahnawá:ke school and its Mohawk-speaking teacher, Peter J. Delisle, with English-speaking Catholic nun-teachers in the 1910s.⁵¹ Infuriated by this incursion into their affairs, along with many others, many Kahnawakehró:non began to express their resistance to the Indian Act and DIA through their involvement in the Thunderwater Movement, also known as the Council of Tribes. This was a pan-Indian movement led by a man known as Chief Thunderwater, which sought to unify First Nations across North America and to empower them to address their economic, political, spiritual, and cultural concerns. By August of 1916 at least two hundred Kahnawakehró:non had purchased memberships, and Thunderwater himself visited Kahnawá:ke that September to hold a two-day rally. Thunderwater supporters dominated the band council for at least two years, and the department found them uncooperative. The movement created new enthusiasm for band council elections among conservatives, and in the 1917 election, Thunderwater supporters won all six council positions with John T. Daillebout as chief councillor or "mayor."⁵² The new council took a confrontational approach toward the DIA, and the department did not respond kindly. When the newly-elected councillors travelled to Ottawa in 1917, in the company of Thunderwater, Deputy Superintendent Duncan C. Scott refused to meet with them.⁵³ The DIA also blocked a 1918 attempt by a number of Rotinonhsiónni communities in Canada to incorporate the Council of Tribes in

⁵¹ Ibid., 104-118. Historian Alyssa Mt. Pleasant has shown that Rotinonhsiónni people in the early nineteenth century associated Euro-American schooling with land loss. It is likely that many Kahnawakehró:non shared this perspective. Mt. Pleasant, "After the Whirlwind," 136-139.

⁵² Reid, *Kahnawà:ke*, 120-132.

⁵³ Scott had adopted a policy of ignoring Thunderwater and refusing to answer his letters. Titley, *A Narrow Vision*, 97-100.

Canada.⁵⁴ Peter J. Delisle, the Grand Councillor of the Kahnawá:ke Thunderwater organization, was charged with sedition in March 1919 and found guilty six months later. In 1920 the DIA tried to undermine Thunderwater by declaring that this was a black man, not an Indian, who was defrauding his followers, and his opponents denounced him as such during a Kahnawá:ke gathering. Thunderwater fled the country and the movement lost momentum, but the principles it stood for continued to be espoused in Kahnawá:ke.⁵⁵

During the 1920s, the conservative resistance to the DIA in Kahnawá:ke, like that in other Rotinonhsiónni communities, moved towards a longhouse identity. According to Reid, there is strong evidence of a functioning clan system and traditional government that existed alongside the band council system well into the 1920s. Some of these traditionalists in the 1920s were Kentaratiron (Joseph Beauvais), an 83-year old farmer, Ariwakenra (Mitchell Beauvais), Karaienton, Dominic Two-Axe, and Angus Montour (American Horse), a 73-year old retired performer in Wild West shows. Dominic Two-Axe, after suffering an injury as an iron worker, began a practice as a medicine man, like his father Martin Two-Axe before him. Two-Axe's training included visits to other Rotinonhsiónni communities, which Reid suggests is indicative of a broader traditionalist movement of which Kahnawá:ke was part. After the church refused to allow its buildings to be used for a Grand Council of the Iroquois Confederacy in 1927, the Longhouse people built their own longhouse and a few months later publicly announced their break from the Catholic Church. Longhouse members were vocal critics of DIA policies, and

⁵⁴ A private member's bill had been along these lines had been introduced by Edward Guss Porter, a Conservative M.P. for the electoral district of Hastings West, which included the Mohawk community of Tyendinaga. Scott convinced both Arthur Meighen, the Interior Minister, and Prime Minister Borden that Thunderwater was an imposter and that he encouraged Native people to be insubordinate. Meighen and Borden then convinced Porter to withdraw his bill after the first reading. Ibid., 99.

⁵⁵ Reid, *Kahnawà:ke*, 120-132; Titley, *A Narrow Vision*, 97-100.

the implementation of more draconian and interventionist DIA policies tended to coincide with spikes in longhouse membership. Longhouse leaders took an active political role, regularly petitioning the Canadian government on such issues as the contamination of local streams and the poisoning of livestock by runoff from a local golf course.⁵⁶ Resistance to the DIA continued throughout the twentieth century, as did the desire among many to return to the old political system.

Agriculture

The last decades of the nineteenth century likely represent the height of commercial agriculture in Kahnawá:ke, although the percentage of the territory used for this purpose was probably never as high as it was in surrounding lands. The lower percentage of agricultural land was initially due to customary land practices that encouraged small-scale horticulture, and later due to complications arising from the Indian Act and the unfinished Walbank Survey. Nevertheless, the official position of the DIA was that Kahnawakehró:non must be encouraged to farm. To this end, the DIA was involved in the establishment of an annual agricultural exhibition in Kahnawá:ke, the first of which was held in 1882. It was hoped that these would "promote a spirit of enterprise among these Indians."⁵⁷ The second "Grand Agricultural and Industrial Exhibition, open only to Indians throughout the Dominion," was held in 1883, and was described in great

⁵⁶ Reid, *Kahnawà:ke*, 134-153.

⁵⁷ Canada, "Annual Report of the Department of Indian Affairs," Jan. 1, 1887, Sessional Papers, vol. 5, pg. xxvi. For more on exhibitions in Indigenous communities, see Chapter 10 in Elsbeth Heaman, *The Inglorious Arts of Peace: Exhibitions in Canadian society during the nineteenth century* (Toronto: University of Toronto Press, 1999).

detail in the *Montreal Daily Witness*.⁵⁸ On display were farm animals, agricultural products such as potatoes, grains, butter and fruits, as well as maple syrup and home-made wine. The reporter was particularly impressed with the display of Indian corn: "white, yellow, mottled and variegated, in numerous assortment and better than the average to be found in our market stalls."⁵⁹ William Walbank (Chapter 6) was the Honourary President and head of the Executive of the Exhibition, and, according to the reporter, could "not be too highly mentioned for the active interest he has taken in the matter from the first. He was untiringly active on the grounds all day yesterday, not even allowing himself time for refreshments from six in the morning till six in the evening." The Kahnawá:ke exhibition attracted Indigenous people from other communities, including lacrosse teams from Onondaga and Ahkwesáhsne. Visitors entered the exhibition grounds through a "handsome evergreen arch, inscribed in white letters on a scarlet banner—"Welcome to Caughnawaga. Speed the plough." Over four thousand people attended the event over the course of two days in 1883. In Walbank's final speech to the gathered crowd he reminded visitors that they could no longer say that Indians cannot become farmers, and assured them that "if they would go to the farms on the reservation they would find them well kept."⁶⁰ The following year organizers used \$1500 in band funds to erect an exhibition hall, and the event drew some six thousand people. The exhibitions continued only until the construction of the CPR line bisected the exhibition grounds (on the Kahnawake Commons) and the poorly-built exhibition hall was destroyed by a storm. Subsequently the DIA apparently lost interest in this way of

⁵⁸ "The Indian Exhibition," *Montreal Daily Witness*, Sept. 29, 1883, reprinted in Canada, House of Commons, *Sessional Papers*, no. 4 (1884), 152-158.

⁵⁹ *ibid.*

⁶⁰ *ibid.*

encouraging First Nations to cultivate land, and in the early years of the twentieth century refused the use of Kahnawá:ke band funds for this purpose.⁶¹

The anonymous *Catholic World* columnist, who visited in 1883, painted a flattering portrait of Kahnawá:ke gardens and livestock. The description would suggest that the columnist attended the exhibition, although there is no mention of such in the article:

The beans and peas trained under the shelter of the massive walls of the old régime cannot be surpassed; the cucumbers and tomatoes spreading over the ruins of Count Frontenac's masonry are unrivalled; fruit, too, and flowers, plump birds, lordly beef, the very nuttiest of cream and butter.⁶²

The 1886 DIA annual report stated that there were 4060 acres under cultivation and that the last harvest produced 39,963 bushels of grain and roots, and 1400 tons of hay.⁶³

Although further study would be required to determine the reliability of these figures as well as trends over time, it is clear that cultivated land formed a large proportion of Kahnawá:ke territory, and that agricultural products were an important part of its economy. Anecdotal evidence also suggests that agricultural work figured prominently in the lives of large numbers of Kahnawakehró:non of this period. For example, in July 1895 the band council resolved that road work be put off because everyone was working in the fields at that time.⁶⁴

In the latter decades of the century many Kahnawakehró:non continued to pasture cattle in the fenced common pasture, and those who owned their own pasture-lands could graze their animals elsewhere. Some Kahnawakehró:non also let their animals roam free

⁶¹ Heaman, *The Inglorious Arts of Peace*, 293.

⁶² n.a., "At Caughnawaga, P.Q.," *Catholic World*, vol. 37, no. 221 (1883).

⁶³ Canada, "Annual Report of the Department of Indian Affairs," Jan. 1, 1887, Sessional Papers, vol. 5, pg. xxvii.

⁶⁴ Council minutes, July 22, 1895, RG10, vol. 2811, file 164,517, LAC.

in unfenced parts of the territory. Farmers in Châteauguay complained that cattle from the reserve often found their way into their fields because the fence around the reserve was in poor repair. They repeatedly petitioned to have the Mohawks build or pay for half of the fence. Kahnawá:ke chiefs knew they could not be compelled to pay for the construction of such fences because provincial laws on fence maintenance did not apply to Indian reserves.⁶⁵ They also argued that such fencing should not be done until the completion of the Walbank Survey because, presumably, without a survey it would not be possible to know where to run fences or which individuals would be required to work on or pay for them.⁶⁶

When asked his opinion on the matter, Indian agent Georges Cherrier argued that the problem was not Mohawks' cattle on Châteauguay fields, but Châteauguay farmers' cattle on Mohawk lands. He claimed it was Châteauguay farmers who "ne font jamais les cloitures avec assez de précaution" and as a result their animals were often free and causing damage on reserve territory. He also claimed that "la plupart de les blancs éludent la loi en disant que les indiens prennent leurs animaux en pacage tandis que je suis certain du contraire et qu'ils louent au pâturages."⁶⁷ In other words, Cherrier was concerned about unofficial deals to rent Kahnawá:ke land to white farmers as pasture, and he asked the DIA to take strong action against such practices.⁶⁸ As it turns out, however, Cherrier was personally invested in pasturing on the territory, and was rebuked for this by the Deputy Superintendent: "It is certainly remarkable," wrote Vankoughnet,

...if, after acting in the capacity of Indian Agent for so many years you refuse instruction on such a simple point as that referred to in your letter.

⁶⁵ Vankoughnet to Cherrier, Dec. 24, 1881, RG10, vol. 2162, file 33,790, LAC.

⁶⁶ Resolution of the Chiefs in Council, May 16, 1882, RG10, vol. 2162, file 33,790, LAC.

⁶⁷ Cherrier to Vankoughnet, July 26, 1883, RG10, vol. 2162, file 33,790, LAC.

⁶⁸ Cherrier to Vankoughnet, Aug. 4, 1883, RG10, vol. 2162, file 33,790, LAC.

It is feared that you have been too much mixed up personally in such matters as the pasturing of cattle and horses on certain lands in the Reserve to act with unfettered hand in cases of violation of the law such as those to which you refer.⁶⁹

Cherrier defended himself vigorously, but had fallen out of favour with the department and was soon replaced by Alexander Brosseau, who remained agent for the next twenty years. It can be seen from this exchange between Cherrier and Vankoughnet that Kahnawá:ke pastureland was highly contested and unregulated in the early 1880s. The Indian agent used his position to keep others' cattle from competing with his own, or with the cattle of his clients. Before the Walbank Survey, Kahnawá:ke land was still unsurveyed and individual ownership was uncertain in the eyes of the department, which meant that official leases between Mohawks and non-Mohawk farmers were difficult, if not impossible, to arrange. With customary laws and traditional chiefs holding less sway, and with the DIA unable to enforce its own laws, people made their own rules for the moment. Kahnawá:ke may have been a kind of open-access common at that time (Chapter 5), but there were no complaints about overgrazing—only about animals being where they should not have been.

In addition to cattle, pigs were also a concern. Law Number 10 of the 21 Laws of 1801 (Chapter 3) dealt with pigs, but did not prohibit pigs from running loose all year-round. It stipulated that an announcement would be made after the snow-melt every spring, after which date any pig found grubbing on cultivated land could be killed and left for the owner to pick up.⁷⁰ In 1885 the council of chiefs passed a new law, which would

⁶⁹ Vankoughnet to Cherrier, Aug. [14], 1883, RG10, vol. 2162, file 33,790, LAC.

⁷⁰ Règlements établis par les chefs du Sault Saint-Louis, Feb. 26, 1801, RG10, vol. 10, p. 9446-9454, reel C-11000, LAC.

later be considered a by-law, prohibiting pigs from running loose.⁷¹ I have encountered no records on the enforcement of this law, which may be an indication that loose pigs were primarily confined to the village, and that this law was more enforceable as a result.

Contrary to public assumptions about Indians, both then and now, and although smaller-scale agriculture in Kahnawá:ke continued to be practiced without animal labour, Mohawks had considerable experience with drought animals. Tawehiakenra (Louis Jackson) the captain of the Canadian voyageurs in Egypt, who later wrote about his experiences, revealed his agricultural experience and interest when he observed a cow and camel yoked together for ploughing a field in Egypt:

A funny sight was presented by a cow and a small camel harnessed to a plough. A stick, crooked suitably by nature, was laid over both necks and tied round each, and a native rope was run from the yoke to a stick, also crooked to suit the purpose by nature, used as [a] plough, scratching about two inches deep and three inches wide, at a speed I judged of one acre per week.⁷²

Tawehiakenra also gave detailed commentary on Egyptian crops, fertilization, irrigation systems, planting methods, and livestock.⁷³ While a number of Mohawk men like Tawehiakenra had agricultural experience, most chose to make a living in other ways. Mohawk women, throughout this period, continued to cultivate land in ways that went largely unnoticed by those keeping record. Archival materials were produced largely by non-Native men who had no interest in, or appreciation for, the role of women in

⁷¹ Resolution by the Chiefs in Council, Apr. 18, 1885, RG10, vol. 2298, file 59,274, LAC.

⁷² Jackson, *Our Caughnawagas in Egypt*, 10.

⁷³ Ibid.

Kahnawá:ke agriculture. The oral tradition, however, leaves little doubt that subsistence horticulture was widely practiced in Kahnawá:ke until well into the twentieth century.⁷⁴

CPR Bridge and Line Construction

An important factor in the transformation of land ownership and resource management in Kahnawá:ke was the construction of the CPR Bridge and Line in 1886 and 1887. One motivation for launching the Walbank Survey was the knowledge that the railroad project would require a great deal of land, and that expropriations could be facilitated by a land survey (Chapter 6). However, the survey was only partially completed at the time of construction (at the time of the bridge construction it was still anticipated that the land redistribution would take place) and the DIA decided that compensation for expropriated land would be paid based on Walbank's cadastral map, not based on the anticipated grid layout. Dawes was entrusted with the task of determining compensation for Mohawks who lost land and suffered damages due to the construction. Walbank suggested to the department that Dawes should have every claimant certified by a chief before giving out compensation "because in one or two instances two or more Indians claim the same piece of land and in one case an Indian who is the reputed owner of land is a bigamist and is absent from the Reserve and the land in question is claimed by this second wife and also by his father."⁷⁵ Dawes was also told to value the expropriated land and the improvements separately, because the band would be compensated for the land and individual landowners would be compensated only for

⁷⁴ Personal communication, Christine Zachary Deom, May 2010. The Kanien'kehá:ka Onkwawén:na Raotitióhkwa Language and Cultural Center in Kahnawá:ke has a collection of taped and transcribed interviews with elders, some of whom address this subject. See also, n.a., *Old Kahnawake*.

⁷⁵ Walbank to Vankoughnet, June 29, 1887, RG10, vol. 7661, file 22005, LAC.

improvements.⁷⁶ The DIA also instructed Dawes to take special care when making his valuations because of the incomplete survey and the fact that the rail line "cuts the new lots in a very awkward manner."⁷⁷ Dawes was eventually told to ignore the new lots and guide himself by Walbank's map of existing lots instead.⁷⁸ In this way Walbank's map facilitated the process of expropriation even if the planned subdivision and redistribution had not taken place.



Figure 7.1 "First Lachine Bridge - Canadian Pacific Railway," 1886, Dominion Bridge Company fonds, LAC. This structure was replaced by the present structure in 1913.

⁷⁶ Vankoughnet to Dawes, Aug. 29, 1887, RG10, vol. 7661, file 22005, LAC.

⁷⁷ Vankoughnet to Dawes, Feb. 18, 1887, RG10, vol. 7661, file 22005, LAC.

⁷⁸ Vankoughnet to Dawes, June 7, 1887, RG10, vol. 7661, file 22005, LAC.



Figure 7.2 Postcard titled "Montreal. C.P.R. Bridge and Caughnawaga,"
ca. 1905, CP 5687 CON, BANQ.⁷⁹

The bridge span, completed in August 1887, consisted of ten steel bridges resting on masonry piers plus two longer cantilever spans with a 60 foot clearance for boats and rafts below.⁸⁰ The construction of the bridge and rail line provided employment for some Kahnawakehró:non, but was the cause of much trouble for others. During construction, for example, the CPR placed large quantities of wood on the shoreline of the property of Shorenhesé (Michel Deer),⁸¹ and this obstructed the front of his house, which faced the river. The company told him there was nothing he could do to press his claim because he

⁷⁹ The BANQ has dated this photograph to ca. 1905, but it would seem it should be dated post-1913 as the pictured structure replaced the original that year.

⁸⁰ Gerald Tulchinsky, "Across the Rivers with Steel: The first decade of Dominion Bridge: 1882-1892," unpublished manuscript, 1976, MG28 III 100, Dominion Bridge, vol. 21, file 6, pg. 50-52, LAC.

⁸¹ Shorenhesé (Michel Deer), Walbank claimant number 43, was born 1848, and married to Ariwatere Kaiatanoron in 1871. In 1885 he owned about 25 acres outside the village, including a six-acre sugarbush and six acres of cultivate land. It was valued at \$389. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

did not have proper documents proving his ownership. The second time he brought his complaint to the CPR, he said that "on se moqué de moi. ils ont jusqu'a detruit mon petit pont."⁸² Agent Brosseau called this a case of little consequence, but it was, of course, of no small consequence to Shorenhes and many like him.⁸³ Another landowner named complained that the railroad had constructed a water pipe and wind mill on his property without his permission,⁸⁴ and two years after the line was completed several farmers found their fields flooded due to poorly maintained railroad ditches.⁸⁵ Three years after construction, the railway began to fill in the trestles of the part of the bridge that rested on Kahnawá:ke territory, blocking the main road into the village and cutting off access for village cattle to graze on a peninsula (seasonal island) that was part of the Commons.⁸⁶ Kahnawakehró:non also made claims for damage to crops and fences from fires started by train engine sparks,⁸⁷ and for valuable animals killed by trains when the railway did not properly maintain its fences.⁸⁸ Mohawks who worked as wage labourers across the river did not have the money to ride the train every day, and even when they did take the train, the schedule was not reliable enough to get them to work on time.⁸⁹ Their only long-term benefit to Mohawks was the possibility of walking across the bridge, but that right was periodically revoked, especially during times of labour unrest.⁹⁰ When that

⁸² Michel Sharenhes to DIA, Oct. 14, 1886, RG10, vol. 7661, file 22005, LAC.

⁸³ Brosseau to DIA, Nov. 9, 1886, RG10, vol. 7661, file 22005, LAC.

⁸⁴ Heucker to Vankoughnet, Jan. 4, 1888, RG10, vol. 7661, file 22005, LAC.

⁸⁵ Brosseau to DIA, Aug. 30, 1889, RG10, vol. 7661, file 22005, LAC.

⁸⁶ Brosseau to DIA, Sept. 26, 1890, RG10, vol. 2532, file 110,237, LAC. The peninsula/island in question was destroyed by the construction of the St. Lawrence Seaway in the 1950s, but there are still elders in Kahnawá:ke who remember the days when the cows would go to the island in the morning and would have to be brought back at night. Eddie Diabo, personal correspondence, Spring 2009.

⁸⁷ Brosseau to Vankoughnet, May 30, 1891, and Aug. 13, 1892, RG10, vol. 7661, file 22005, LAC.

⁸⁸ Brosseau to Vankoughnet, Oct. 30, 1892, RG10, vol. 7661, file 22005, LAC.

⁸⁹ Petitioners from Laprairie to the mayor and counsellors of Caughnawaga, July 20, 1917, RG10, File 373/31-2-3-14, LAC.

⁹⁰ Rueck, "When Bridges Become Barriers."

happened, many Mohawk workers had to choose between giving up their jobs and finding a place to rent on the other side of the river, neither one of which was an attractive prospect.⁹¹

The Lot 205 Case

In most cases of compensation for land and improvements related to the railroad construction, the arbitrator was able to follow Walbank's lot lines without a great deal of trouble, but there was one case that is very revealing about continuing patterns of Mohawk land use after the Walbank Survey. It began with an August 1893 request by the CPR to expropriate a piece of land for use as a borrow pit for extracting earth. Until that time the bridge approach on the Kahnawá:ke side had been constructed of wooden trestles, and the company now wanted to solidify and make the structure more permanent by creating an approach made of earth.⁹² It is unclear if the company ever received formal departmental approval for appropriating land for this purpose, but in the fall of 1893 it began excavating a hill located on what Walbank had labeled as Lot 205 (Figure 7.3). A year later, in October 1894, the CPR paid \$558 in compensation to the DIA for the lot, and left it up to the agent to decide what to do with the money. Initially there were two claimants, Tanekorens (James Lachaudière) and Sakorewata (Peter Parquis) who agreed to split the compensation between them with Tanekorens receiving \$278 and Sakorewata \$280. Before Brosseau paid the men, however, a third claimant named Sakotion (William Meloche) emerged. Brosseau decided to pay the two original claimants their compensation, but withheld fifty dollars from each "to protect himself in case the

⁹¹ Petition to Rogers, Sept. 9, 1912, RG10, vol. 7558, file 2005-2, LAC.

⁹² Brosseau to DIA, Aug. 31, 1893, RG10, vol. 2697, file 141,258, LAC.

Department should decide that Meloche's claim was a good one."⁹³ Brosseau then told the department he did not know the true owner of the lot and who should receive the hundred dollars. He suggested holding an investigation in which witnesses for all sides would be questioned under oath, and the department agreed.⁹⁴ The subsequent inquiry reveals the ways in which a number of Kahnawakehrónon understood land ownership and remembered a cultivated and wooded hill which, by the time of the inquiry, was a pit. It also brings to light the powerful antipathy between those Kahnawakehrónon who held lots based on title documents and those who had no such documents. This case is also important in that it shows the DIA in a moment of inconsistency and weakness, attempting to protect its allies in the community while making a decision that had the appearance of fairness.

Lot 205, according to Walbank in 1885, measured approximately 9.4 acres, classified as 7.1 acres of hay land and about 2.3 acres of bush, and was valued at \$73. The low valuation is related to the absence of cultivated land, sugarbush, or buildings.⁹⁵ At that time Walbank listed the owner as Saionesakeren (Peter Montour),⁹⁶ but he died soon after the Walbank tribunal collected its information. The previous owner had been Saionesakeren's father, and Tanekorens' father-in-law, known as Peter Montour or Grey Horse, and a number of witnesses in the inquiry referred to Peter Montour without specifying whether it was the older or the younger.⁹⁷ According to Agent Brosseau, the

⁹³ James J. Campbell to H. Reed, Jan. 26, 1896, RG10, vol. 2774, file 155133, LAC.

⁹⁴ Alexander Brosseau to DIA, Oct. 22, 1894, RG10, vol. 2774, file 155,133, LAC.

⁹⁵ Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

⁹⁶ Tier Saionesakeren (Peter Montour), Walbank claimant no. 314, was born 1832. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

⁹⁷ This is an informed guess. "Grey Horse" is probably the English equivalent of his Mohawk name (not used in the records), whereas the younger Peter Montour was named Saionesakeren, which means something like "the crust of snow/sand has made (a) sound." Personal communication, Karhó:wane (Cory McComber), Apr. 10, 2012.

lot was inherited by a man named Peter Lachaudière⁹⁸ upon the death of Saionesakeren.⁹⁹ In an internal departmental memo, W.A. Austin concluded that the lot was claimed by the widow of Saionesakeren,¹⁰⁰ but for reasons not given neither Peter Lachaudière nor the widow of Saionesakeren were considered as claimants in the subsequent investigation.

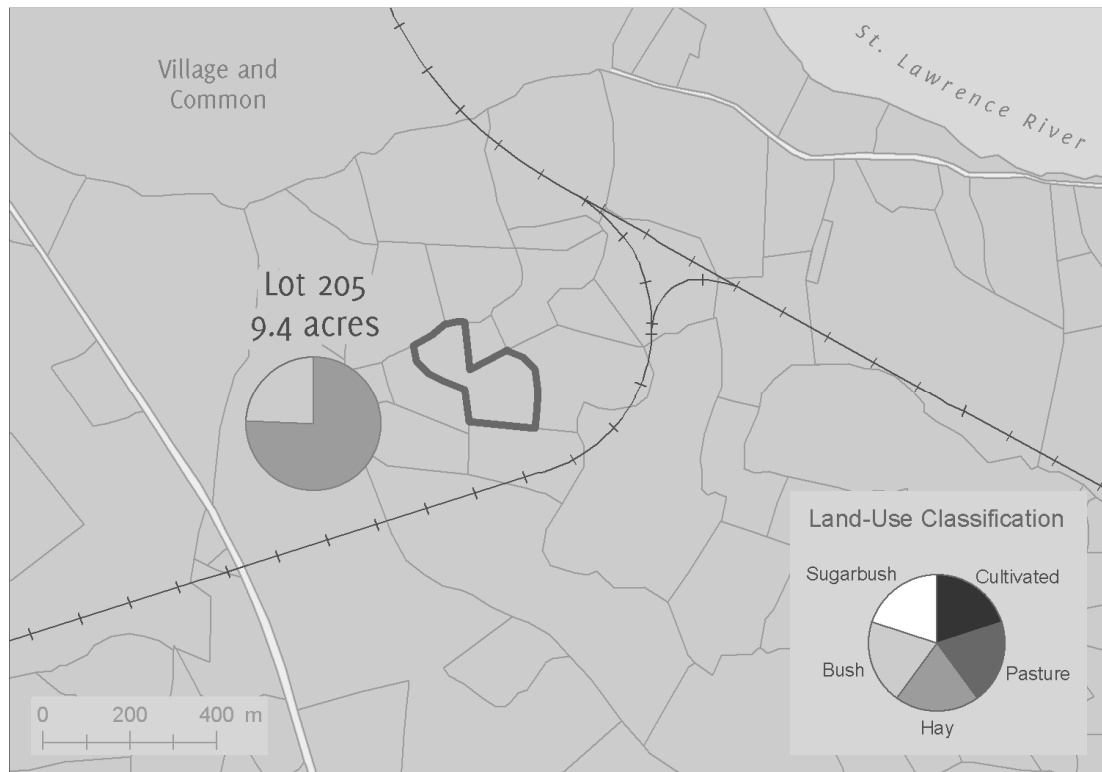


Figure 7.3 Map of Kahnawá:ke showing location and land-use classification for Lot 205, ca. 1885. Map by Louis-Jean Faucher.

⁹⁸ It is likely that Peter Lachaudière was the same man listed by Walbank in 1885 as Sakokennie (Peter Lachiere), who was then 87 years old. Sakokennie (claimant 140) was born in 1798 and had been married to a woman named Kawennaere since 1820. He was listed as the owner of Lot 176, which was a 34-acre lot of which 21 acres were cultivated, valued at \$608. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

⁹⁹ Alexander Brosseau to DIA, Oct. 22, 1894, RG10, vol. 2774, file 155,133, LAC.

¹⁰⁰ Walbank lists her name as "Indian woman." Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC; W.A. Austin memo, Nov. 4, 1894, RG10, vol. 2774, file 155,133, LAC.

When the DIA asked Brosseau what exactly the problem was, he explained that "il n'y a eu aucunes disputes pour ce terrain avant que la compagnie du C.P.R. ait en l'intention de prendre du terrain à cet endroit, que les propriétaires inconnus jusqu' alors ont commencés a faire leurs réclamations."¹⁰¹ This statement contradicts the accepted DIA wisdom that Mohawks fought chronic battles over land and that only outside intervention could end the cycle. In this case, multiple users and claimants operated side-by-side, or at different times of the year, without great problems until the land was expropriated and compensation offered. Brosseau reported to the department that he had brought the claimants together and that all three wanted the investigation to be held under oath. Sakotion argued that the land had belonged to his family ever since his father, Osias Meloche, had purchased it twenty-five years earlier from Saionesakeren (Peter Montour). When asked why he did not claim this lot in 1885, Sakotion said that he was so hated in Kahnawá:ke at the time that he did not dare to make such a claim. During the investigation, however, both Tanekorens and Sakorewata, and the witnesses who testified on their behalf, declared that Sakotion never held land at this site. They argued that Sakorewata's father "was the owner of this land; that several years ago Montour [Saionesakeren] took possession of it and was the owner of it at present by right of the improvements which he had made on the land."¹⁰² This appears to be a case where Saionesakeren was able to make use of land that was not used by Sakorewata's father at the time, and that he gained the right to it in the customary way. The details of the arrangement are not divulged by the documents, but Saionesakeren apparently maintained a simultaneous claim on the land.

¹⁰¹ Alexander Brosseau to DIA, Nov. 3, 1894, RG10, vol. 2774, file 155,133, LAC.

¹⁰² *ibid.*

Even Sakotion agreed that Sakorewata's claim was legitimate. Both he and Saionesakeren agreed that Sakorewata should be entitled to half (\$50) of the compensation. Thus Sakorewata did not actively take part in the inquiry because his right to half of the compensation money was not disputed. Sakorewata was fifty-five years old at the time of the inquiry.¹⁰³ The investigation focused on which of the other two men should receive the rest of the compensation money.

Sakotion was identified in the Walbank Survey as William Simon Meloche or Wiri Sakotion. At the time of the survey tribunal in 1885 he was a single twenty-three-year-old with no land to his name, although his mother owned three lots outside the village totaling forty acres and valued at \$376. Sakation's father was Osias Meloche who died in a fire which was probably deliberately set to his barn in 1878 (Chapter 5). Sakation was identified by Walbank as a half-breed with an Indian mother, and his answer to the question about whether the DIA recognized him as a member of the Kahnawá:ke Band was "I think so." At the time he was unanimously voted against by the four chiefs on the tribunal "because he does not belong to this Band and his father was a French-Canadian." Sakotion's mother was known as Tsotewe or Widow Charlotte Meloche, but identified herself on the Walbank tribunal claim form as Charlotte Louise Giasson. Like her son, she was also unanimously voted against by the chiefs, in her case because "her father is a French-Canadian and her husband was also a French-

¹⁰³ Sakorewata (Peter Parquis), Walbank claimant no. 48, was born in 1840, and married Warisose Kaentawaks in 1861. In 1885 he was listed as owning two lots totaling 7 acres and valued at \$93. He signed his own name in Mohawk on the claim form, indicating some level of literacy. Sakorewata was the son of Kateri Kaonwentha (Widow C. Parquis) (claimant 565) who died shortly after the 1885 tribunal. She was born 1815 and her husband died around 1855. Walbank recorded that she had given all of her land outside the village to her sons by 1885. She signed her claim form with an X. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

Canadian."¹⁰⁴ In 1895 the thirty-three-year-old Sakotion was married to a woman named Leontine Meloche (born 1869). The 1901 census taker listed Sakotion as a foreman. Sakotion was the product of the Meloche and Giasson families, both widely disliked in Kahnawá:ke and perceived as non-Mohawks. There was an ongoing effort to have them evicted. In 1868, for example, the Indian department was pressured into ordering a number of "white" men to leave Kahnawá:ke, including Sakotion's father Osias Meloche and his grandfather (Tsotewe's father) Charles Gideon Giasson (Raksatiio). That order was rescinded on the basis that these men had been married to Indian women before the 1869 act which specified that an Indian woman who married a white man lost her Indian status.¹⁰⁵

Tanekorens (James Lachaudière) was fifty-one years old at the time of the Lot 205 inquiry. In 1885, Walbank listed him as a sub-chief, yet his Kahnawá:ke membership was disputed by two of the four chiefs at that time because he was born out of wedlock and the identity of his father was unknown. In 1885 he signed his claimant form with an X, indicating he was probably illiterate.¹⁰⁶ At the time of the inquiry in 1895, he had a nine year old son living with him and his wife, and the 1901 census lists him as a voyageur, by which is perhaps meant a river pilot.

¹⁰⁴ Sakotion (claimant 303) born 1862, owned no land. Son of Tsotewe (Widow Charlotte Meloche, CN 287), born 1836, her husband Osias Meloche died 1878. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹⁰⁵ Reid, *Kahnawà:ke*, 28.

¹⁰⁶ Tanekorens (Jacques Lachandiere or Lachiere), Walbank claimant no. 89, was born in 1844 and married Warisose Karonianoron in 1868. The 1901 census shows him married to a woman named Josephine (born 1861), probably not the same woman. In 1885 Walbank listed him as owning a 17-acre lot valued at \$124. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

The Inquiry

The inquiry into the ownership of Lot 205 began in February of 1895. As neither claimant had a deed for the land in question, each of them brought witnesses to vouch for him under oath. It is difficult to know exactly how the inquiry was run, but it is known that the ten individuals who testified on behalf of Sakotion (William Meloche) were cross-examined by Waniente (John Waniente Jocks),¹⁰⁷ a twenty-eight year old band councilor who acted on behalf of Tanekorens (James Lachaudière). Those six people who testified on behalf of Tanekorens were cross-examined by Georges Cherrier, the former Kahnawá:ke Indian agent and Sakotion's uncle. Sakotion's witnesses gave their statements on February 15, 1895, and Tanekoren's witnesses gave theirs a week later, on February 22, 1895. Many of the testimonies were delivered in the Mohawk language and subsequently translated, but the Mohawk originals are not included in the DIA files. A few of the statements in favour of Sakotion were probably given in French. The file includes translations for some testimonials in English, some in French, and some in both. Below I summarize the highlights of the testimonies, beginning with those who testified on behalf of Sakotion.

¹⁰⁷ John Waniente Jocks (1865-1917), the owner of a Kahnawá:ke quarry, was not listed in the Walbank Reference Books because he was too young to be considered for the land redistribution at that time. According to the 1901 census John W. Jocks was born in 1866, and married to Marie-Anne Jocks (born 1877), with a son named John born 1894 and a daughter named Maggie born 1896. In the early years of the next century, Waniente served as interpreter for the band council. Caughnawaga Council Resolution, Nov. 4, 1904, RG10, vol. 3085, file 278,440, LAC. For more on Waniente Jocks, see Beauvais, *Kahnawake*, 41-46.

Witnesses for Sakotion (William Meloche)

Ononsihata (Frank Hill)¹⁰⁸ was a forty-seven year old man who had some level of literacy because he signed his own name, "SaK sa rie a non si ata," below his statement. Ononsihata testified that a certain François Beaudette told him that he had recently purchased hay from Tanekorens (James Lachaudière), but Sakotion appropriated the hay before he could take it. When Ononsihata asked Beaudette whether Tanekorens had given his money back, Baudette told him that Tanekorens always said that he planned to sue Sakotion to get compensation. The implication of Ononsihata's testimony seems to have been that Tanekorens never sued Sakotion for the taken hay because he did not have a good case.¹⁰⁹

Charles Xavier Giasson (Awennaratie),¹¹⁰ a sixty-two year old uncle of Sakotion, testified next. He signed his own name as "Charles X. Giasson," indicating a level of literacy and that he self-identified using his non-Mohawk name. Giasson owned Lot 207, which was located just northeast of Lot 205. He claimed that for at least the last thirty years his neighbour to the southwest had been Osias Meloche, Sakotion's father. He had heard people say that Osias Meloche had purchased the lot from Peter Montour (Grey Horse), but when cross-examined by Waniente, Giasson admitted that his knowledge of the sale was based on hearsay and could give no details of the transaction. He said he had a good view of Lot 205 from his own haying land, and that he had never seen or heard of anyone except Osias Meloche working it before his death. Giasson described Meloche's

¹⁰⁸ Saksarie Ononsihata (Frank Hill), Walbank claimant no. 321, was born in 1847 and married to Edawith Katsitsaronkwis since 1882. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹⁰⁹ Statement of Frank Hill, Feb. 15, 1895, RG10, vol. 2774, file 155,133, LAC.

¹¹⁰ Saro Awennaratie or Charles Xavier Giasson, Walbank claimant no. 284, was born in 1832 and married to Catherine Perrat since 1855. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

activities on the land as including planting crops, cutting branches, and removing stones. He also related a version of the story told by Ononsihata (Frank Hill) that in 1893 Sakotion appropriated Beaudette's hay.¹¹¹ Overall, Giasson did not have direct knowledge of Osias Meloche's purchase from Peter Montour, but he contributed to Sakotion's case by detailing the farming and gathering activities of Osias Meloche on the lot.

Anatakarias (Thomas Hill)¹¹² was fifty-two years old at the time of the inquiry. He testified that the late Peter Montour (Grey Horse) had sold the disputed land to Osias Meloche. He then specified that the land had not actually belonged to Peter Montour, but to Marianne Skasenhate¹¹³ who was living in the house of Peter Montour at the time. Because she was sick and very poor, it was decided to sell the land to support her and to pay for her burial after she died. Anatakarias said he had heard Peter Montour say that the land was his by virtue of taking care of the woman who owned it.¹¹⁴ The main contribution of Anatakarias to Sakotion's case was to give a credible, detailed story of how the land may have come to be possessed by Peter Montour before he sold it to Osias Meloche.

Jean Sarakwa,¹¹⁵ aged forty-eight, was the next to give testimony. Sarakwa confirmed that "le vieux cheval gris" (Peter Montour) sold the land in question and that he had the right to it because he took care of Marianne Skasenhate. He stated that he came to the inquiry with fear because he heard that whoever testifies in favour of

¹¹¹ Statement of Charles X. Giasson, Feb. 15, 1895, RG10, vol. 2774, file 155,133, LAC.

¹¹² Anatakarias (Tom Hill), Walbank claimant no. 290, was born in 1840, and married to Konwakiri Karakwas since 1864. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹¹³ There is no information on Marianne Skasenhate in the Walbank Survey. A possible alternate spelling is Skanahote.

¹¹⁴ Anatakarias signed his statement with an X, indicating that he was probably illiterate. Statement of Thomas Hill, Feb. 15, 1895, RG10, vol. 2774, file 155,133, LAC.

¹¹⁵ Jean Sarakwa does not appear in the Walbank Survey and could not be identified in censuses because the lack of European last name given in the inquiry.

Sakotion would be considered a troublemaker and "que moi qui n'a pas un bon cœur il pourrait résulter du trouble." In cross-examination, Waniente encouraged him to divulge where he had heard this, but Sarakwa was unwilling.¹¹⁶ Thus Sarakwa's contribution was to confirm the story of Anatakarias as to how Peter Montour had come to be in possession of Lot 205, and to reveal that tensions were running high in the village regarding this case.

Satekarenhes (Mattias Hill),¹¹⁷ fifty-six year old farm labourer, next gave testimony on behalf of Sakotion. In 1885 Satekarenhes owned no land outside the village, and in 1889 he was appointed by the first Kahnawá:ke band council to the position of Commons gatekeeper but it is not known whether he still continued in this function in 1895.¹¹⁸ Satekarenhes believed that Lot 205 had belonged to the late Osias Meloche and ought to therefore belong to his son Sakotion. As for his own relationship with Lot 205, he declared that he had planted peas several times there over the last twenty years, and that he never saw anyone else make a claim to the land during that period. When cross-examined about the boundaries of the lot, he stated emphatically: "Je ne connais pas les lignes de ce terrain mais je connais le terrain que j'ai travaillé." Satekarenhes had worked for Leon Giasson, Sakotion's uncle, for at least eight years and during that period he said he worked on Lot 205 on three different occasions. From Satekarenhes' testimony it appears that Leon Giasson had Osias Meloche's permission to work the land in question,

¹¹⁶ Sarakwa signed his statement with an X, indicating he was probably illiterate. Statement of Jean Sarakwa, Feb. 15, 1895, RG10, vol. 2774, file 155,133, LAC.

¹¹⁷ Satekarenhes (Mattias Hill), Walbank claimant no. 320, was born in 1837, and was married to Wariianen Kaiatienens since 1862. In 1885 he had no land outside the village. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹¹⁸ The gatekeeper in 1889 was paid \$24 per year and was allowed to live in the gatehouse. Council resolutions, May 18, 1889, RG10, vol. 2465, file 96,069, LAC.

which was another point in Sakotion's favour because this would mean that Meloche had the authority to give others permission to work there.¹¹⁹

The next five witnesses gave rather short statements. The first was Tahahente (Edward McComber),¹²⁰ a thirty-nine year old cousin of Sakotion's mother. Tahahente testified that Sakotion had hired him about eight years previously to work on the land in question. "Avant que j'ai été travaillé la," he recounted, "je ne savais pas qu'il avait un terrain sur la butte, je savais qu'il avait un terrain en bas." It is unlikely that this testimony helped Sakotion's case. In fact, having a relative admit under oath that he did not know that Sakotion owned the land on the hill likely had the opposite effect.¹²¹ The next witness, Joseph Reed,¹²² age thirty-eight, testified that he worked for Sakotion on Lot 205 about 1883. At that time it never occurred to him that the land in question might not belong to Sakotion. Like most other witnesses, Reed did not know where the boundaries of the lot ran, but he said that he cut hay both on the high land and on the low land. As for who owned the land since he worked there in 1883, Reed did not know.¹²³ The following statement came from Leon Giasson,¹²⁴ aged fifty, one of Sakotion's uncles. He testified that the land in question had been held by the Meloche family for over thirty years, and that no one questioned his ownership before the CPR appropriated the lot. He did not

¹¹⁹ Statement of Satekarenhas, Feb. 15, 1895, RG10, vol. 2774, file 155,133, LAC. He signed his statement "mathias Satekarenhas," indicating some level of literacy.

¹²⁰ Etwar Tahahente (Edward McComber), Walbank claimant no. 295, was born 1855, and married Anies Kwanatontion in 1877. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹²¹ Tahahente signed his statement with an X, indicating he was probably illiterate. Statement of Edouard McComber, Feb. 15, 1895, RG10, vol. 2774, file 155,133, LAC.

¹²² Joseph Reed is not to be found in the Walbank books or in the 1901 census.

¹²³ Reed signed his statement with an X, indicating he was probably illiterate. Statement of Joseph Reed, Feb. 15, 1895, RG10, vol. 2774, file 155,133, LAC.

¹²⁴ Leon Giasson does not appear in the Walbank books. According to the 1901 census T. Leon Giasson, born 1844, was a farmer. His wife in 1901 was Agnes Giasson (born 1857). They had three children born before 1895.

know the size of the lot or any of the boundaries except for the eastern one.¹²⁵ Delvida Meloche,¹²⁶ Sakotion's thirty-five year old brother, was next to testify. He claimed to know the boundaries of the land because his father, Osias Meloche, showed them to him before he died.¹²⁷

Sakotion's final witness was his mother, Charlotte L. Giasson, aged fifty-nine. She testified that she herself had purchased Lot 205 some twenty-five to twenty-eight years previously from the late Peter Montour, and that it was notarized by Notary Defoy in the presence of two men. She explained that she had purchased the land so as to be nearer to her father, but that she had verbally given it to her son Sakotion. When asked about the extent of the land, she said: "J'ai acheté toute la butte en question, c'est à dire la prairie le long du terrain de papa jusqu'à un autre petite prairie en arrière, mais je puis pas dire que c'est toute la butte." She said that she could not find the deeds to this land and could not remember the price she paid; in fact, she did not remember if the land was purchased with money or in exchange for a horse. She also stated that she had not visited the land since she bought it, although her husband showed her the boundary.¹²⁸

Among Sakotion's witnesses were those who claimed that Osias Meloche's ownership of the lot had been uncontested in previous decades. Some remembered that he

¹²⁵ Statement of Leon Giasson, Feb. 15, 1895, RG10, vol. 2774, file 155,133, LAC.

¹²⁶ Jean Baptiste Delvida Meloche, Walbank claimant 302, was born in 1860, and married Excillia Lefebvre in 1883. In 1885, when he was twenty-five years old, Walbank listed Delvida Meloche as having no land, but stated that he had a share in his mother's land. Like other members of his family, he was unanimously rejected as a band member by the four chiefs. In Delvida Meloche's case it was "because he does not belong to this Band and his father was a French-Canadian." His claimant form from 1885 includes the note: "This claimant does not speak Indian." Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC. The 1901 census lists him as Dalvide Meloche, born 1861, stonemason, married to Zelia Meloche (born 1865) with three children born between 1886 and 1892.

¹²⁷ Delvida Meloche signed his Walbank claimant form with an X, but signed his name for his 1895 statement. Statement of Delvida Meloche, Feb. 15, 1895, RG10, vol. 2774, file 155,133, LAC.

¹²⁸ Statement of Charlotte L. Giasson, Feb. 15, 1895, RG10, vol. 2774, file 155,133, LAC. She signed her name in her own hand, indicating some level of literacy.

had the authority to grant people permission to work on the lot, and others remembered doing work for him there. Only Sakotion's brother and mother claimed to know the boundaries of the lot, and the only person who spoke of a notarized deed was Charlotte Giasson, who said she had misplaced them. Much of the testimony was rather vague and some of it even seemed to go against Sakotion's case. The witnesses for Tanekorens (James Lachaudière) were the next to make their statements.

Witnesses for Tanekorens (James Lachaudière)

Kanawaienton (Michel Jacob),¹²⁹ aged sixty-four, was the first witness for Tanekorens. In 1885 Walbank listed him as one of the largest landowners in Kahnawá:ke with seven lots outside the village to his name, totaling 112 acres and valued at \$2359. One of his lots was Lot 210, which nearly bordered Lot 205 to the southeast. Kanawaienton testified that Lot 205 had belonged to the late Peter Montour about twenty years earlier, and that he saw Montour working there over the course of two summers. In the words of Kanawaienton, "lorsque j'ai vu travaillé Montour j'ai cru que c'était a lui." Since Montour worked the land, Kanawaienton believed he owned it. Before Montour cleared and cultivated land on the hill, Kanawaienton remembered that the land belonged to the Parquis family. He testified that Montour gave others permission to cut grass and hay on that land. According to Kanawaienton, the land Montour owned was about four acres of high land, while Osias Meloche owned some land below the hill. When asked if

¹²⁹ Wishe Kanawaienton (Michel Jacob), Walbank claimant no. 15, was born in 1831, and married to Agat Watawennenta in 1853. He signed his name both on the Walbank Claim Form and below his 1895 statement as "8ih She Ka na 8aien ton" and was listed as possessing deeds for most of his lots. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC. The 1901 census lists him as a merchant, still married to Agat, and with two adopted teenage children living with him.

there was a chance that Meloche could have purchased the land on the hill without his knowledge, Kanawaienton replied, that yes, it was possible, but that "je connais tout les terrains qu'il a acheté par l'avoir vu travailler sur ces terrains." He testified that he had passed by that land nearly every year for forty-two years and never saw anyone planting crops there before Montour.¹³⁰ Kanawaienton's testimony reveals him to be very knowledgeable of the history of the land in question and of the lands worked by Osias Meloche. He knew which lands Meloche owned by where he saw Meloche working, and he had not seen him on Lot 205. By contrast, he had seen Montour farming there, and knew that it belonged to the Parquis family before that.

Atiataronne (Thomas Jacob),¹³¹ aged fifty-five, testified that some twenty-one years before (around 1873), Peter Montour (Jr.) had put him in charge of the wood he had cut on the hill in question. One time when Atiataronne went to the land in question with Peter Montour, they found Osias Meloche loading the cut wood on his cart. Montour asked Meloche why he was taking wood that did not belong to him and began to throw wood out of Meloche's cart. A fight ensued. Meloche got the worst of it and left. "The wood in question," stated Atiataronne, "had been cut where Montour was working on the land, he was master there; he was not afraid to go there; he had worked there and he was the master." When he was asked if he had heard whether or not Peter Montour had a deed for the land, Atiataronne emphasized that Montour's ownership flowed from his work on the land: "He did not tell me that he had a document; but he told me that it was he who

¹³⁰ Statement of Michel Jacob, Feb. 22, 1895, RG10, vol. 2774, file 155,133, LAC.

¹³¹ Atiataronne (Tom Jacob), Walbank claimant no. 45, was born in 1839, and married Konwakeri Kaententa in 1866. He was listed in 1885 as owning three lots totaling 19 acres valued at \$236. He signed his 1885 claim form and 1895 statement with an X, indicating he was probably illiterate. Atiataronne was the son of Widow Teres Kakenseronkwas (claimant 60), born 1823. She also signed her claim form with an X. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC. He is not to be found on the 1901 census.

had worked on the land." When asked if he thought Osias Meloche had been stealing wood there, he answered, "He must have meant to do so, as the late Montour took the wood in question away from him, because it was he who had worked the land."¹³² The principles articulated by Atiataronne are very much in line with those articulated by traditional chiefs throughout the nineteenth century and embodied in the Twenty-One Laws of 1801 (Chapter 3). Montour had the right to the land because he worked it, and he had a right to the wood because he had already cut it. According to Atiataronne, Meloche was in the wrong because he was attempting to take wood that he had not cut.

Teharenions (François Beaudette or Frank Leclere)¹³³ was about forty years old when he gave his statement on behalf of Tanekorens. He signed his statement as "SaKsarie te ho re nions," indicating that he self-identified with his Mohawk name more than with his French or English names. At the time of the Walbank Survey, however, he was unanimously voted against by the four chiefs on the Walbank tribunal because "he does not belong to the Band." Teharenions testified that he had known the land in question for twenty-six years and had never heard anyone say it belonged to Osias Meloche. He said that he had cut hay on that land with the permission of Tanekorens (Jacques Lachaudière) whom he considered to be the present owner, and that Meloche had never interfered with his haying because it was not his land.¹³⁴ Teharenions' testimony thus emphasized that it

¹³² Statement of Thomas Jacob, Feb. 22, 1895, RG10, vol. 2774, file 155,133, LAC.

¹³³ François Beaudette is likely the man listed by Walbank as Teharenions (Frank Leclere), Walbank claimant no. 277, who was born in 1857, and married to Tsiniis Kasennote in 1877. At the time of the Walbank Survey he was not listed as owning any land. His father is listed as "Frank Burdette or Leclere Saksarie Katarakenra," claimant 97, whose father is listed as Indian and mother as French. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC. Teharenions appears in the 1901 census as François Leclair (born 1856), "French," carpenter, married to Hertemise Leclair (born 1859). They had at least two children at the time of the inquiry.

¹³⁴ Statement of François Beaudette, Feb. 22, 1895, RG10, vol. 2774, file 155,133, LAC.

was Tanekorens who gave permission to others who wanted to cut hay on Lot 205, and that Meloche had nothing to do with it.

Aientonni (Raiontonnis or Jean-Baptiste Canadien or Big John),¹³⁵ aged 54, was the next to testify. He was a famous lacrosse player who had captained the team that played a game for Queen Victoria in 1876, and was famous as a skilled river pilot. In his statement he said he had known the parties and the land for thirty years, and he had heard it was Peter Montour and his son who were the recognized owners of the land in question.¹³⁶ Aientonni's testimony did not make mention of Osias Meloche.

The next to testify on behalf of Tanekorens was François Daillebout,¹³⁷ aged forty-six. He said that he first worked on the land in question with the late Peter Montour some twenty-two years earlier "breaking up the land." "The first time I went there," stated Daillebout, "I went to cut underbrush. I worked on this land for the late Montour every spring for five consecutive years, and at other times in the autumn." He said he helped Montour quite often but was not paid for his work. He also said he had observed Osias Meloche cutting wood on the land below the hill, apparently with the blessing of Peter Montour. According to Daillebout, Osias Meloche "took possession of it [the low land] in

¹³⁵ Sawatis Aientonni (Big John Canadien), Walbank claimant no. 115, was born in 1840, and married Malvina McComber in 1863. Walbank listed him as the disputed owner of a very small and not-very-valuable piece of land in 1885. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC. In the 1901 census, Baptiste Canadien (Aientonni) is listed as an Indian while his wife Malvina is registered as Scottish. He signed his statement and Walbank claim form with an X, indicating he was illiterate. For more on Aientonni, see Beauvais, *Kahnawake*.

¹³⁶ Statement of Jean-Baptiste Canadien, Feb. 22, 1895, RG10, vol. 2774, file 155,133, LAC.

¹³⁷ There are two people by the name of Frank Daillebout in the Walbank books with birthdays recorded as 1849 and 1850, so it is not possible to know with absolute certainty which one gave testimony on behalf of Tanekorens. However, the François Daillebout who gave testimony in this inquiry signed his own name, and only one of the two Frank Daillebouts in the Walbank Survey (Thanonsokota) did so. The other signed his claim form with an X. It is more likely then that the witness in this case was Saksarie Thanonsokota (Frank Daillebout), Walbank claimant no. 256, who was born in 1850, and married Wiriia Tiorhathe in 1873. In 1885 Walbank listed him as owning a 10.5 acre lot valued at \$77. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC. It is not possible to determine whether or not Thanonsokota is included in the 1901 census.

order to work it in accordance with the custom at the time." They higher land, however, belonged to Peter Montour "as it was he who worked the land."¹³⁸ Daillebout's testimony does not make it clear what kind of work Montour did on the land, aside from clearing brush, but it would seem that they were clearing land and possibly cultivating it. He also referred to the customary law when explaining that both Osias Meloche and Peter Montour took possession of their respective lots by working the land.

The final witness of behalf of Tanekorens was Louis Norton,¹³⁹ an eighty-two year old who gave a somewhat different perspective from all others. He stated: "I never saw the man called the old Grey Horse [Peter Montour Sr.] on this land, and I never heard it said that it belonged to him." He declared that he often went to the land in question and that it was common land, and no one had worked it until Peter Montour Jr. "took possession according to custom to work it." Louis Norton emphasized the fact that he saw Montour Jr. working on the land around the year 1880, and that is how they knew he had rights to it. Since that time, he stated,

I saw no other person working there. I know that the Meloche family had land at the foot of the hill, but they had none on the hill. I never saw the late Osias Meloche working on the hill: he worked at the foot of the hill and I passed by there nearly every day. I never heard that the Meloche family had land at that place until the C.P.R. took land at this place for ballasting. I go by there almost every day; if the place belonged to them, I should have seen them working there. I know this land very well, I know all the land, and I saw nothing anywhere to indicate that the land in question had been sown or cleared of stones. I know that it has been the custom here that whoever worked a piece of land became the owner of it and was recognized as such by the tribe.¹⁴⁰

¹³⁸ Statement of Francois Daillebout, Feb. 22, 1895, RG10, vol. 2774, file 155,133, LAC.

¹³⁹ Louis Norton cannot be positively identified in the Walbank Reference Books. The 1901 census lists Louis Norton (Born 1813) as widowed and living in the household of Alex and Maria D'Ailleboust (his daughter). The entire household is listed as "Indian" and as Mohawk-language speakers. Louis Norton signed his statement with an X.

¹⁴⁰ Statement of Louis Norton, Feb. 22, 1895, RG10, vol. 2774, file 155,133, LAC.

When asked if he had ever seen anyone cutting hay on that land, he responded:

I have not seen him, but there is a man named Toussaint Daillebout who used to cut hay there; but I have never seen him myself and it was he himself who told me that he had cut hay on the land of Pierre Montour, son of the old Grey Horse. That was ten years ago. This land did not belong to any one: no one could buy it, as no one had the right to sell it.¹⁴¹

Louis Norton thus insisted on the fact that the customary way to gain rights to a piece of land was to work it, and that he had never seen Osias Meloche working there. The last sentence of this quote is particularly intriguing, since Norton seemed to be insisting on the land belonging to no one, and thus being unavailable for sale. The statement reflects the spirit of the customary law of the nineteenth century, which tended to oppose the buying and selling of land, but in this case, the lack of Norton's original statement in the Mohawk language means that it is difficult to draw conclusions from it.

There are a number of differences between the testimonies given by both sides. Sakotion's witnesses tended to focus on the uncontested nature of Osias Meloche's ownership of the lot. However, most of the witnesses were not confident that Meloche owned the high land, now known as Lot 205. Tanekorens' witnesses tended to have a better understanding of the history of the land in question, and placed more emphasis on the customary ways of gaining land rights. Tanekoren's six witnesses were also older, on average, than Meloche's ten witnesses, the former average being 56.8 and the latter 48.6. Few witnesses on either side could give details as to the boundaries and dimensions of Lot 205, and few referred to the lot by its number.

Georges Cherrier, the uncle of Sakotion and a former Kahnawá:ke Indian agent, represented Sakotion at the inquiry and wrote a letter supporting his claim. His argument

¹⁴¹ Statement of Louis Norton, Feb. 22, 1895, RG10, vol. 2774, file 155,133, LAC.

in favour of Sakotion was based on a historical narrative of the previous fifty years. In Cherrier's experience and from his understanding of history, Indians have always tended to ally themselves with the English and have shown antipathy to the French. This latter aversion, according to Cherrier, was "traditionnelle chez eux et semble s'être transmise de père en fils." This was the reason why, Cherrier explained, Mohawks had been attempting to evict French-Canadians for such a long time. He began his story in 1850 with the attempted eviction of George Delorimier and the Montreal court decision recognizing his right to live in Kahnawá:ke. In 1865, as Cherrier told it, the barn burnings began. That year two barns belonging to "métis" farmers were set on fire after the harvest, and the barn of Osias Meloche was burned in 1878: Meloche died trying to save his animals from the flames. The following year another five barns and sugar shacks went up in flames, and Cherrier gave other examples from recent years. All of this was to show the difficult position of the Meloche family has been in vis-a-vis the community, and how difficult it had been for them to maintain their lands and properties in the face of constant attacks of various kinds. According to Cherrier, the DIA only supported the "métis" half-heartedly and he was concerned about the fact that their rights as members of the Kahnawá:ke band had never been fully recognized. Cherrier painted a picture of the Meloches as some of the few civilized people in Kahnawá:ke, surrounded by hateful "sauvages." Cherrier also raised the possibility that Osias Meloche's deed to Lot 205 had gone up in the flames of the 1878 fire, although he did not offer any clues as to why someone would keep legal documents in a barn.¹⁴²

¹⁴² Cherrier to Alexander Brosseau, Feb. 22, 1895, RG10, vol. 2774, file 155,133, LAC.

Cherrier's counterpart in the inquiry was Waniente (John W. Jocks), Tanekorens' main ally. In Waniente's letter of support for Tanekorens (James Lachaudière), he blasted Cherrier's "insinuations and wild statements." Cherrier's words, in addition to the unreliability of Meloche family members as witnesses, prove that the claims of the Meloches "are not founded on any other fact than upon their hatred and distrust of the Indians of Caughnawaga." Waniente specifically pointed out the testimony of Sakotion's mother, Charlotte L. Giasson, which he claimed was contradictory and irrational. It was widely acknowledged, stated Waniente, that Sakotion owned land near Lot 205, but not Lot 205 itself.¹⁴³ Unlike Sakotion, who made his claim after the CPR asked for the right to the lot, Tanekorens "always was the possessor," and proved his right to the lot with "fair and respectable" witnesses. According to Waniente, Tanekorens acquired his title from the estate of Peter Montour, who had taken "hold of the property and improved the same which according to the Indian custom of old became his real and valid title."¹⁴⁴

Conclusion of the Inquiry and Continuation of the Case

After reading and listening to all of these points of view, Agent Brosseau was still unsure how to proceed. He found a number of the testimonies "rather contradictory despite the fact that the witnesses were worthy of belief." He concluded that the land in question was of poor quality, and was used by the claimants for cutting wood and hay. Nevertheless, Brosseau thought Sakotion (William Meloche) was probably the real owner even though he found it odd that he could not produce a title when his family was so scrupulous in furnishing themselves with such documents. Brosseau concluded that

¹⁴³ J. Waniente Jocks to H. Reed, Mar. 16, 1895, RG10, vol. 2774, file 155,133, LAC.

¹⁴⁴ *ibid.*

Tanekorens (James Lachaudière) and his father-in-law, Peter Montour, had at one time cleared the land but then "ceased to do any more work on this land" and "contented [themselves] with cutting the hay thereon or causing it to be cut." Although it seems absurd that Brosseau would not consider cutting hay as work, this can probably be explained by the fact that he was using every rhetorical tool to shore up the case for Sakotion. As for Sakorewata (Peter Parquis), the claimant who did not participate in the inquiry, Brosseau believed that he had the intention of clearing a piece of land in this place but "while he was getting ready another Indian stepped in and took possession of it." Again, this conclusion seems unjustified in the face of the evidence presented and can only be understood in light of the agent's preference for Sakotion.¹⁴⁵

Unlike the agent, whose words might be explained by his local relationships and loyalties, DIA officials had other motivations. Department secretary J.D. McLean thought the department should consider the widow of Peter Montour to be the true owner of the lot because "otherwise the expense involved in Mr. Wallbank's Survey...would be of little value."¹⁴⁶ Samuel Bray of the Surveys Branch read through the evidence in the case and concluded that Peter Montour's widow was indeed the rightful claimant, and since Tanekorens (James Lachaudière) was her heir, this would give him the right to the compensation money. Nevertheless, Bray gave Sakotion (William Meloche) three months to produce further evidence that his family had purchased Lot 205 from Peter Montour's widow.

All three claimants contacted the department in the following months to demand a settlement in their favour. Tanekorens felt that he had proven his case and should now be

¹⁴⁵ Brosseau to Hayter Reed, Mar. 19, 1895, RG10, vol. 2774, file 155,133, LAC.

¹⁴⁶ McLean to Deputy Minister, Apr. 9, 1895, RG10, vol. 2774, file 155,133, LAC.

paid the \$50.¹⁴⁷ Sakotion's lawyer, on the other hand, suggested that since neither his client nor Tanekorens could prove his right to the lot, and since "they have actually occupied and worked it in turns," the \$50 should be split between the two.¹⁴⁸ For his part, Sakorewata wondered why he had not yet been paid his half of the \$100 compensation, since neither of the other two disputed his right.¹⁴⁹ Deputy Superintendent Hayter Reed liked the suggestion of Sakotion's lawyer that the \$50 be split between the two men, and asked Brosseau what he thought of following that course.¹⁵⁰ Brosseau, although he had shown his favouritism toward Sakotion (William Meloche) on previous occasions, thought it was dangerous to grant him any compensation money under the present conditions:

...il n'est pas possible d'accorder aucune compensation à Meloche sans qu'il y ait un mécontentement considérable parmi les Sauvages, à moins qu'une nouvelle enquête serait accordée à Meloche et qu'il pourrait prouver de nouveaux faits, la différence qui existe entre les deux réclamants est que la famille Meloche a toujours été contestée par les Sauvages et qu'ils ont toujours eu des contrats des individus pour les terrains qu'ils ont achetés des Sauvages, ce qu'ils n'ont pas dans le seul cas en litige, ils en ont dans tous les autres cas; et qu'il y a un grand nombre de cas parmi les Sauvages qui n'ont d'autres titres que l'appropriation de terrain avec l'approbation verbal ou par écrit des chefs du temps.¹⁵¹

Since the Meloche family was known to have deeds of sale or other notarized documents for all the lots they owned, and since most Kahnawakehrónon did not have such for their lots, the Meloche family had a record of winning most of recent disputes concerning land. This case was unusual in that the Meloches could not produce a title document, and many Kahnawakehrónon greatly relished the idea of Sakotion's defeat in this one case.

¹⁴⁷ James La Chaire to Hayter Reed, Apr. [23], 1895, RG10, vol. 2774, file 155,133, LAC.

¹⁴⁸ L.C. Pelletier to Hayter Reed, July 17, 1895, RG10, vol. 2774, file 155,133, LAC.

¹⁴⁹ sako are watha to Brosseau, July 18, 1895, RG10, vol. 2774, file 155,133, LAC.

¹⁵⁰ Hayter Reed to Brosseau, July 22, 1895, RG10, vol. 2774, file 155,133, LAC.

¹⁵¹ Brosseau to DIA, Aug. 5, 1895, RG10, vol. 2774, file 155,133, LAC.

Brosseau warned of the consequences if he were compensated despite not having been able to prove his claim.

Hayter Reed acknowledged Brosseau's warning but insisted that the department would do what was "just and fair" and would not be "restrained from such course through any fear of the Indians being dissatisfied with its judgment."¹⁵² In August of 1895, the DIA came to the conclusion that the land in question belonged to Marianne Skasenhate. Peter Montour had cared for her and had sold her land to Osias Meloche "to defray expenses incurred on her account."¹⁵³ Reed said this assessment was based on the sworn testimony of this sale by Charlotte Louise Giasson, Dalvida Meloche, and Anatakarias (Thomas Hill), and on the corroboration of other witnesses. Reed also cited other of Sakotion's witnesses who swore that Osias Meloche had worked the land and had hired others to work it. As for those who testified on behalf of Tanekorens (James Lachaudière), Reed did not think they were as credible as Sakotion's witnesses:

Now the Department desires to point out that these statements [from Sakotion's witnesses] are direct positive ones and are not upset by the evidence of Lachaudire's witnesses, and it may be observed moreover that the statements bear an air of truthfulness which carries conviction, and are free from any appearance of connivance between the witnesses or attempt on the part of any individual to prove too much.¹⁵⁴

Reid felt that Tanekorens' witnesses contradicted each other when they testified that both Peter Montour and Sakorewata owned and used the land over the course of three decades. He also suspected that Tanekorens' witnesses were being untruthful and had probably attempted to coordinate their stories beforehand. A key issue for Reed was probably the fact that Tanekoren's witnesses referred more often to customary law and practice

¹⁵² Reed to Brosseau, Aug. 19, 1895, RG10, vol. 2774, file 155,133, LAC.

¹⁵³ *ibid.*

¹⁵⁴ *ibid.*

whereas Sakotion's witnesses tended to focus on sales and transfer of legal title. DIA officials had little if any sympathy for, or understanding of, Indigenous customary law, and Sakotion's witnesses used arguments that resonated with their sensibilities. Reed was so eager to believe in Sakotion's case that even he found it "not unreasonable to suppose that the Deed may have been destroyed by the fire in which Osias lost his life." In the final analysis, Reid found Sakotion's case compelling, but in view of his failure to produce a title document and in view of his failure to register his claim before Walbank in 1885, he considered that the fairest thing under the circumstances was to divide the fifty dollars between the two men.¹⁵⁵

When this verdict was made known to the men, Sakotion expressed his willingness to accept the twenty-five dollars, but Tanekorens angrily refused.¹⁵⁶ The department informed Brosseau that if Tanekorens continued to refuse, it reserved for itself the right to give the entire amount to Sakotion.¹⁵⁷ Soon afterwards Sakorewata (Peter Parquis) demanded to have the case re-opened so he could have a hearing as well. He was unhappy with how the case had turned out and claimed to have acted on poor advice from the agent when he decided to stay out of the inquiry.¹⁵⁸ Brosseau, however, believed that Sakorewata's case was indisputable and did not need a hearing.¹⁵⁹

In January of 1896 a department officer named James Campbell was sent to Kahnawá:ke to investigate the Lot 205 problem and find a solution. Sakorewata (Peter Parquis) informed Campbell that he had nothing to say about the dispute between the

¹⁵⁵ *ibid.*

¹⁵⁶ Brosseau to DIA, Sept. 12, 1895, RG10, vol. 2774, file 155,133, LAC.

¹⁵⁷ DIA to Brosseau, Sept. 14, 1895, RG10, vol. 2774, file 155,133, LAC.

¹⁵⁸ Louis F. Jackson to H. Reed, Oct. 12, 1895, RG10, vol. 2774, file 155,133, LAC.

¹⁵⁹ "Memorandum for information of the Chief Clerk" by James Campbell, Oct. 31, 1895, RG10, vol. 2774, file 155133, LAC.

other two claimants. His contention was simply that "the whole lot originally belonged to him, and that while he would not dispute the title which others might have acquired to parts of the lot, through having entered upon and improved such parts thereof, he claims that all of the lot not so improved belongs to him."¹⁶⁰ Sakorewata only wanted the fifty dollars the agent had initially withheld pending the investigation and did not care what was done with the other fifty dollars. Campbell could see no reason to further investigate Sakorewata's case because his claim was not disputed by the other claimants. Although he recognized that the case was exceedingly complex, Campbell suggested to the three men that the easiest and fairest solution was to divide the one hundred dollars equally among them. Sakorewata flatly refused to take less than fifty dollars, and Campbell concluded that "no decision which may recognize any part of Meloche's [Sakotion's] claim will satisfy either Parkins [Sakorewata] or La Chaudière [Tanekorens]."¹⁶¹ Nevertheless, Campbell advised the department to maintain this decision and to allow the claimants to work out the rest for themselves. Campbell was concerned that the number of reversed decisions in this case had reflected poorly on the department, and suggested being more consistent in the future.¹⁶² In the end Tanekorens accepted the payment and Sakotion refused it, saying he should have been paid the full amount. Sakorewata also refused.¹⁶³ The sixty-seven unclaimed dollars remained with the department.

A year later, in spring of 1897, Waniente wrote to Clifford Sifton, the Superintendent General of the Indian Affairs, on behalf of Sakorewata. In light of the fact that the department had given "a decision, not one decision, but three decisions, each one

¹⁶⁰ James J. Campbell to H. Reed, Jan. 26, 1896, RG10, vol. 2774, file 155133, LAC.

¹⁶¹ *ibid.*

¹⁶² *ibid.*

¹⁶³ Brosseau to DIA, Feb. 24, 1896, RG10, vol. 2774, file 155133, LAC.

worse than the preceding one," he asked that Sakorewata be paid the \$67 in order to extinguish his claims for two lots, including Lot 205.¹⁶⁴ The department would not agree to these terms, but McLean suggested to Waniente that he bring Sakorewata's case to the band council for a decision.¹⁶⁵ Waniente did just as McLean suggested, and that summer the council unanimously passed a resolution recognizing Sakorewata as the owner of Lot 205, and authorizing the department to pay him \$67.¹⁶⁶ It came to the department's attention, however, that Sakotion had not been informed of the council meeting and had not been able to defend himself.¹⁶⁷ Agent Brosseau explained that it would make no difference whether or not Sakotion was there, because all of the councilors opposed his claim in any case.¹⁶⁸ Nevertheless, the department insisted Sakotion be allowed to present his case. In the course of the council meeting of September 24, 1897, Sakotion was allowed to present his case with a number of witnesses who spoke on his behalf. After hearing both sides, the council found in favour of Sakorewata, as Brosseau had predicted.¹⁶⁹ In rejecting the veracity of the statements of Sakotion's witnesses, the councilors contended "that the force of writing could not be affected by witnesses."¹⁷⁰ This apparently sarcastic reference to the superiority of the written word over the spoken word was almost certainly a biting reference to the many victories of the Meloche family by way of title documents over Kahnawá:ke families who had no such documents. In this case Sakorewata had produced a document to prove his title whereas Sakotion had not,

¹⁶⁴ J. Waniente Jocks to Clifford Sifton, May 31, 1897, RG10, vol. 2774, file 155,133, LAC.

¹⁶⁵ McLean to J.W. Jocks, June 5, 1897, RG10, vol. 2774, file 155,133, LAC.

¹⁶⁶ J.W. Jocks to McLean, July 23, 1897, RG10, vol. 2774, file 155,133, LAC.

¹⁶⁷ Brosseau to DIA, Aug. 9, 1897, RG10, vol. 2774, file 155,133, LAC.

¹⁶⁸ Brosseau to DIA, Aug. 20, 1897, RG10, vol. 2774, file 155,133, LAC.

¹⁶⁹ Council resolution, Sept. 24, 1897, RG10, vol. 2774, file 155,133, LAC.

¹⁷⁰ Brosseau to DIA, Sept. 25, 1897, RG10, vol. 2774, file 155,133, LAC.

and the councilors "would not listen to witnesses against documentary evidence."¹⁷¹ It is remarkable that even though the council was usually split between reformists and conservatives, Sakotion and his family did not find any sympathy there.

After protracted consultation and with obvious discomfort, the DIA finally approved the council resolution and paid Sakorewata the \$67 in December of 1897. Sakorewata and his allies had won a resounding victory and Sakotion had not received even a small part of the compensation money. This case, however, was not simply a battle between these men. It was also the site for battles between progressives and conservatives about different understandings of land ownership. While the Indian agent was deeply integrated into these debates and often took sides, he was constrained by the dynamic political reality around him in ways that the department did not always understand. Finally, cases like this one were battles for the very governance of Kahnawá:ke between the people of Kahnawá:ke and the DIA. In this case, the department attempted repeatedly to solve the problem itself and found that it finally had to resort to the band council to get a final decision. The department had wanted to protect the Meloche family from the majority of Kahnawakehró:non, but failed to do so.

The Lot 205 Case also shows that a mere ten years after it had been conducted the Walbank Survey was not very relevant for this high-profile dispute. Walbank had drawn an elaborate map of all existing lots and had completed the herculean task of determining an owner for each, but witnesses never once referred to the Walbank map and only rarely referred to lots by number. There was also a great deal of confusion about lot boundaries, suggesting that Walbank had not placed boundary markers around this or any lot.¹⁷² In an

¹⁷¹ Brosseau to DIA, Dec. 6, 1897, RG10, vol. 2774, file 155,133, LAC.

¹⁷² Walbank only picketed some of the new rectangular lots that were never actualized.

attempt to show the relevance of the expensive Walbank Survey, the DIA tried hard to match its own decisions with Walbank's findings, but failed.

The central problem in this case, according to Brosseau was the compensation money itself. Toward the beginning of the case he wrote:

I am informed that for years it has been the custom of the reserve to appropriate land with the intention of clearing it, without any other formality, and this is the cause of a great deal of trouble, though easy enough to settle when the receipt of money is not involved.¹⁷³

Brosseau had been agent in Kahnawá:ke for some twelve years when he wrote these words and was familiar with Kahnawá:ke land customs. Although most land was already claimed, some Kahnawakehró:non were still claiming parcels of land and cutting wood according to the customary law. The Lot 205 Case clearly shows that the issue of landownership was far from settled in the 1890s. Many lots were still owned without documentary titles, and this case provides a dramatic glimpse of the great distaste of many Kahnawakehró:non held for such documents, and those who relied on them. Between the lines and behind the pragmatic arguments, however, there was a seething anger at repeated, destructive territorial incursions, and their collective inability to stop them.

¹⁷³ Brosseau to DIA, Oct. 22, 1895, RG10, vol. 2774, file 155133, LAC.



Figure 7.4 Photograph of Lot 205 in 2011. Once a fertile hill, it was turned into a borrow pit, and later filled in. Today it is a maintenance area for the Kanawaki Golf Course. Photograph by Daniel Rueck.

Wetlands and Wood Rights

About a year before the Lot 205 Case came to the attention of the department, Agent Brosseau asked the department for direction on the question of landownership and wood rights. The battle between large landowners and the many Kahnawakehró:non who followed customary laws concerning wood (Chapter 5) was one of the main reasons for conducting the Walbank Survey of the 1880s (Chapter 6). The survey was also supposed to eliminate debates about the meaning and application of customary land law, like the one between Shorihowane and the Council of Chiefs, described in the opening of this

chapter. But, as shown by the Lot 205 Case, the survey had done little to resolve this question. In January 1894, Agent Brosseau, faced with questions concerning the continuing Kahnawá:ke custom on landownership and wood-use, asked the department whether or not an Indian could own swamp lands that were not fenced or improved. His letter reads as follows:

Permettez-moi de soumettre à votre considération, une question importante pour les habitants de la Reserve de Caughnawaga, il s'agit de savoir si un Sauvage peut avoir droit de propriété de terrain dans les savanes (swamps) de la Reserve de Caughnawaga, la ou il n'y a pas de clôture ni aucuns améliorations, ils prétendent avoir droit à ces terrains et ils ne veulent pas laisser prendre du bois aux résidents du village pour leur propres usages. Le seul titre que peut avoir un Sauvage à ces propriété est un titre d'achat d'un Sauvage qui n'avait pas plus de droit que lui-même, l'acte des Sauvages ne défini rien à ce sujet, et les résidents du village qui n'avait pas de terrains à bois, désirent savoir s'ils ont le droit de couper du bois sur ces terrains (savanes) non entourés et sans améliorations aucunes pour leur propre usages.¹⁷⁴

Brosseau wanted to know if those who had laid claim to certain wooded, swampy lands had the right to prevent others from cutting wood on those lands. Curiously, Brosseau asserted that the only way an Indian could gain title for such unimproved, unenclosed land was by purchase from another Indian. He failed to mention that Kahnawakehró:nnon had been making claims on such lands by clearing and cultivating them, and more recently by surrounding them by fences (Chapter 5). However, Brosseau asserted that even an Indian who purchased land from another Indian would have a dubious claim because of the uncertainty and disorganization that characterized land ownership. Brosseau had been the agent in Kahnawá:ke long enough to know that there was no customary precedent for claiming a piece of land without working it. Brosseau was right to point out that the Indian Act included nothing on the subject of whether an Indian

¹⁷⁴ Brosseau to DIA, Jan. 24, 1894, RG10, vol. 2742, file 145,904, LAC.

could own unimproved land, and so his essential question to the DIA was this: Can an Indian gain ownership to a parcel of land by simply occupying it?¹⁷⁵ His letter did not include any obvious indications that he thought the answer should be "yes." In fact, departmental officials read it in the opposite way.

Deputy Superintendent General D.C. Scott, apparently assuming that Brosseau believed the claimants to be in the wrong, asked Brosseau on what grounds they based their claim to exclusive possession. He pointed out that under Section 16 of the Indian Act, no Indian could be in possession of reserve land unless that Indian had been located by the band council, with the approval of the DIA. However, under Section 20, an Indian could hold title to a lot on the basis of "some other duly recognised title than that conferred by location ticket."¹⁷⁶ In the case described by Brosseau, Scott continued, the onus to show proof of ownership would be on the party claiming possession. He also pointed out that the band council had never set aside wooded land for common use under Section 10 of the Indian Advancement Act, and it would seem therefore that:

...unless any Indian or Indians who claim to possess the swamp land...have recognized title, any other member of the Band has a perfect right, under the provisions of Section 4, Chap 33, Vic 50 and 51...to take from unoccupied land on the Reserve, wood for the immediate use of himself and his family, without the license in writing of the SG or consent of the Band, but it must be noticed that he cannot cut or use any pine or large timber for any other propose than for building on his own location, or farm, unless with the consent of the Band and the approval of the Superintendent General.¹⁷⁷

¹⁷⁵ *ibid.*

¹⁷⁶ D.C. Scott to Brosseau, Feb. 6, 1894, RG10, vol. 2742, file 145,904, LAC.

¹⁷⁷ *ibid.*

Brosseau, apparently surprised that Scott's opinion was unfavourable to those claiming exclusive right to the parcels of wooded land, changed the tone of his next letter and came out in favour of the claimants. He said that these wetlands had been:

...occupés par des Sauvages membres de la Tribu, pour la plupart depuis un grand nombre d'années, que ces titres d'occupations ont été transférés plusieurs fois depuis entre les différents membres de la Tribu, qu'il en résulte que les propriétaires actuels se croient (Bona Fide) en droit de protéger leur bois pour le besoin de leur familles..."¹⁷⁸

The claimants had occupied these lots for a long time, and the people who now wanted the right to cut wood were people who had previously transferred their rights to the claimants. He also added that these people wanted to sell the firewood in the village. Brosseau warned that if they were given the right to cut wood on these lots, many others would act similarly and the forests of the reserve would be devastated.¹⁷⁹

Brosseau's letter was answered by Hayter Reed, who wrote that he could not "refrain from expressing the surprise occasioned by the nature of the information now received" which contrasted so markedly with Brosseau's first letter. Based on the new information in favour of the case of those claiming the swampland, Reed wrote this:

It now seems that the Indians who assert a claim to the swamp lands base it upon occupation for years, or purchase from others who have acquired a claim through occupation; also that those now wanting to take wood from the swamp lands have not only been paid by those resisting this for the loss of any right they originally had, but would probably abuse it if restored to them.¹⁸⁰

Reed agreed with Brosseau that those occupants who had owned the land for a long time, or had purchased it from others who had claimed it through occupation, had a valid claim

¹⁷⁸ Brosseau to DIA, Feb. 9, 1894, RG10, vol. 2742, file 145,904, LAC.

¹⁷⁹ *ibid.*

¹⁸⁰ H. Reed to Brosseau, Feb. [16], 1894, RG10, vol. 2742, file 145,904, LAC.

to the land. Those who wanted to cut wood on those lands were thus in the wrong and could be treated as trespassers under the Indian Act.

This case illustrates how the department could make two completely opposite judgements based on how the details of the case were presented by the agent.¹⁸¹ In its first judgement, the DIA considered the land claimants as illegal squatters who were unjustly preventing others from cutting wood. In the second judgement, the claimants had ownership rights based on historical occupancy, and the would-be woodcutters were the ones without rights.¹⁸² In this case, the agent could get the answer he wanted from the department, and the opinions of band councillors were apparently not considered relevant. It is not immediately obvious why a case such as this one did not merit an extensive inquiry the way the Lot 205 Case did, which would allow different claimants to present their cases under oath. The difference would seem to be that there was no money involved in this case, and perhaps this is what Brosseau meant when he said that land disputes were easy to resolve as long as there was no money involved.

The Lot 186 Case

Another revealing boundary dispute came to the attention of DIA officials in 1900. Mitchell Montour,¹⁸³ a relatively wealthy Mohawk who maintained a residence in

¹⁸¹ Historian Robin Jarvis Brownlie has written extensively about the extensive powers of particular Indian agents over the communities for which they were responsible. Brownlie, *A Fatherly Eye*.

¹⁸² For more on the role of Indian agents in reserve governance, see *ibid*.

¹⁸³ Mitchell Montour was probably one of two men in the Walbank references books: Wishe Tehotionwasere (Michel Montour), Walbank claimant no. 311, was born in 1849. In 1849, he owned about 24 acres valued at \$620. Wishe Sakoentineta (Michel Montour), Walbank claimant no. 418, was born in 1849. In 1885 he owned about 20 acres valued at \$356.50. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

the upscale Montreal suburb of Westmount,¹⁸⁴ had recently purchased or inherited Lot 186.¹⁸⁵ This was a twenty-two acre property near the village and Common, and almost entirely surrounded by the much larger Lot 187 (Figure 7.5).¹⁸⁶ Lot 187 had been owned by the late Karonhiaktatis,¹⁸⁷ who was one of the wealthiest landowners in Kahnawá:ke,¹⁸⁸ and he had leased it to a non-Mohawk named Mallette as pasture land. Like most reserve lots, both were unfenced. In July 1900, Montour planted a portion of his lot in grain even though he knew the crop would be vulnerable to Mallette's cattle which roamed over both lots. According to Montour, he had first consulted with Agent Brosseau, who told him "to proceed with the work and if the cattle did me any damage, I would be protected."¹⁸⁹ Mallette's cattle indeed destroyed his crop, and he asked the DIA if Karonhiaktatis' heirs could be forced to build a fence around his property to keep the cattle from destroying his crop. He also took the time to inform the department that "a portion of the Reserve is fenced off, called the "Common" where the cattle are supposed to pasture."¹⁹⁰

¹⁸⁴ Montour lived on 21 Stanton Street very near to the location occupied by Westmount City Hall today (built in 1922).

¹⁸⁵ According to Walbank in 1885, Lot 186 was 21.6 acres, most of it classified as bush with one acre of swamp, and valued at \$108. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹⁸⁶ According to Walbank in 1885, Lot 187 was 136.6 acres (59 cultivated, 29.6 pasture, 43 bush, and 5 swamp), and valued at \$3352. Walbank noted that the property included a good stable and large barn, and that the farm was rented out. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

¹⁸⁷ Karonhiaktatis (Baptiste Jocks), Walbank claimant number 219, was born in 1832, and married to Katis Konwahawison in 1854. In 1885 he owned 255 acres outside the village valued at \$5019. Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC. Karonhiaktatis was listed in the 1891 census as a farmer.

¹⁸⁸ Reid, *Kahnawà:ke*, 24.

¹⁸⁹ Mitchell Montour, July 26, 1900, RG10, vol. 3022, file 224,850, LAC.

¹⁹⁰ Mitchell Montour, July 26, 1900, RG10, vol. 3022, file 224,850, LAC.



Figure 7.5 Detail of blueprint, "Caughnawaga Reserve no. 14. Plan of the Caughnawaga Indian Reserve, Quebec," [1900], LAC.¹⁹¹

As usual in such circumstances, the DIA secretary J.D. McLean asked Agent Brosseau for a report, and Brosseau explained that:

...il est de coutume ici sur la Réserve, lorsqu'un Sauvage veut faire du pâturage sur son terrain qu'il doit l'entourer. il n'y a pas de règlement qui oblige un voisin à faire la moitié de sa clôture, de sorte que je ne vois pas de raison pour les héritiers de fin Jean-Bte. Jocks [Karonhiaktatis] d'être exempt de faire la clôture autour de leur pâturage..."¹⁹²

It is likely that this understanding of Kahnawá:ke custom was highly contested, and much more complex than Brosseau suggested. The archival record includes numerous references to cattle loose in the reserve, and a great reluctance on the part of Kahnawá:ke

¹⁹¹ RG10, vol. 3022, file 224,850, NMC 83962, LAC.

¹⁹² Brosseau to McLean, Aug. 17, 1900, RG10, vol. 3022, file 224,850, LAC.

leaders to require that animals be fenced in.¹⁹³ But Kahnawakehró:non were not consulted on the matter, so the DIA was not subject to a second opinion. Brosseau noted that as long as he had been agent, Lot 186 had always been included in the pasture of Lot 187, and that there had never been a problem with that arrangement until now. Although he saw that it would be expensive for Karonhiaktatis' heirs to fence Lot 187, he insisted on the customary responsibility of a landowner to fence domestic animals in (not out). He could see no other solution unless Karonhiaktatis' heirs could be convinced to buy Montour's lot. In October of 1900, however, the agent reported that the persons concerned could not come to an agreement on the matter, Montour apparently demanding too high a price for his lot. "The question is one of the most difficult to settle," he wrote, "as it is necessary to follow the custom of the reserve, which is contrary to law."¹⁹⁴

In November of 1900 Agent Brosseau finally revealed in his letters that Montour had only sown buckwheat in an irregularly-shaped, one-acre part of the twenty-two acre lot, and that he had done so in late June. In addition, he informed the DIA that the land was low and covered by water for most of the year.¹⁹⁵ Clearly the lot was not suitable for agriculture, and Montour did not intend to sow it a second time. Louis Jocks, one of Karonhiaktatis' heirs, refused to believe that his family was obligated to build a fence around Montour's lot. He argued that the Lot 187 pasture had seamlessly included Lot 186 for the last twenty years, and that the previous owner, Louis Lefebvre had never made any claims to Lot 186. Jocks offered to pay for half of the fence, but no more.

¹⁹³ A good example is RG10, Vol. 7151, File 373/3-10, LAC. It details the efforts of the golf course, the provincial government, and the DIA in the 1940s to pressure the Kahnawá:ke band council to pass a by-law on animals running at large.

¹⁹⁴ Brosseau to McLean, Oct. 15, 1900, RG10, vol. 3022, file 224,850, LAC.

¹⁹⁵ Brosseau to McLean, Nov. 19, 1900, RG10, vol. 3022, file 224,850, LAC.

When negotiations for the purchase price began, Montour demanded \$220 and Jocks offered \$150. In March of 1901 the sale had been transacted at a price of \$225.¹⁹⁶ It is unclear exactly what happened between November and March to bring Jocks to the point of paying more than Montour had initially demanded, but one could make an educated guess. It is likely that Montour's only goal in the whole affair was to sell the lot at a good price. He planted a small area in buckwheat knowing it would be trampled and eaten by cattle, and that he could then demand that Karonhiaktatis' heirs build a fence. In the end Karonhiaktatis' heirs must have realized that the agent's interpretation of Kahnawá:ke custom would prevail in this case, and that the department would stand support the agent. They had to either build the fence or buy the lot. In the end, it would appear Montour had all the bargaining chips and Karonhiaktatis' heirs had none. The agent was able to help his friends and hurt his enemies without consulting the council, and could characterize Kahnawá:ke custom as "contrary to law" while using a dubious interpretation of the custom to his advantage.

Conclusion

While part of the mandate of the DIA was to protect Indigenous peoples and their lands, the department in fact tended to support the interests of companies and business people over the collective interests of Kahnawakehró:non. When the CPR needed land, the department helped the company to get what it needed, and compensation was discussed after the fact. Mohawks' legal status as minors under the Indian Act meant that Kahnawá:ke leaders had to rely on the DIA to address their grievances, but the

¹⁹⁶ Brosseau to McLean, Mar. 22, 1901, RG10, vol. 3022, file 224,850, LAC.

department usually responded very slowly or with little enthusiasm. Several of the disputes over land described in this chapter sprang directly from railroad incursions that were facilitated by the DIA and opposed by Kahnawá:ke leaders. Archival government documents, however, do not adequately capture the frustration and anger generated by departmental collusion in the degradation of Kahnawá:ke lands. A visit to Kahnawá:ke today, cut-up and crisscrossed as it is by canals, high-voltage power lines, highways, bridges, dumps, and railroads will be enough to give the reader some idea of the emotion felt by those who lived and loved the land so degraded. Figure 7.5 shows a place that was rich with meaning long after its original character and meaning has been lost.

The case studies in this chapter reveal a great deal about the contested and changing nature of land ownership and resource management, but they also shed light on the inconsistent way the DIA and its agent dealt with land conflicts. Although the department had the upper hand at times, it showed great weakness at other times. It was most effective in accomplishing its goals when decisions were made without consultation with Kahnawakehró:non: through correspondence with its agent and bypassing Kahnawá:ke leaders entirely. The Lot 205 case shows just how little power the department had when an inquiry was held in a more public way and when band councilors were allowed a decision-making role. Even though the band council was often substantially weaker than the council of chiefs had been, both in terms of perceived legitimacy within the community and in its ability to stand against the department, the Lot 205 case reveals that it could still upset the agenda of the DIA. Cases like these made the department look weak, and officials soon learned that they could spare themselves headaches by acting in secrecy and underhandedness.

Although customary land laws were still asserted in the 1880s and 1890s, they were increasingly under threat: first, by the scarcity of unclaimed land; second, by the action or inaction of the DIA which protected landowners from those who would cut trees on their lands according to customary law; and third, by the Walbank Survey which was designed to put an end to customary land practices. Although the survey failed in its grandest ambitions, it undermined customary land law by assigning numbers to lots, defining owners according to Canadian law, and freezing lot boundaries that were previously in flux. Demographic, economic, and environmental factors also played a part, as did DIA coercion. In the period examined by this chapter, customary land practices were slowly abandoned. Although a number of Kahnawakehró:non continued to assert their rights under customary laws until about 1900, there are no such known cases for the twentieth century.

Although customary land laws appear not to have been asserted in the twentieth century, the issue of land ownership was far from resolved. Thanks to the unfinished nature of the Walbank Survey, departmental inattention to land transactions, and the legal inability of Kahnawá:ke leaders to properly govern their own territory, a high percentage of Kahnawá:ke lots today are known as "unsettled estates." Such lots are owned by multiple people, sometimes hundreds, and make up about half of the entire area of the reserve today. This is seen as a blessing by those who want to see undeveloped landscapes preserved, as there is no easy way to get several hundred people to agree on selling or developing a lot, but it is seen by others as an impediment to development.¹⁹⁷ Another important problem is that many lots are not accessible by road, for reasons that

¹⁹⁷ Personal communication with a number of Kahnawakehró:non including A. Brian Deer on a number of occasions, and attorney Martha Montour, July 20, 2012. See also, n.a., "This is Indian Land."

are also closely related to the incomplete Walbank Survey and the inability of Kahnawá:ke leaders to assert their authority. In fact, there are parcels of land that are still today held without any documentary title.¹⁹⁸ The dysfunctional landholding regime in place today is a result of the DIA's sins of commission and omission: While the department interfered in Kahnawá:ke affairs and undermined the ability of Kahnawá:ke leaders (be they traditional chiefs or band councilors) to govern, it also failed to implement a functional land management regime. The Lands Unit of the Mohawk Council of Kahnawá:ke today requires a bureaucracy of some fifty employees to manage the dysfunctional hybrid system that is the legacy of the Walbank Survey and the Indian Act.

¹⁹⁸ Personal Communication, Martha Montour, July 20, 2012.

CHAPTER 8 Conclusion

The people of Kahnawá:ke maintained customary laws that prioritized economic equality within the community, and ensured that those with the least wealth would have access to land for growing food and wood for heating their homes. These laws were explicitly designed to limit individual accumulation of land as property and the exploitation of wood for commercial gain. As they were expressed by their leaders throughout the nineteenth century, the customary laws stipulated that the territory was collectively owned, and it was only within that framework that individuals had rights to land and resources. The values reflected in these laws were not liberal values but the patrimony of a Rotinonhsiónni understanding of territories as spaces that must be shared between peoples like a bowl with one spoon. Unlike the values of those who built the Canadian nation, who were focused primarily on the rights of individuals, especially in regard to property, Kahnawá:ke laws were focused on the communal good.

Around the turn of the nineteenth century a small number of community members, including Mohawks like Arakwente and recent adoptees like Claude Delorimier, began to challenge customary land laws. To the detriment of the rest of the community, these men started accumulating land and selling wood, and when the chiefs attempted to stop them they took the unprecedented step of suing them in Montreal courts. In response to this challenge, the chiefs attempted to codify existing customary laws by passing a set of twenty-one laws. Although these were probably never enforced as such, they give insight into the principles of customary laws in Kahnawá:ke which

continued to be applied throughout the nineteenth century. The laws insisted on the communal ownership of the territory and the ultimate authority of the chiefs in matters of land. They stipulated that a person could lay claim to a piece of unused land for the purposes of cultivating it, but not more land than he/she could work without hiring help. With a few exceptions, all trees were designated as communal property and were available to any community member who wished to cut them, but only for personal use.

The industrial and demographic boom of the city of Montreal during the middle decades of the nineteenth century caused a number of problems for Kahnawakehrónon. Although Mohawks benefited from new economic opportunities, rising land and wood prices led to further land losses and wood pilfering on Kahnawá:ke territory. The arrival of the first railroad in 1852 was the first in a long series of industrial infrastructure incursions that challenged Kahnawá:ke sovereignty and territorial integrity. The abolition of the seigneurial system during the same decade meant that Kahnawá:ke would lose two thirds of its territory as well as the rental income those lands produced. This period also saw the passage of increasingly interventionist Indian laws that unilaterally transferred a number of chiefly powers to the Indian department. The DIA took control of Kahnawá:ke finances and made it increasingly difficult for local leaders to enforce membership rules and customary land laws. This transfer of authority to the DIA, however, was not accompanied by a requisite willingness or ability on the part of the department to enforce laws through its local Indian agent. The results of all these perturbations were increased racial tensions, unregulated exploitation of wood and land, and a sense of disquiet and foreboding about the future. After exhausting all avenues for resistance and protest, the

chiefs attempted to sell the reserve, move the community, and start anew elsewhere, but these efforts also came to naught thanks to DIA stonewalling.

From the perspective of the DIA the problems in Kahnawá:ke were not the result of external forces but situated in the people themselves. Officials blamed Mohawks for their supposed primitive collective instincts, defective land customs, and general resistance to progress. Not recognizing the legitimacy of longstanding customary laws, nor its own role in creating the open-access conditions, the DIA blamed Kahnawakehró:non for their lack of respect for others' property. Using the wood and land crisis of the 1870s as justification, the DIA resolved to eliminate the Kahnawá:ke problem once and for all by breaking up the reserve and community, creating assimilated individuals, establishing an agricultural landscape, implanting a municipal system of government, and imposing schools that would teach children to reject the ways of their parents. A key part of the departmental strategy was to launch a subdivision survey, called the Walbank Survey, aimed at imposing a liberal order on the Kahnawá:ke landscape and people.¹ Deeply opposed to Kahnawá:ke's vernacular landscape of irregular lot shapes, shifting boundaries, and overlapping use-rights, DIA officials intended for the survey to erase the existing landscape so that a new order could be built from scratch. The desired landscape was to be a grid of rectangular lots in which every Mohawk head of household (defined according to Euro-Canadian norms) would be assigned to a thirty-acre farm. Such a grid was desirable, according to officials, because it would eliminate inequality of land ownership and would allow the department to easily and cheaply manage Kahnawá:ke land relations. It was also imagined that the new

¹ Historian Ian McKay has argued that the formation of the Canadian nation can best be understood through a liberal order framework. McKay, "The Liberal Order Framework."

cadastre would lead to the enfranchisement (legal assimilation) of the whole community, and that the scattering of Kahnawá:ke would serve as a model for breaking up Indigenous communities elsewhere.

The DIA's high-modernist mentality and liberal ambitions, however, came up against Kahnawá:ke opposition, and were limited by weaknesses within the government itself. While Mohawks were clearly unhappy with the status quo in the 1870s and 1880s, few, if any, wanted to have their landscape re-organized along the lines envisioned by the department and its surveyor William Walbank. Although many felt they had no choice but to cooperate, there were also those like Ohionkoton who simply refused, saying, "I like it the way I have" (Chapter 6). Other Mohawks burned and removed survey stakes, petitioned against the survey, and withheld information, all of which led to cost overruns and delays. They also wrote editorials in Montreal newspapers to counter the rhetoric of the DIA, and used political connections to raise their concerns and embarrass the government in the House of Commons. In addition to resistance from Kahnawá:ke itself, the DIA faced internal problems that hindered its ability to accomplish what it set out to do. DIA actions were poorly planned, subject to multiple agendas, and characterized by contradiction. Furthermore, the DIA was vulnerable to shifts in public opinion, in Kahnawá:ke, but especially in the broader public. Apparently knowing that the non-Native public would not agree to finance something as expensive and questionable as the Walbank Survey, the DIA was limited to the albeit substantial sums in the Kahnawá:ke account. When that money was spent, the project was all but abandoned.

As anthropologist James Scott has argued for a number of authoritarian states around the world, the Canadian state found Indigenous land and land practices illogical,

opaque, and impossible to control, and wanted to replace them with management systems and landscapes that reflected a bureaucratic rationality. In Canada this aspiration is most obviously demonstrated by the Dominion Lands Survey on the Prairies where the government's ambitions were largely realized, but it is also evident in the planned subdivision of Kahnawá:ke. In the latter case, however, the DIA could not turn its liberal and modern ambitions into reality due to the conflicted, disorganized, and constrained nature of the department, as well as the ability of Kahnawakehró:non to find effective paths of resistance. This is not to say that the inconsistent, *ad hoc* nature of DIA actions tended to benefit Indigenous communities; quite the opposite. Because it operated without real public scrutiny, in relation to a constituency that was legally disenfranchised, department officials could often act outside the law without facing consequences. Departmental indecision and incompetence meant that Kahnawá:ke leaders could not take action on important local issues, and Kahnawakehró:non were often left in limbo for long periods of time. The department asserted itself just enough to undermine local leaders, but not enough to protect the land and people from the effects of the leadership vacuum. In like manner, although the most radical elements of the Walbank Survey were not imposed, it still contributed to the enclosure of the Mohawk commons. Long-term outcomes include a dysfunctional and unequal property regime that reflects neither the ideals of the Indian Act nor those of the community, an unresolved membership question that continues to simmer and periodically explodes, and an ongoing unresolved question of leadership in which multiple forms of government (including band council and longhouses) vie for the support of the people.

Though bloodied and bruised from more than a century of DIA interference, and with a badly damaged territory that is cut up with bridges, railroads, canals, hydro-lines, and highways, Kahnawá:ke Mohawks are still there.² Contrary to the frequent assumption that Indigenous peoples in Eastern Canada had been largely assimilated by centuries of colonization, and that by the late nineteenth century they no longer presented the DIA with a problem, this dissertation shows that Kahnawakehró:non continued to resist the imposition of the liberal order, and did so effectively. While they could not prevent the enclosure of the commons or the ending of customary land practices, the people of Kahnawá:ke did not assimilate as the DIA planned. Neither did the territory of Kahnawá:ke become integrated with the surrounding landscape. Viewed from the air, the shape of the heavily forested reserve contrasts sharply with the farms and suburbs of neighbouring areas, mirroring the contrasting cultural and legal realities inside and outside the reserve. Similarly, the enclosure of Indigenous lands and the destruction of collective Indigenous identities across North America remain incomplete due to the steadfast resistance of First Nations, as well as the Indian Act with its unintended long-term preservation of the legal category of "Indian" and of Indigenous lands as reserves.³ This dissertation shows that enclosure in Kahnawá:ke was only partly accomplished, and not in the way the DIA intended. The continued existence of Kahnawá:ke as a distinct community and cohesive territory is testament to the failure of the liberal assimilationist agenda thus far.

² The construction of the St. Lawrence Seaway directly through the village in the 1950s is remembered today as one of the greatest environmental and cultural tragedies in the history of the community. See Stephanie Phillips, "The Kahnawake Mohawks and the St. Lawrence Seaway," (M.A. Thesis, McGill University, 2000); *Kahnawà:ke Revisited: The St. Lawrence Seaway* (film), dir. Kakwiranó:ron Cook (Kakari:io Pictures, 2009), <http://www.kahnawake.com/community/revisited.asp>.

³ Historian Sarah Carter points out the irony that laws intended to assimilate First Nations gave them a separate legal status and served to preserve their distinct identities. Carter, *Lost Harvests*, 25.

The scope of this research project does not include most of the twentieth century, but that is not to imply that the story ends around 1900. Canadian efforts to eliminate reserves and assimilate First Nations communities continued throughout the twentieth century, culminating in the 1969 Liberal government proposal to abolish the Indian Act and transform Indigenous communities into ethnic minorities made up of individual Canadian citizens. Although it has been shown time and time again that Indigenous peoples have generally opposed models that privilege individual rights over collective rights, efforts along the same lines continue to this day. Unquiet in some circles about the apparently unfinished nature of this liberal enclosure project across Canada has recently led a small but vocal number of scholars, activists, and policy makers to call for a law that would allow for the privatization of reserve lands. The most important text in this regard is the 2010 book titled *Beyond the Indian Act* coauthored by political scientist and former aid to Stephen Harper, Thomas Flanagan, one of his former students, political scientist Christopher Alcantara, and economist André Le Dressay. Flanagan et al. argue that opening up reserve land to the market is the solution to First Nations poverty.⁴ Their argument is based on a highly-selective historical summary, written by Flanagan, in which he argues that Indigenous people in Canada are like all other humans in that they

⁴ Flanagan, Alcantara, and Dressay, *Beyond the Indian Act*, 7. The authors acknowledge an intellectual debt to Hernando De Soto, the Peruvian economist who argues that the cause of poverty in much of the world is the lack of secure and well-defined property rights. Hernando De Soto, *The Other Path: The Invisible Revolution in the Third World* (New York: Harper & Row, 1989); Hernando De Soto, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (New York: Basic Books, 2000). De Soto's ideas have been influential in directing the policies of major global players such as the World Bank and the U.S. Agency for International Development, but most of the recent literature on private property in the third world casts doubt on De Soto's claims and the quality of his research. The majority of the studies since the publication of De Soto's *The Mystery of Capital* research have shown that the poor often receive no benefit from having property titles, and that the lack of legal title rarely constitutes a barrier to entrepreneurship by the poor. For a summary of the research, see Alan Gilbert, "De Soto's *The Mystery of Capital*: Reflections on the book's public impact," *International Development Planning Review* 34, no. 3 (2012).

have a long history of engaging in commerce and, contrary to popular belief, have never been opposed to the commodification of land. They may "claim territories as collectivities but have no particular aversion to private property in the hands of families and individuals."⁵ Flanagan appears regretful at not being able to argue that institutions of private property are "directly deducible from human nature," but argues that such institutions are consistent with what "modern biology teaches us about the nature."⁶

The primary goal of Flanagan et al. is to promote the enactment of the First Nations Property Ownership Act (FNPOA), a proposed federal law that would allow First Nations to voluntarily allow community members the right to sell reserve lots to anyone, including non-Natives, and turn underlying title to reserve lands over to the band council. The book and the act it promotes have been subject to substantial criticism from those who oppose Flanagan's liberal assimilationist agenda, and see the proposed legislation as another attack on Indigenous sovereignty, and not as the tool of empowerment it portends to be.⁷ Since the publication of the book, the possibility of privatizing reserve lands has repeatedly appeared in the national media, usually spearheaded by editorials by right-wing proponents of the FNPOA like motivational speaker Calvin Helin⁸ and policy-analyst Joseph Quesnel.⁹ In August of 2012 the Conservative government announced it was in the process of drafting the FNPOA and would table the bill in 2013. With this

⁵ Flanagan, Alcantara, and Dressay, *Beyond the Indian Act*, 41.

⁶ Ibid., 17. Flanagan then quotes Richard Dawkins as proof of inherent human selfishness and individualism, and even includes a paragraph about the aggressive territorial behaviour of chimpanzees, presumably to drive home his point about the naturalness of territorial struggles for what he tellingly calls "Lebensraum." Richard Dawkins, *The Selfish Gene* (Oxford: Oxford University Press, 1976).

⁷ Pamela Palmater, "Opportunity or Temptation? Plans for private property on reserves could cost First Nations their independence," *Literary Review of Canada* (Apr. 2010).

⁸ Calvin Helin, "Private property is a native right," *The Globe and Mail*, Apr. 12, 2011. Helin is also the author of a book on Indigenous self-empowerment: Calvin Helin, *Dances With Dependency: Indigenous success through self-reliance* (Vancouver: Oca Spirit, 2006).

⁹ Joseph Quesnel, "Give natives rights to their land," *Financial Post*, Mar. 18, 2011.

announcement, another wave of editorials, reportages, and debates hit the news media. Right-wing pundit Ezra Levant of *Sun News* television devoted nearly twenty minutes of his show *The Source* to the promotion of the FNPOA, and personal attacks against opponents. Levant painted a picture of voiceless, impoverished Indians lacking property rights, at the mercy of corrupt and merciless "one-percenters" like Mi'kmaw lawyer and professor Pamela Palmater who, he argued, want to keep it that way.¹⁰ Opponents of FNPOA, including Palmater and Assembly of First Nations National Chief Shawn Atleo, pointed out that such legislation has almost no support in Indigenous communities, and could easily lead to non-Native control of reserve lands and mineral resources.¹¹ British Columbia Regional Chief Jody Wilson-Raybould argued that Indigenous communities are already advancing "innovative and sustainable approaches that will unlock capital, create partnerships and protect their lands and resources for future generations consistent with their rights and responsibilities – on their own terms."¹² This debate is only just beginning to heat up, and it remains to be seen how it will play out when the government tables the FNPOA in 2013.

Like Lawrence Vankoughnet, Hayter Reed, and other DIA officials who appear in this dissertation, Flanagan and his allies see the collective identities and customs of First Nations as problematic and retrograde.¹³ Although Flanagan is correct in saying that

¹⁰ Ezra Levant, "Who Opposes Native Rights," *Sun News*, video aired Aug. 17, 2012, <http://www.sunnewsnetwork.ca/video/featured/prime-time/867432237001/who-opposes-native-rights/1791392862001>

¹¹ Jason Fekete, "First Nations leaders worry ownership bill could target their resources," *Ottawa Citizen*, Aug. 16, 2012; Pamela Palmater, "Flanagan National Petroleum Ownership Act: Stop Big Oil land grab," *Rabble.ca*, Aug. 9, 2012, <http://rabble.ca/blogs/bloggers/pamela-palmater/2012/08/flanagan-national-petroleum-ownership-act-stop-big-oil-land-g>.

¹² Jody Wilson-Raybould, "First Nations want property rights, but on our own terms," *The Globe and Mail*, Aug. 10, 2012.

¹³ For more on Flanagan's assimilationist agenda, see Thomas Flanagan, *First Nations? Second Thoughts* (Montreal and Kingston: McGill-Queen's University Press, 2000). For Flanagan's justification of European

some Indigenous people have been in favour of adopting whatever institutions of property were likely to make them money (some Mohawks who appear in this dissertation match that description), he is incorrect in suggesting this is true for Indigenous peoples as a whole. This dissertation shows that when they were pressured to accept capitalist land practices, the majority of Kahnawakehró:non tended to resist, favouring instead the maintenance of institutions of common ownership of land and resources, and the continuation of non-market land tenure. It was only through various forms of DIA coercion that Kahnawakehró:non were eventually forced to adopt property institutions that were somewhat in line with the Indian Act. In contrast to Flanagan who would have us "say goodbye to the primitive communist of Marxist fantasy and hello to the worker, owner, and investor of the modern global economy,"¹⁴ this dissertation argues for an option he and his colleagues do not give: Indigenous governments, responsible to their own people, with the power to effectively govern their lands in ways that they see fit.¹⁵ The history of Kahnawá:ke land management reveals that the top-down imposition of capitalist land relations was opposed by most in the community and did not produce beneficial results for the majority.

As historical geographer Cole Harris argues in his study of Indigenous dispossession in British Columbia, the liberal assimilationist policy approach is a proven failure. Instead, he argues for a "politics of difference" based not on the primacy of individual rights but on the recognition of the historic collective rights of First Nations,

appropriation of Indigenous lands, see Thomas Flanagan, "The Agricultural Argument and Original Appropriation: Indian lands and political philosophy," *Canadian Journal of Political Science* 22, no. 3 (1989).

¹⁴ Flanagan, Alcantara, and Dressay, *Beyond the Indian Act*, 41.

¹⁵ Flanagan et al. give lip-service to this kind of freedom of choice, but only as it concerns the implementation of the FNPOA. True self-government allows communities to determine their own property laws instead of giving them only the one choice set out for to them by the federal government.

especially in regards to land.¹⁶ Likewise, Mohawk political scientist Taiaiake Alfred says that academics, journalists, and policy-makers get it wrong when they suggest that Indigenous people want to be part of Canadian society like everyone else. According to Taiaiake, Native people do not want equality if equality means they will be governed by the same laws as Canadians. What they want is "...their land back. They want control over their land. They want to be able to live freely according to their own laws in their own territories as a partner with Canadian society."¹⁷ Taiaiake's thinking is rooted in the Two Row Wampum, one of the oldest treaties between the Rotinonhsiónni League and Europeans according to Rotinonhsiónni oral tradition. The parallel purple lines of the wampum represent two boats: one is the Rotinonhsiónni canoe, the other a European ship, each vessel embodying the laws and customs of its respective people. The boats travel down the same river, represented by the white background of the wampum, but they do not interfere with each other's path.¹⁸

It was this principle of non-interference and mutual respect, a longstanding feature of Indigenous-settler relations before Confederation, which the Canadian nation abandoned in the nineteenth century. This dissertation details the breakdown of this relationship, the uneven establishment of an asymmetrical power dynamic, and its cultural, political, and environmental consequences. Considering the abysmal failure of this colonial relationship to either assimilate Indigenous communities, or to allow them to achieve their own goals, I would suggest that the way forward is through the

¹⁶ Harris, *Making Native Space*, chapter 10.

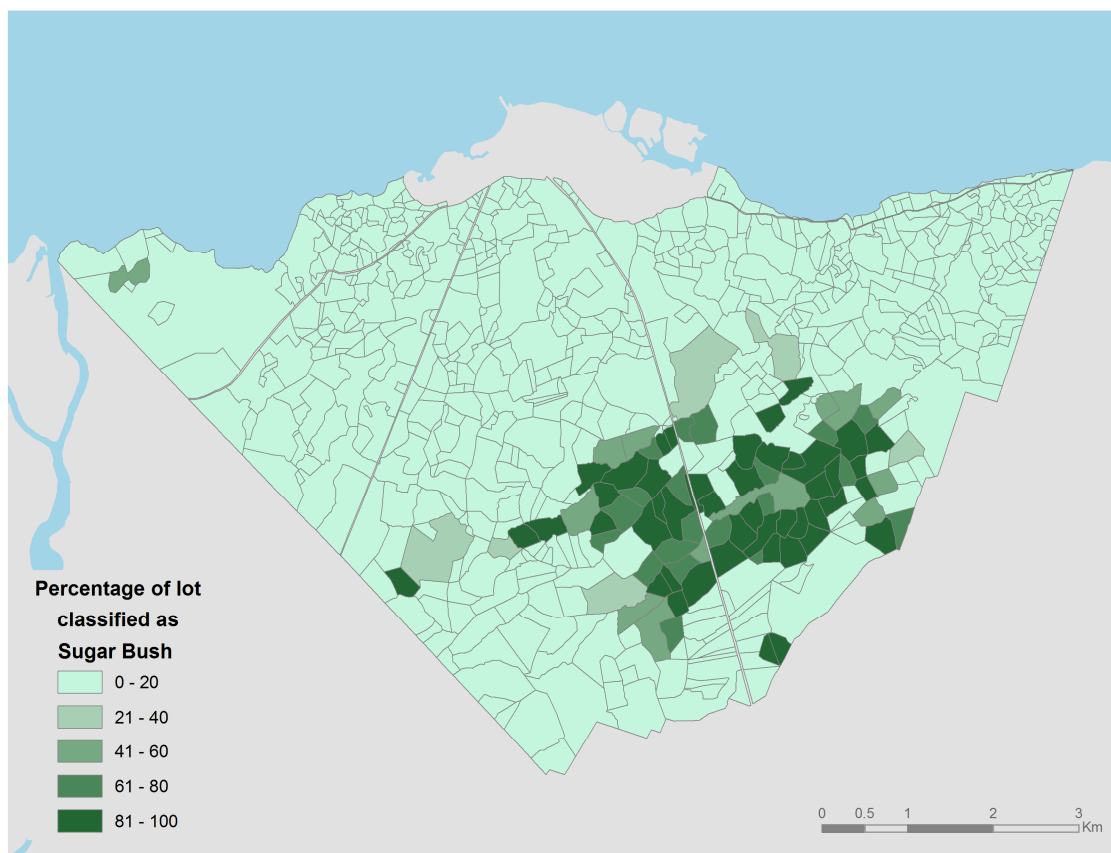
¹⁷ Presentation by Taiaiake Alfred, "The Psychic Landscape of Contemporary Colonialism," Simon Fraser University, Jan. 25, 2012, http://stream.ufv.ca/onDemand/RAN/RAN_25-Jan-2012.wmv. See also, Alfred, *Wasáse*; Alfred, *Peace, Power, Righteousness*.

¹⁸ Kathryn V. Muller, "The Two 'Mystery' Belts of Grand River: A Biography of the Two Row Wampum and the Friendship Belt," *American Indian Quarterly* 31, no. 1 (2007).

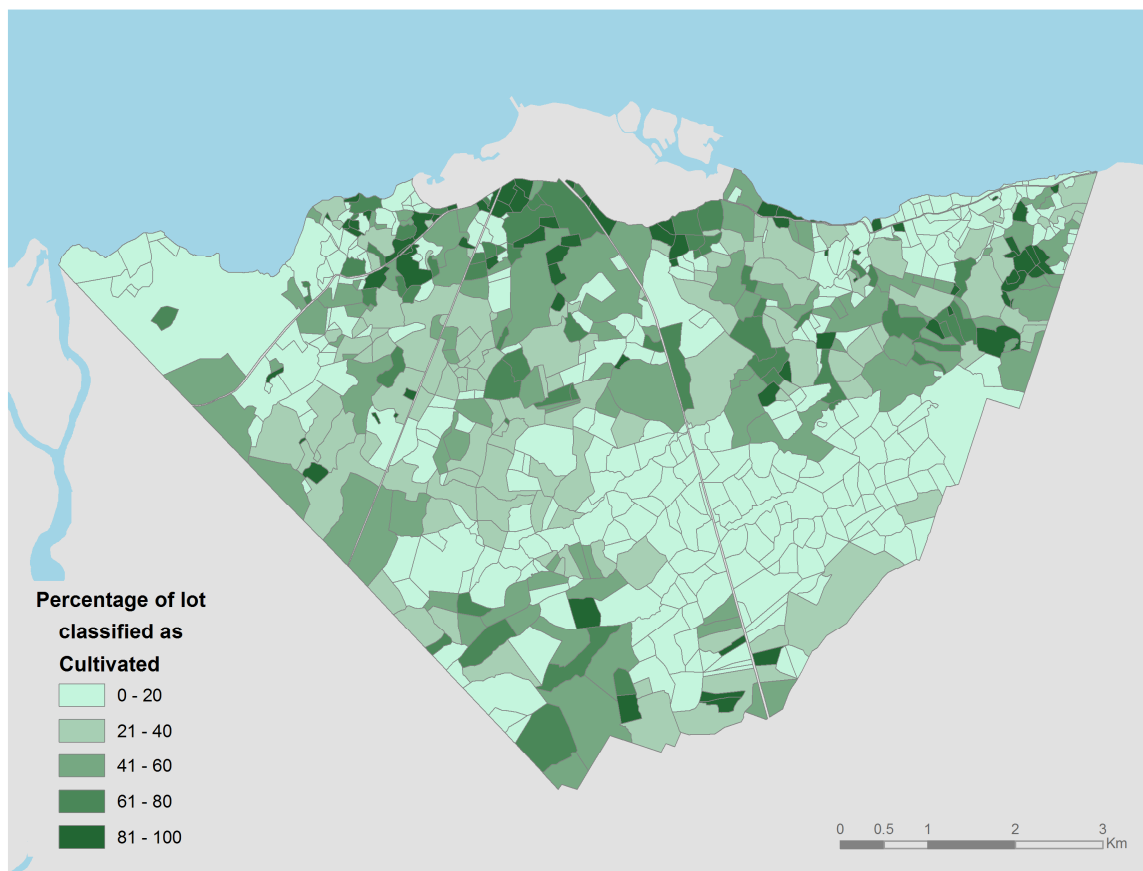
reestablishment of the principle of non-interference and mutual respect. Kahnawá:ke Cultural Liaison Teyowisonte Thomas Deer, when asked about the relationship between emergent First Nations and Canada, answered, "As Mohawks, we're bound by the principles of the Two Row Wampum, and we have the respect each other's independence and each other's way of life... Victory to me means everybody having political autonomy, economic independence, and a way of life that they choose, including white people... The battlefield is in my garden, and it's everywhere."¹⁹

¹⁹ Alfred, *Wasáse*, 277.

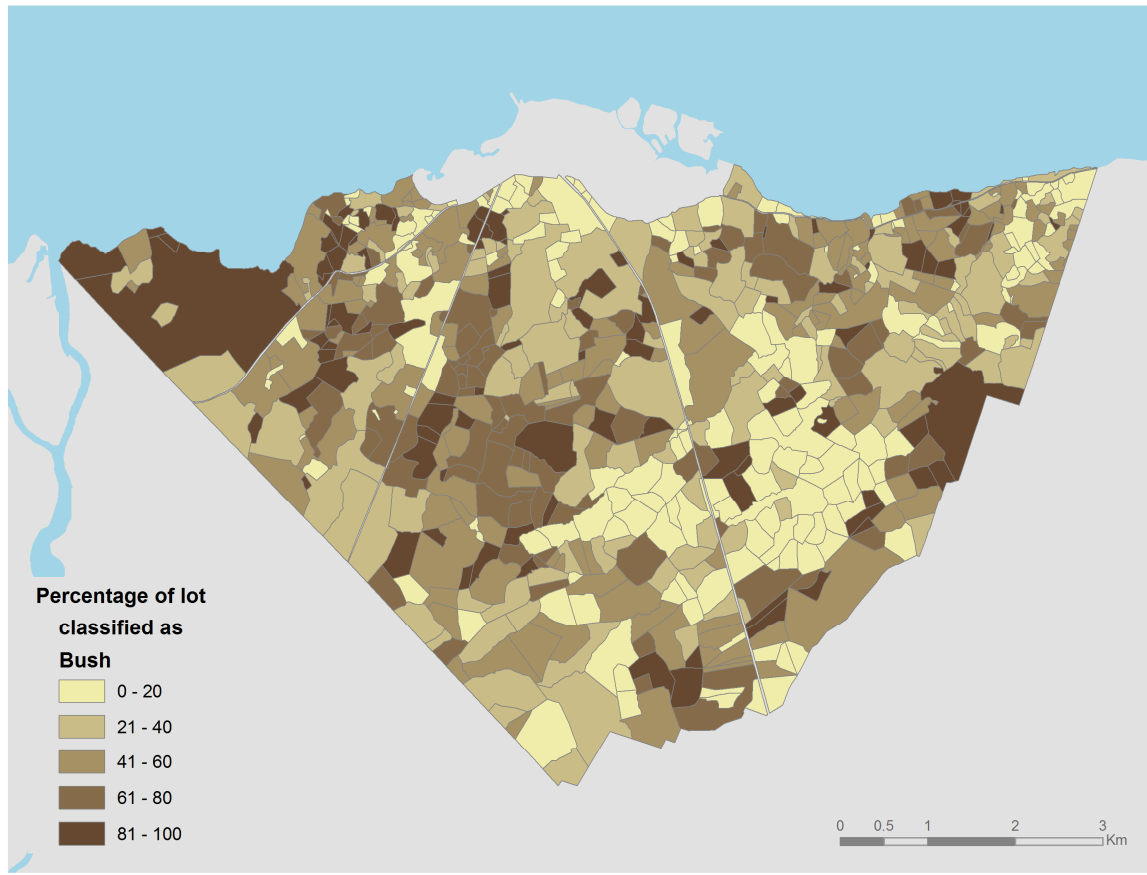
APPENDIX A Maps of the Kahnawá:ke reserve showing land-use percentages ca. 1885



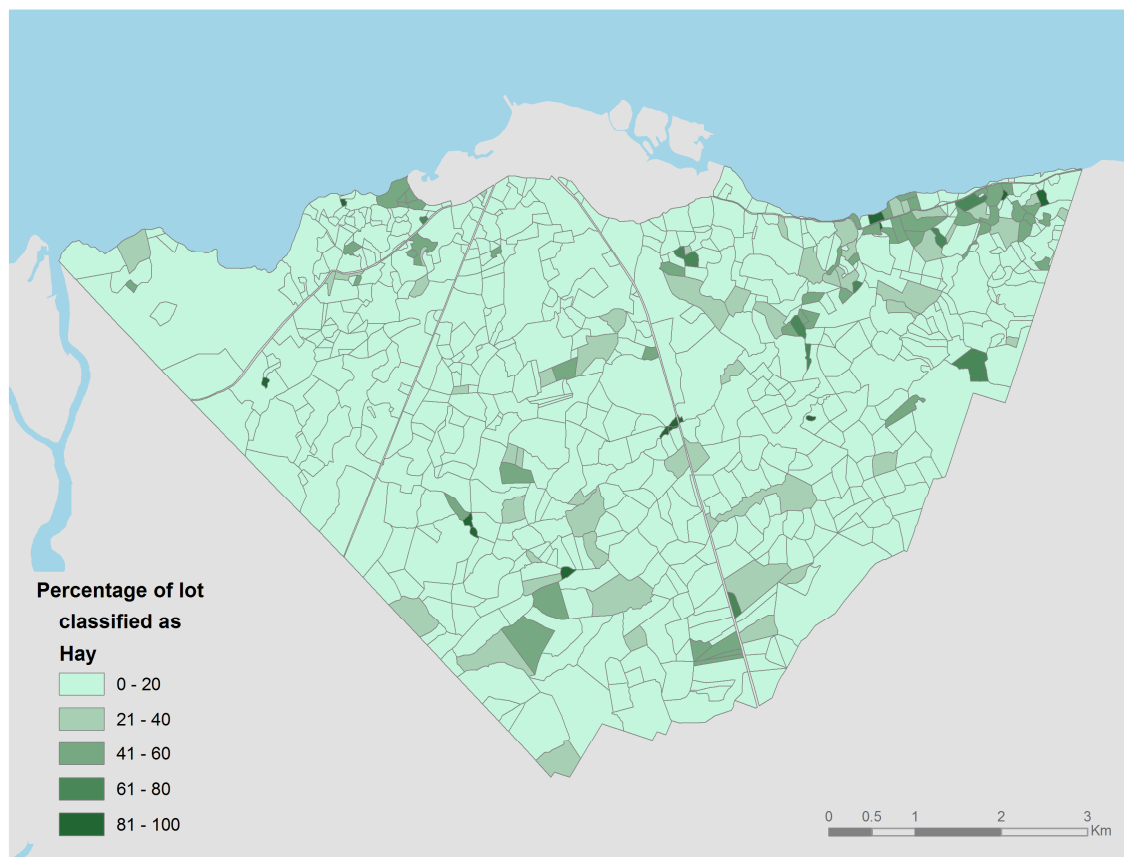
Map of Kahnawá:ke showing percentage of lots classified as sugarbush, ca. 1885. Map by Louis-Jean Faucher.



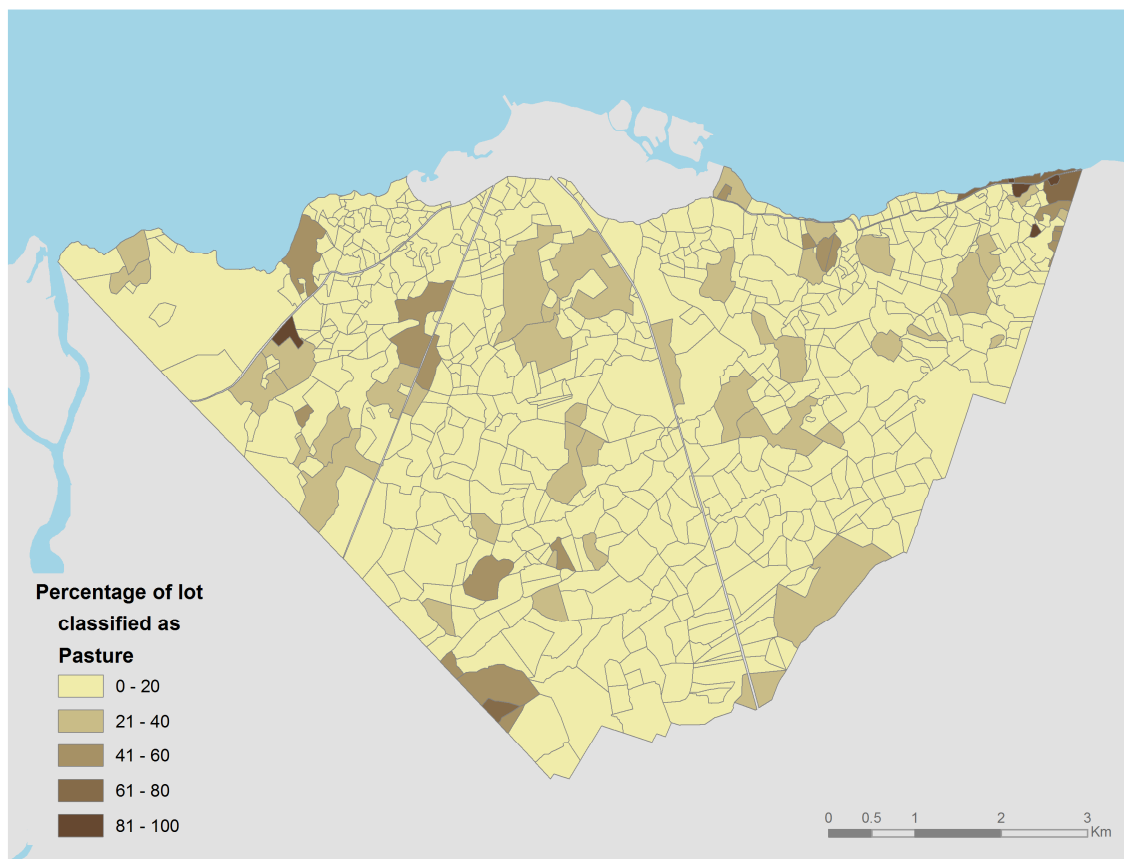
Map of Kahnawá:ke showing percentage of lots classified as cultivated, ca. 1885. Map by Louis-Jean Faucher.



Map of Kahnawá:ke showing percentage of lots classified as bush, ca. 1885. Map by Louis-Jean Faucher.



Map of Kahnawá:ke showing percentage of lots classified as hay, ca. 1885. Map by Louis-Jean Faucher.



Map of Kahnawá:ke showing percentage of lots classified as pasture, ca. 1885. Map by Louis-Jean Faucher.

APPENDIX B Questions Posed to Claimants in the Walbank Survey Tribunal¹

1. What is your name in English or French, and in Indian?
2. Do you consider yourself to be an Indian; if so, why?
3. Are you recognized by the Band and by the Indian Department as a member of the Band of Caughnawaga Indians?
4. Were your father and mother, or either of them, members of the Band?
5. Are you a Half-breed, and if so, are you such by your father's or mother's side?
6. Where were you born, and when? If baptized, where, by whom, and when?
7. How long have you resided on the Reserve?
8. Have you at any time since the 12th of April, in the year of Our Lord 1876, been absent from Canada, for the space of five years or longer, without the consent of the Superintendent General of Indian Affairs? If so, have you been since restored to membership by the Band with the approval of the Superintendent General of Indian Affairs?
9. Are you married; if so, to whom, by whom, where and when? Does your wife live with you, if not, why?
10. Do you hold any land on the Reserve; and how did you acquire such land?
11. What deeds, titles, agreements, judgments, or permits have you? Produce them, or certified copies.
12. Have you ever sold or bought any lands from other Indians on this Reserve; if so, state to whom, or from whom, what amount did you receive or pay, and describe the lands?
13. Do you claim a right to share in the subdivision of the Reserve; if so, on what do you base your claim?
14. Do you hold any land elsewhere on this Reserve; if so, describe it, and state what use you make of it, and what profit you derive from it?

¹ Caughnawaga Reference Books, 1885, RG10-B-8-aj, vols. 8968-8972, LAC.

BIBLIOGRAPHY

Archival Sources

Archives du Diocèse de Saint-Jean-de-Québec-à-Longueuil
Dossier 3A Saint-François-Xavier de Caughnawaga

Bibliothèque et Archives nationales du Québec
TL19 Fonds Cour du banc du roi/de la reine du district de Montréal
CA601 Fonds Cour supérieure. District judiciaire de Montréal. Greffes
 d'arpenteurs.
Collection numérique: images, cartes et plans

Canadian Architecture Collection, McGill University Rare Books and Special
Collections.

Library and Archives Canada
RG8 - British Military and Naval Records
RG10 - Indian Affairs
RG13 - Department of Justice
MG1-C11A - Fonds des Colonies, Correspondance générale; Canada
MG24
MG26
MG28 - Dominion Bridge Company fonds
W.H. Coverdale collection of Canadiana
Sandford Fleming fonds

McCord Museum
Digitized paintings, photographs, postcards

Government Publications

Canada, House of Commons, Debates, 1887-1890
Canada, House of Commons, Sessional Papers, 1867-1868, 1877-1887
Province of Canada, Journals of the Legislative Assembly, 1857-1858.
Statutes of Canada, 1857, 1880-1886
Censuses 1891, 1901

Newspapers and Journals

Daily Nor'Wester, 1894-1896
The Montreal Daily Witness, 1878-1886
The Montreal Gazette, 1879-1881, 2001
Catholic World, 1883
Literary Review of Canada, 2010
The Globe and Mail, 2011-2012
Financial Post, 2011
Ottawa Citizen, 2012
Rabble.ca, 2012

Theses, Online Documents, Films, and Unpublished Materials

Alfred, Gerald R. "To Right Certain Wrongs: A report on research into lands known as the Seigniorship of Sault St. Louis." Kahnawake Seigniorship Office, 1995.

Beaulieu, Alain. "La question des terres autochtones au Québec, 1760-1860." Rapport de recherche déposé au Ministère de la Justice et au Ministère des Ressources naturelles du Québec, 2002.

Cook, Kakwiranó:ron. "Kahnawà:ke Revisited: The St. Lawrence Seaway." Kakari:io Pictures, 2009.

Diabo, Melvin Tekahonwen:sere. *Comprehensive Land Report: Restoring Kanien'kehaka approach to land holding and land use*. Kahnawá:ke: Unpublished Report submitted to the Office of the Council of Chiefs, 2004.

Doxtator, Deborah. "What Happened to the Iroquois Clans? A study of clans in three nineteenth century Rotinonhsyonni communities." PhD Thesis, University of Western Ontario, 1996.

Grabowski, Jan. "The Common Ground: Settled Natives and French in Montreal, 1667-1760." Ph.D. Thesis, Université de Montréal, 1994.

Green, Gretchen. "A New People in an Age of War: The Kahnawake Iroquois, 1667-1760." Ph.D. Thesis, College of William and Mary, 1991.

Lambert, Carmen. *History of Kahnawake Land Claims, Seigniorship of Sault-Saint-Louis*: Paper prepared for the Confederation of Indians of Québec, 1980.

Lavoie, Michel. "'C'est ma seigneurie que je reclame': La lutte des Hurons de Lorette pour la seigneurie de Sillery, 1760-1888." Ph.D. Thesis, Université Laval, 2006.

Mt. Pleasant, Alyssa. "After the Whirlwind: Maintaining a Haudenosaunee Place at Buffalo Creek, 1780-1825." Ph.D. Thesis, Cornell University, 2007.

n.a. "This is Indian Land: An exhibit on the state of Kahnawake lands." Unpublished Report, [1982].

Phillips, Stephanie. "The Kahnawake Mohawks and the St. Lawrence Seaway." M.A. Thesis, McGill University, 2000.

Reid, Gerald. "Kahnawake's Council of Chiefs:1840-1889." Mohawk Nation at Kahnawake, <http://www.kahnawakelonghouse.com/index.php?mid=2&p=2>.

Rueck, Daniel. "Imposing a Mindless Geometry: Surveyors versus the Canadian Plains 1869-1885." M.A. Thesis, McGill University, 2004.

- Shea, Anna. "Cultural Mechanisms of Empire: The 'Lacrosse Emigration Tour' of 1883." M.A. Thesis, McGill University, 2004.
- Simpson, Audra. "To the Reserve and Back Again: Kahnawake Mohawk narratives of self, home and nation." Ph.D. Thesis, McGill University, 2003.
- Sossoyan, Matthieu. "The Kahnawake Iroquois and the Lower-Canadian Rebellions, 1837-1838." M.A. Thesis, McGill University, 1999.
- Taggart, C. H. *Caughnawaga Indian Reserve: Report, General and Final*. Ottawa: Department of Mines and Resources, 1948.
- Tulchinsky, Gerald. "The Construction of the First Lachine Canal, 1815-1826." M.A. Thesis, McGill University, 1960.
- Vincent, Gilles. "Étude floristique de la portion de la réserve amérindienne de Caughnawaga située au nord de la voie maritime du Saint-Laurent " M.Sc. Thesis, Université de Montréal, 1983.
- Zachary Deom, Christine. *Chronology of Political Events Relative to Kahnawake: Mohawk Council of Kahnawake Draft Document*, 2010.

Published Materials

- Alfred, Gerald R. *Heeding the Voices of our Ancestors: Kahnawake Mohawk politics and the rise of Native nationalism*. Oxford University Press, 1995.
- Alfred, Taiaiake. *Peace, Power, Righteousness: An Indigenous Manifesto*. Don Mills, Ont.: Oxford University Press, 2009.
- . *Wasáse: Indigenous Pathways of Action and Freedom*. Peterborough, Ontario: Broadview, 2005.
- Ampère, J. J., and Charles Augustin Sainte-Beuve. *Promenade en Amérique*. Paris: M. Lévy frères, 1874.
- Anderson, Terry L. *Sovereign Nations or Reservations? An Economic History of American Indians*. San Francisco: Pacific Research Institute for Public Policy, 1995.
- Anderson, Virginia DeJohn. *Creatures of Empire: How domestic animals transformed early America*. Oxford: Oxford University Press, 2004.
- . "King Philip's Herds: Indians, colonists, and the problem of livestock in early New England." *The William and Mary Quarterly* 51, no. 4 (1994): 601-624.
- Banner, Stuart. "Two Properties, One Land: Law and space in nineteenth-century New Zealand." *Law & Social Inquiry* 24, no. 4 (1999): 807-852.
- Bartlett, Richard H. *Indian Reserves in Quebec*. Saskatoon: University of Saskatchewan Native Law Centre, 1984.
- Beaulieu, Alain. "Les garanties d'un traité disparu : le traité d'Oswegatchie, 30 août 1760." *Revue juridique Thémis* 34, no. 2 (2000): 369-408.
- Beaulieu, Alain, and Jean-Pierre Sawaya. "L'importance stratégique des Sept-Nations du Canada (1650-1860)." *Bulletin d'histoire politique* 8, no. 2-3 (2000): 87-107.
- . "Qui sont les Sept-Nations du Canada? Quelques observations sur une appellation ambiguë." *Recherches amérindiennes au Québec* 27, no. 2 (1997): 43-51.
- Beauvais, Johnny. *Kahnawake: A Mohawk look at Canada and Adventures of Big John Canadian 1840-1919*. Kahnawá:ke: Khanata Industries, 1985.

- Béchar, Henri. *The Original Caughnawaga Indians*. Montreal: International Publishers' Representatives, 1976.
- Belich, James. *Replenishing the Earth: The Settler Revolution and the Rise of the Anglo-World, 1783-1939*. Oxford: Oxford University Press, 2009.
- Benn, Carl. *The Iroquois in the War of 1812*. Toronto: University of Toronto Press, 1998.
- . *Mohawks on the Nile: Natives among the Canadian voyageurs in Egypt, 1884-1885*. Toronto: Natural Heritage Books, 2009.
- Bernard, John. *Retrospections of America, 1797-1811*. New York: Harper & Brothers, 1887.
- Blackhawk, Ned. *Violence Over the Land: Indians and empires in the early American West*. Cambridge, Mass.: Harvard University Press, 2006.
- Blanchard, David. "Entertainment, Dance and Northern Mohawk Showmanship." *American Indian Quarterly* 7, no. 1 (1983): 2-26.
- Blomley, Nicholas. "Law, Property, and the Geography of Violence: The frontier, the survey, and the grid." *Annals of the Association of American Geographers* 93, no. 1 (2003): 121-141.
- Brody, Hugh. *The Other Side of Eden: Hunters, farmers and the shaping of the world*. Vancouver: Douglas & McIntyre, 2000.
- Bromley, Daniel W., and Michael M. Cernea. *The Management of Common Property Natural Resources: Some Conceptual and Operational Fallacies*. Vol. 57, World Bank Discussion Papers. Washington, D.C.: The World Bank, 1989.
- Brown, Judith K. "Economic Organization and the Position of Women Among the Iroquois." *Ethnohistory* 17, (1970): 151-165.
- Brownlie, Robin Jarvis. *A Fatherly Eye: Indian agents, government power, and Aboriginal resistance in Ontario, 1918-1939*. Don Mills, ON: Oxford University Press, 2003.
- Buckley, Helen. *From Wooden Ploughs to Welfare: Why Indian Policy Failed in the Prairie Provinces*. Montreal & Kingston: McGill-Queen's University Press, 1992.
- Burnett, D. Graham. *Masters of All They Surveyed: Exploration, geography, and a British El Dorado*. Chicago: University of Chicago Press, 2000.
- Byrnes, Giselle. *Boundary Markers: Land surveying and the colonisation of New Zealand*. Wellington, NZ: Bridget Williams Books, 2001.
- Carlson, Leonard A. *Indians, Bureaucrats and Land: The Dawes Act and the decline of Indian farming*. Westport, Conn.: Greenwood Press, 1981.
- Carter, Paul. *The Road to Botany Bay: An exploration of landscape and history*. New York: Knopf, 1988.
- Carter, Sarah. *Aboriginal People and Colonizers of Western Canada to 1900*. Toronto: University of Toronto Press, 1999.
- . "Creating 'Semi-Widows' and 'Supernumerary Wives': Prohibiting Polygamy in Prairie Canada's Aboriginal Communities to 1900." In *Contact Zones: Aboriginal and Settler Women in Canada's Colonial Past*, edited by Katie Pickles and Myra Rutherdale, 131-159. Vancouver: UBC Press, 2005.
- . *Lost Harvests: Prairie Indian reserve farmers and government policy*. Montreal: McGill-Queen's University Press, 1990.
- Chamberlain, Alexander F. "Iroquois in Northwestern Canada." *American Anthropologist* 6, no. 4 (1904): 459-463.

- Clark, Gregory, and Anthony Clark. "Common Rights to Land in England, 1475-1839." *The Journal of Economic History* 61, no. 4 (2001): 1009-1036.
- Clark, Thomas Henry. *Rapport Géologique / Geological Report: Région de Montréal / Montreal Area*. Québec: Ministère des richesses naturelles, Direction générale des mines, Service de l'exploration géologique, 1972.
- Clayton, Daniel Wright. *Islands of Truth: The imperial fashioning of Vancouver Island*. Vancouver: University of British Columbia Press, 2000.
- Cole, Douglas, and Ira Chaikin. *An Iron Hand Upon the People: The law against the potlatch on the Northwest coast*. Vancouver, Seattle: Douglas & McIntyre; University of Washington Press, 1990.
- Courville, Serge. "La crise agricole du Bas-Canada, éléments d'une réflexion géographique (1^{re} partie)." *Cahiers de géographie du Québec* 24, no. 62 (1980): 193-224.
- Cover, Robert M. "Violence and the Word." *Yale Law Journal* 95, no. 8 (1986): 1601-1629.
- Craib, Raymond B. *Cartographic Mexico: A history of state fixations and fugitive landscapes*. Durham, NC: Duke University Press, 2004.
- Cronon, William. *Changes in the Land: Indians, colonists, and the ecology of New England*. New York: Hill and Wang, 1983.
- Dawkins, Richard. *The Selfish Gene*. Oxford: Oxford University Press, 1976.
- Day, Gordon M. "The Indian as an Ecological Factor in the Northeastern Forest." *Ecology* 34, no. 2 (1953): 329-346.
- De Soto, Hernando. *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. New York: Basic Books, 2000.
- . *The Other Path: The Invisible Revolution in the Third World*. New York: Harper & Row, 1989.
- Decroix, Arnaud. "Le conflit juridique entre les Jésuites et les Iroquois au sujet de la seigneurie du Sault Saint-Louis : analyse de la décision de Thomas Gage (1762)." *Revue Juridique Themis* 41, (2007): 279-297.
- Deer, James D. *The Canadian Voyageurs in Egypt*. Montreal: John Lovell, 1885.
- Delâge, Denis, and Alexandre Lefrançois. "Thomas Arakwenté : promoteur de la modernité dans la communauté iroquoise du Sault Saint-Louis (1791- 1820)." In *Gouvernance autochtone : aspects juridiques, économiques et sociaux*, edited by Andrée Lajoie, 72-76. Montréal: Les éditions Thémis, 2007.
- Delâge, Denys, and Étienne Gilbert. "La justice coloniale britannique et les Amérindiens au Québec, 1760-1820 - I. En terres amérindiennes." *Recherches amérindiennes au Québec* 32, no. 1 (2002): 63-82.
- . "La justice coloniale britannique et les Amérindiens au Québec, 1760-1820 - II. En territoire colonial." *Recherches amérindiennes au Québec* 32, no. 2 (2002): 107-117.
- Deloria, Philip J. *Indians in Unexpected Places*. Lawrence: University of Kansas Press, 2004.
- Dennis, Matthew. *Cultivating a Landscape of Peace: Iroquois-European encounters in seventeenth-century America*. Ithaca, N.Y.: Cornell University Press, 1993.

- DePasquale, Paul W. *Natives and Settlers, Now and Then: Historical issues and current perspectives on treaties and land claims in Canada*. Edmonton: University of Alberta Press, 2007.
- Devine, E. J. *Historic Caughnawaga*. Montreal: Messenger Press, 1922.
- Dietz, Thomas, Nives Dolšák, Elinor Ostrom, and Paul C. Stern. "The Drama of the Commons." In *The Drama of the Commons*, edited by Elinor Ostrom, Thomas Dietz, Nives Dolšák, Paul C. Stern, S. Stovich and E.U. Weber, 3-35. Washington, DC: National Academy Press, 2002.
- Donahue, Brian. *The Great Meadow: Farmers and the land in colonial Concord*. New Haven: Yale University Press, 2004.
- Doutre, Joseph. "Les sauvages du Canada en 1852." In *Institut-Canadien en 1855*, edited by J. L. Lafontaine, 190-225. Montréal: Sénécal & Daniel, 1855.
- du Boscq de Beaumont, Gaston. *Une France oubliée : l'Acadie*. Paris: Librairie Hachette et Cie., 1902.
- Edney, Matthew H. *Mapping an Empire: The geographical construction of British India, 1765-1843*. Chicago: University of Chicago Press, 1997.
- Engelbrecht, William. *Iroquoia: The Development of a Native World*. Syracuse, NY: Syracuse University Press, 2003.
- Erickson, Lesley. *Westward Bound: Sex, Violence, the Law and the Making of a Settler Society*. Vancouver and Toronto: UBC Press for the Osgoode Society for Canadian Legal History, 2011.
- Flanagan, Thomas. "The Agricultural Argument and Original Appropriation: Indian lands and political philosophy." *Canadian Journal of Political Science* 22, no. 3 (1989): 589-602.
- . *First Nations? Second Thoughts*. Montreal and Kingston: McGill-Queen's University Press, 2000.
- Flanagan, Thomas, Christopher Alcantara, and André Le Dressay. *Beyond the Indian Act: Restoring aboriginal property rights*. Montreal & Kingston: McGill-Queen's University Press, 2010.
- Fortin, Gérard L., and Jacques Frenette. "L'acte de 1851 et la création de nouvelles réserves indiennes au Bas-Canada en 1853." *Recherches amérindiennes au Québec* XIX, no. 1 (1989): 31-37.
- Francis, Daniel. *A History of the Native Peoples of Quebec, 1760-1867*. Ottawa: Department of Indian Affairs and Northern Development, 1985.
- Franquet, Louis. *Voyages et mémoires sur le Canada par Franquet*. Québec: Institute Canadien de Québec, 1889.
- Fyson, Donald. *Magistrates, Police and People: Everyday criminal justice in Quebec and Lower Canada*. Toronto: University of Toronto Press, 2006.
- Garneau, Jean-Philippe. "Appartenance ethnique, culture juridique et représentation devant la justice civile de Québec à la fin du XVIIIe siècle." In *Entre justice et justiciables : les auxiliaires de la justice du moyen âge au XXe siècle*, edited by Claire Dolan, 405-442. Québec: Les presses de l'Université Laval, 2005.
- Gilbert, Alan. "De Soto's *The Mystery of Capital*: Reflections on the book's public impact." *International Development Planning Review* 34, no. 3 (2012): v-xvi.
- Grabowski, Jan. "French Criminal Justice and Indians in Montreal, 1670-1760." *Ethnohistory* 43, no. 3 (1996): 405-429.

- The Great Law of Peace of the Longhouse People - Kaianerekowa Hotinonsionne.* Mohawk Nation via Roosevelttown, NY: Akwesasne Notes, 1975.
- Greer, Allan. "Commons and Enclosure in the Colonization of North America." *The American Historical Review* 117, no. 2 (2012): 365-386.
- . *Mohawk Saint: Catherine Tekakwitha and the Jesuits.* New York: Oxford University Press, 2005.
- . "National, Transnational, and Hypernational Historiographies: New France Meets Early American History." *The Canadian Historical Review* 91, no. 4 (2010): 695-724.
- . *Peasant, Lord, and Merchant: Rural society in three Quebec parishes, 1740-1840.* Toronto: University of Toronto Press, 1985.
- Grigg, D.B. *The Agricultural Systems of the World.* Cambridge: Cambridge University Press, 1984.
- Hall, Anthony. *The Bowl With One Spoon, Volume 1: The American Empire and the Fourth World,* McGill-Queen's native and northern series v.34. Montreal: McGill-Queen's University Press, 2003.
- . *The Bowl With One Spoon, Volume 2: Earth into Property: Colonization, decolonization, and capitalism.* Montreal & Kingston: McGill-Queen's University Press, 2010.
- Hamilton, Michelle A. "'Anyone not on the list might as well be dead': Aboriginal peoples and the censuses of Canada, 1851-1916." *Journal of the Canadian Historical Association* 18, no. 1 (2007): 57-79.
- Hanson, John H. *The Lost Prince: Facts tending to prove the identity of Louis the Seventeenth, of France, and the Rev. Eleazar Williams, missionary among the Indians of North America.* New York: G. P. Putnam & co., 1854.
- Hardin, Garrett. "The Tragedy of the Commons." *Science* 162, no. 3859 (1968): 1243-1248.
- Harring, Sidney L. "'There Seemed to Be No Recognized Law': Canadian Law and the Prairie First Nations." In *Laws and Societies in the Canadian Prairie West, 1670-1940*, edited by Louis A. Knafla and Jonathan Swainger, 92-126. Vancouver: UBC Press, 2005.
- Harris, Douglas. *Landing Native Fisheries: Indian Reserves and Fishing Rights in British Columbia, 1849-1925.* Vancouver: UBC Press, 2008.
- Harris, R. Cole. *Making Native Space: Colonialism, resistance, and reserves in British Columbia.* Vancouver: UBC Press, 2002.
- . *The Seigneurial System in Early Canada: A geographical study.* Québec: Presses de l'Université Laval, 1966.
- Harvey, Douglas S. "Strolling Players in Albany, Montreal, and Quebec City, 1797 and 1810: Performance, Class, and Empire." *Studies in Eighteenth Century Culture* 38, (2009): 237-260.
- Heaman, Elsbeth. *The Inglorious Arts of Peace: Exhibitions in Canadian society during the nineteenth century.* Toronto: University of Toronto Press, 1999.
- Helin, Calvin. *Dances With Dependency: Indigenous success through self-reliance.* Vancouver: Oca Spirit, 2006.

- Hildebrandt, Walter, Dorothy First Rider, and Sarah Carter. *The True Spirit and Original Intent of Treaty 7*, McGill-Queen's native and northern series, 14. Montreal: McGill-Queen's University Press, 1996.
- Jackson, Louis. *Our Caughnawagas in Egypt*. Montreal: WM. Drysdale & Co., 1885.
- Jervois, William Francis Drummond, and H. S Sitwell. *Fortification Surveys Canada: Lachine and Caughnawaga, Province of Quebec* Southampton, [England] Ordnance Survey Office, 1868.
- Johnson, Sir William. *The Papers of Sir William Johnson*. Edited by Alexander C. Flick. Vol. 8. Albany: The University of the State of New York, 1933.
- Katzer, Bruce. "The Caughnawaga Mohawks: The other side of ironwork." *Journal of Ethnic Studies* 15, no. 4 (1988): 39-55.
- King, Thomas. *The Truth About Stories: A Native Narrative*. Toronto: Dead Dog Café Productions and the Canadian Broadcasting Corporation, 2003.
- Kolish, Evelyn. "Some Aspects of Civil Litigation in Lower Canada, 1785-1825: Towards the Use of Court Records for Canadian Social History." *Canadian Historical Review* 70, no. 3 (1989): 337-365.
- Lafitau, Joseph François. *Moeurs des sauvages américains comparées aux mœurs des premiers temps*. 4 vols. Paris: Chez Saugrain l'aîné et al., 1724.
- LeFrançois, Alexandre. "Thomas Arakwenté : Promoteur de la modernité dans la communauté iroquoise du Sault Saint-Louis (1791-1820)." *Revue d'éthique et de théologie morale "Le Supplément"*, no. 226 (2003): 357-378.
- Long, John. *John Long's Voyages and Travels in the Years 1768-1788*. Chicago: The Lakeside Press, 1922 [1791].
- Loo, Tina, and Meg Stanley. "An Environmental History of Progress: Damming the Peace and Columbia Rivers." *Canadian Historical Review* 92, no. 3 (2011): 399-427.
- Lorimier, Claude Nicolas-Guillaume de. "Mes services pendant la guerre américaine." In *Invasion du Canada*, edited by M. L'abbé Verreau, 245-298. Montréal: Eusèbe Senécal, 1873.
- Lunn, Jean. "The Illegal Fur Trade out of New France, 1713-60." *Report of the Annual Meeting of the Canadian Historical Association* 18, no. 1 (1939): 61-76.
- Lutz, John S. *Makúk: A new history of Aboriginal-White relations*. Vancouver: UBC Press, 2008.
- Lux, Maureen K. *'Medicine that Walks': Disease, medicine and Canadian plains native people, 1880-1940*. Toronto: University of Toronto Press, 2001.
- MacGregor, James Grierson. *Vision of an Ordered Land: The story of the Dominion Land Survey*. Saskatoon: Western Producer Prairie Books, 1981.
- McCoy, Bonnie M., and James M. Acheson, eds. *The Question of the Commons*. Tucson: University of Arizona Press, 1987.
- McKay, Ian. "The Liberal Order Framework: A Prospectus for a Reconnaissance of Canadian History." *Canadian Historical Review* 81, no. 4 (2000): 617-645.
- Melville, Elinor G. K. *A Plague of Sheep: Environmental consequences of the conquest of Mexico*. Cambridge: Cambridge University Press, 1994.
- Merchant, Carolyn. *Ecological Revolutions: Nature, gender, and science in New England*. Chapel Hill: University of North Carolina Press, 1989.

- Morgan, Lewis H. *League of the Ho-de'-no-sau-nee or Iroquois*. North Dighton, MA: JG Press, 1995 [1851].
- Morin, Michel. *L'ursupation de la souveraineté : Le cas des peuples de la Nouvelle-France et des colonies anglaises de l'Amérique du Nord*. Montréal: Boréal, 1997.
- Morris, Alexander. *The Treaties of Canada with the Indians of Manitoba and the North-West Territories*. Toronto: Willing & Williamson, 1880.
- Mt. Pleasant, Jane. "The Iroquois Sustainers: Practices of a Longterm Agriculture in the Northeast." *Northeast Indian Quarterly* 6, no. 1-2 (1989).
- Muller, Kathryn V. "The Two 'Mystery' Belts of Grand River: A Biography of the Two Row Wampum and the Friendship Belt." *American Indian Quarterly* 31, no. 1 (2007): 129-164.
- Munro, William Bennett. *The Seigniorial System in Canada: A study in French colonial policy*. New York: Longmans Green, 1907.
- Myllyntaus, Timo, Minna Hares, and Jan Kunnas. "Sustainability in Danger? Slash-and-burn cultivation in nineteenth-century Finland and twentieth-century Southeast Asia." *Environmental History* 7, no. 2 (2002): 267-302.
- n.a. *Old Kahnawake; an oral history of Kahnawake*. Kahnawá:ke: Kanien'kehaka Raotitiokwa Cultural Center, 1991.
- Neeson, J.M. *Commoners: Common right, enclosure and social change in England, 1700-1820*. Cambridge, U.K.: Cambridge University Press, 1993.
- Nicks, Trudy. "The Iroquois and the Fur Trade in Western Canada." In *Old Trails and New Directions: Papers of the third North American Fur Trade Conference*, edited by Carol M. Judd and Arthur J. Ray, 85-101. Toronto: University of Toronto Press, 1980.
- . *Iroquois Fur Trappers and Their Descendants in Alberta*. Edmonton: Provincial Museum of Alberta, 1979.
- Nobles, Gregory H. *American Frontiers: Cultural encounters and continental conquest*. New York: Hill & Wang, 1997.
- Ortiz, Simon J. "Towards a National Indian Literature: Cultural Authenticity in Nationalism." *MELUS* 8, no. 2 (1981): 7-12.
- Ostrom, Elinor. *Governing the Commons: The evolution of institutions for collective action*, Political economy of institutions and decisions. Cambridge: Cambridge University Press, 1990.
- Ouellet, Fernand. "Le régime seigneurial dans le Québec (1760-1854)." In *Éléments d'histoire sociale du Bas-Canada*, edited by Fernand Ouellet. Montréal: Hurtubise HMH, 1972.
- Owen, Tim, and Elaine Pilbeam. *Ordnance Survey: Map Makers to Britain since 1791*. London: HMSO, 1992.
- Parker, Arthur C. "Iroquois Uses of Maize and Other Food Plants." *New York State Museum Bulletin* 144, (1910).
- . *Parker on the Iroquois*. Edited by William Fenton. Syracuse: Syracuse University Press, 1968.
- Parmenter, Jon. *The Edge of the Woods: Iroquoia, 1534-1701*. East Lansing: Michigan State University Press, 2010.
- Peluso, Nancy Lee. "Whose Woods Are These? Counter-Mapping Forest Territories in Kalimantan, Indonesia." *Antipode* 27, no. 4 (1995): 383-406.

- Porter, Dennis. *Haunted Journeys: Desire and Transgression in European Travel Writing*. Princeton: Princeton University Press, 1991.
- Porter, Whitworth. *History of the Corps of Royal Engineers, vol. 1*. London: Longmans, Green, and Co., 1889.
- Pratt, Mary Louise. *Imperial Eyes: Travel Writing and Transculturation*. New York: Routledge, 1992.
- Price, Richard, ed. *The Spirit of the Alberta Indian Treaties*. Montreal: Institute for Research on Public Policy, 1979.
- Rasenberger, Jim. *High Steel: The daring men who built the world's greatest skyline*. New York: HarperCollins, 2004.
- Ray, Arthur J., J. R. Miller, and Frank Tough. *Bounty and Benevolence: A history of Saskatchewan treaties*, McGill-Queen's native and northern series ; 23. Montreal: McGill-Queen's University Press, 2000.
- Read, Geoff, and Todd Webb. "'The Catholic Mahdi of the North West': Louis Riel and the Metis Resistance in Transatlantic and Imperial Context." *The Canadian Historical Review* 93, no. 2 (2012): 171-195.
- Reid, Gerald. *Kahnawà:ke: Factionalism, traditionalism, and nationalism in a Mohawk community*. Lincoln: University of Nebraska Press, 2004.
- Richter, Daniel K. *The Ordeal of the Longhouse: The peoples of the Iroquois League in the era of European colonization*. Chapel Hill: Institute of Early American History and Culture and University of North Carolina Press, 1992.
- Roback, Jennifer. "Exchange, Sovereignty, and Indian-Anglo Relations." In *Property Rights and Indian Economies*, edited by Terry L. Anderson. Lanham, MD: Rowman & Littlefield, 1991.
- Robert, Jean-Claude. *Atlas historique de Montréal*. [Montréal]: Art Global/Libre Expression, 1994.
- Rueck, Daniel. "'I do not know the boundaries of this land, but I know the land which I worked:' Using Historical GIS in the study of indigenous environmental history." In *Historical GIS in Canada* edited by Jennifer Bonnell and Marcel Fortin. Calgary: University of Calgary Press, forthcoming.
- . "When Bridges Become Barriers: Montreal and Kahnawake Mohawk Territory." In *Metropolitan Natures: Urban Environmental Histories of Montreal*, edited by Stéphane Castonguay and Michèle Dagenais, 228-244. Pittsburgh: University of Pittsburgh Press, 2011.
- Sala, George Augustus. *Under the Sun: Essays mainly written in hot countries*. London: Vizetelly & Co., 1886.
- Sarat, Austin, and Thomas R. Kearns. "Introduction." In *Law's Violence*, edited by Austin Sarat and Thomas R. Kearns. Ann Arbor: University of Michigan Press, 1993.
- Scott, Duncan Campbell. "Indian Affairs, 1763-1841." In *Canada and its Provinces*, edited by Adam Shortt and Arthur G. Doughty. Toronto: Glasgow, Brook and Co., 1914.
- . "Indian Affairs, 1840-1867." In *Canada and its Provinces*, edited by Adam Shortt and Arthur G. Doughty. Toronto: Glasgow, Brooke and Co., 1914.
- . "Indian Affairs, 1867-1912." In *Canada and its Provinces*, edited by Adam Shortt and Arthur G. Doughty, 593-626. Toronto: Glasgow, Brook and Co., 1914.

- Scott, James C. *Seeing Like a State: How certain schemes to improve the human condition have failed*. New Haven: Yale University Press, 1998.
- Seymour, W.A. *A History of the Ordnance Survey*. Folkestone, UK: Dawson, 1980.
- Shoemaker, Nancy. *A Strange Likeness: Becoming Red and White in Eighteenth-Century North America*. New York: Oxford University Press, 2004.
- Simison, R. B. "The Indian Lands of Dundee: An historical perspective." *Journal annuel de la Société historique de la vallée de la Châteauguay* 11, (1978): 7-10.
- Sirén, Anders Henrik. "Population Growth and Land Use Intensification in a Subsistence-based Indigenous Community in the Amazon." *Human Ecology* 35, no. 6 (2007): 69-680.
- Smallwood, Joseph Roberts, and Robert D.W. Pitt. "Walbank, Matthew William." In *Encyclopedia of Newfoundland and Labrador*, vol. 5. St. John's: Newfoundland Book Publishers, 1981.
- Smith, Erminnie. "Life Among the Mohawks of the Catholic Missions of Quebec Province." *Proceedings of the American Association for the Advancement of Science* 32, (1883): 398-399.
- Smith, Keith D. *Liberalism, Surveillance, and Resistance: Indigenous Communities in Western Canada, 1877-1927*. Edmonton: Athabasca University Press, 2009.
- Sprague, D. N. *Canada's Treaties with Aboriginal People*. Winnipeg: Canadian Legal History Project, Faculty of Law, University of Manitoba, 1991.
- . *Canada and the Métis, 1869-1885*. Waterloo: Wilfred Laurier University Press, 1988.
- Spry, Irene M. "The Great Transformation: The disappearance of the commons in Western Canada." In *Canadian Plains Studies 6: Man and Nature on the Prairies*, edited by Richard Allen, 21-75. Regina, SK, 1976.
- . "The Tragedy of the Loss of the Commons in Western Canada." In *As Long as the Sun Shines and the Water Flows*, 203-225. Vancouver: UBC Press, 1983.
- Stevens, G. R. *Canadian National Railways: Volume 1: Sixty years of trial and error (1836-1896)*. Toronto: Clarke, Irwin & Co., 1960.
- Stone, Helen. "Les Indiens et le système judiciaire criminel de la province de Québec : Les politiques de l'administration sous le Régime britannique." *Recherches amérindiennes au Québec* 30, no. 3 (2000): 65-78.
- Stunden Bower, Shannon. "The Great Transformation? Wetlands and land use in Manitoba during the late nineteenth century." *Journal of the Canadian Historical Association* 15, no. 1 (2004): 29-47.
- . *Wet Prairie: People, Land, and Water in Agricultural Manitoba*. Vancouver: UBC Press, 2011.
- Taylor, Alan. *The Divided Ground: Indians, settlers, and the northern borderland of the American Revolution*. New York, NY: Alfred A. Knopf, 2006.
- Thompson, E. P. *Customs in Common*. New York: The New Press, 1991.
- Thomson, Don W. *Men and Meridians: The history of surveying and mapping in Canada*. 3 vols. Ottawa: R. Duhamel Queen's printer, 1966.
- Titely, E. Brian. *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada*. Vancouver: UBC Press, 1992.
- Tobias, John L. "Protection, Civilisation, Assimilation: An outline history of Canada's Indian policy." In *Sweet Promises: A Reader on Indian-White Relations in*

- Canada*, edited by J. R. Miller, 127-144. Toronto: University of Toronto Press, 1991.
- Tooker, Elizabeth. "Women in Iroquois Society." In *Extending the Rafters: Interdisciplinary Approaches to Iroquoian Studies*, edited by Michael K. Foster and Jack Campisi, 109-123. Albany: State University of New York Press, 1984.
- Torgovnick, Marianna. *Gone Primitive: Savage Intellectuals, Modern Lives*. Chicago: University of Chicago Press, 1990.
- Trigger, Bruce G. *The Children of Aataentsic: A history of the Huron people to 1660*. Montreal and Kingston: McGill-Queen's University Press, 1976.
- Trudel, Marcel. *Le régime seigneurial*. Ottawa: Société historique du Canada, 1956.
- Tulchinsky, Gerald. *The River Barons: Montreal businessmen and the growth of industry and transportation 1837-53*. Toronto: University of Toronto Press, 1977.
- Turner, Frederick Jackson. "The Significance of the Frontier in American History." In *The Frontier in American History*, 1-29. Bremen, Germany: Europaeischer Hochschulverlag, 2010 [1893].
- van den Bogaert, Harmen Meyndertsz. *A Journey into Mohawk and Oneida Country, 1634-1635: The Journal of Marmen Meyndertsz van den Bogaert*. Translated by Charles T. Gehring and William A. Starna. Edited by Charles T. Gehring and William A. Starna. Syracuse, New York: Syracuse University Press, 1988.
- van der Donck, Adriaen. *Description of the New Netherlands [in 1640]*. Translated by Jeremiah Johnson. New York: New York Historical Society, 1841.
- Vismann, Cornelia. "Starting from Scratch: Concepts of order in no-man's-land." In *War, Violence, and the Modern Condition*, edited by Bernd Hüppauf, 46-65. Berlin: Walter de Gruyter, 1997.
- Vizenor, Gerald. *Fugitive Poses: Native American Indian Scenes of Absence and Presence*. Lincoln and London: University of Nebraska Press, 1998.
- Wallot, Jean-Pierre. *Un Québec qui bougeait : trame socio-politique du Québec au tournant du XIXe siècle*. Montréal: Boréal Express, 1973.
- Walzer, Michael. "Liberalism and the Art of Separation." *Political Theory* 12, no. 3 (1994): 315-330.
- Waugh, F. W. *Iroquois Foods and Food Preparation*. Ottawa: Government Printing Bureau, 1973 [1916].
- Weaver, John C. *The Great Land Rush and the Making of the Modern World, 1650-1900*. Montreal: McGill-Queen's University Press, 2003.
- Weld, Isaac. *Travels Through the States of North America and the Provinces of Upper and Lower Canada*. London: John Stockdale, 1800.
- Worster, Donald. *A River Running West: The life of John Wesley Powell*. Oxford: Oxford University Press, 2001.
- Yeh, Emily T. "Tropes of Indolence and the Cultural Politics of Development in Lhasa, Tibet." *Annals of the Association of American Geographers* 97, no. 3 (2007): 593-612.