

## Introduction to Documents One through Five: Nationalism, the League of Nations and the Six Nations of Grand River

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In September 1923 Deskaheh, Cayuga Chief Levi General, arrived in Geneva, Switzerland. He was on a diplomatic mission from the Grand River Six Nations Reserve to bring the cause of Iroquois nationalism before the League of Nations. For more than a year he remained in Europe attempting to have his petitions heard by the Assembly of the League of Nations, despite his failing health and the reticence of the League Secretariat to handle the claim.

Today, the League of Nations archives at the Palais des Nations in Geneva holds the original correspondence of Deskaheh and the members of the League of Nations Assembly, Council and Secretariat pertaining to the Six Nations case. This material is valuable not only as a reminder of the Six Nations' long-standing claim to the right of self-government, but also because it provides insight into the dispute between the Canadian government and the Six Nations.

Deskaheh's mission was ultimately unsuccessful. However, his failure cannot be attributed merely to his lack of influence in the world of international diplomacy, nor to the idea that his petitions lacked "any serious legal claim for jurisdiction by the League."<sup>1</sup> The dispute between the Canadian government and the Six Nations was firmly rooted in a legal tangle of treaties and court rulings. Though the Canadian government and the League openly chose to dismiss Deskaheh's petitions, based on their limited interpretation of this legal history, it was not their sole reason for disregarding the Six Nations' claim in the 1920s. The correspondence between Deskaheh and the League suggests that the Six Nations' views of nationhood and nationalism conflicted with those of the League and its member states and that this contributed significantly to the failure of the Six Nations' claim.

This issue originated in the aftermath of the First World War. The *Soldiers Settlement Act* and the inclusion of an involuntary enfranchisement

ammendment in *The Indian Act* challenged the right of the Six Nations Reserve's hereditary chief to govern the reserve's lands and people. Though the Grand River community was not unanimously behind the traditional hereditary leadership of the Confederacy, the community did raise funds to send Deskaheh to Washington and Britain. There he presented petitions to the Dutch minister in Washington (document 1) and the London branch office of the League of Nations respectively. From Britain, Deskaheh journeyed to Geneva in attempts to challenge *via* the League of Nations the Canadian government's interference with Six Nations local affairs.<sup>2</sup>

In Geneva, Deskaheh and his lawyer found that their original petition to the Dutch minister had been received by the Secretariat of the League and had already been distributed within the League bureaucracy. Deskaheh's inquiries into the status of the Six Nations' claim within the League, however, were met with vague replies and silence. From the beginning, therefore, it was clear that the League of Nations had little inclination to deal with the petitions. Acting Secretary-General Avenol, who received the petition from the Dutch representative, felt "that what must be done is to 'enterer' [bury] the matter" (document 2). To the League Secretariat, the petition was perceived to have little credibility or support. Eventually even the Dutch member of the League indicated his desire to see publicity for the petition avoided (document 3).

Eventually Deskaheh's petition was also circulated among members of the League Council for its information. The issue of the Six Nations' claims was never put before the League of Nations nor the Court of International Justice, because the President of the Assembly declined to do so on technical grounds.<sup>3</sup> In actuality, the Council of the League did not want to address the issue until "full and adequate" notice was given to the Canadian government.<sup>4</sup> At the time, League Financial Director, Herbert Ames, advised Canadian Prime Minister King "that really it will be necessary to pay some attention to this, lest our apparent indifference be misinterpreted and thus our excellent reputation over here suffer somewhat," in an effort to encourage Canada to deal with the issue.<sup>5</sup>

Over the course of the ensuing winter months Deskaheh continued to press his claim, to little avail. By spring, Joseph Pope, Canada's under-secretary of state, had communicated the official position of the Canadian government to the League (document 4). Within the year the Canadian government had temporarily "neutralized" the Six Nations' submission to the League by informing the League that it had addressed the claim, at home, by giving the Six Nations an elected council, "having replaced the former hereditary body" (document 5).<sup>6</sup>

Though Deskaheh's Geneva mission has been described in detail

elsewhere, to date little of the correspondence pertaining to his interaction with the League of Nations has been published. Some scholars employing this material have emphasized Deskaheh's heroic attempts to break through the procedural intricacies of the League organization. Others have portrayed Deskaheh's efforts as being doomed to fail for lack of legal basis. In these analyses a central concept has been overlooked: that the Six Nations' claim brought before the League was rooted in a concept of nationhood with which the League of Nations was unfamiliar, and which the League could not and would not acknowledge.

The League of Nations was founded around numerous principles aimed at creating, in American President Woodrow Wilson's words, "an organized common peace" based on open diplomacy, democracy and a new nationalism.<sup>7</sup> Following the First World War, the concept of nationhood was widely debated and many came to the conclusion that a narrow interpretation of the concept along racial lines might in future undermine world peace. League of Nations supporters at the end of the war emphasized that "the elective, and not the physical, principle of nationality must predominate."<sup>8</sup> In their view, true nationality was based on "rational, moral and intellectual grounds," and not on differences of origin, religion, locality, or language.<sup>9</sup> Origin or descent were in no way to be construed as equivalent to "nationality." The modern state was to be composite: a fusion of races and traditions that would contribute to the vitality and growth potential of a nation.<sup>10</sup> It was this conception of nationality that underlaid the League of Nations at the time that Deskaheh sought to assert the Iroquois claim to nationhood before the League Council.

In contrast to the European intelligentsia's definition of "nationality," the Six Nations viewed their claim to nationhood as rooted specifically in their unique heritage, language and homeland. In the petition presented to the Dutch member of the League (document 1), the Six Nations outlined their view of themselves as a "separate people" who never accepted British or Canadian citizenship. In their words: "We have never forfeited to the British by our own conduct, nor yielded our sovereign right to live as a free people in our home affairs," and "we are determined to live the free people that we were born."<sup>11</sup> For the Six Nations, the idea of an intellectual and political definition of nationhood apart from origin or community was untenable.

That Deskaheh brought his community's wampum belts to Geneva further attests to the fact that the Six Nations wanted to communicate to the League the significance of the Great Law of the Iroquois Confederacy—symbolically embodied by the belts. This act was not an attempt at "exoticism" on the part of Deskaheh, as it has been interpreted by some.<sup>12</sup>

The belts were to illustrate the Six Nations' view that those who submitted to the laws of a foreign power were stepping outside the circle of the Iroquois Confederacy. Inside the circle existed the Six Nations' language and culture, clans, spirituality and thus jurisdiction; outside the circle were the laws of foreign nations. To step outside the circle was to stand without a language, without a culture and without membership in the Confederacy.<sup>13</sup> The conception of nationhood communicated by Deskaheh in Geneva obviously stood in direct opposition to the definition of nationhood the League of Nations was attempting to promote.

Deskaheh's mission from the start was misunderstood by the League Secretariat and the Canadian government. The correspondence between these two institutions, excerpts of which are printed here, aptly illustrates a lack of sympathy and comprehension of the Six Nations' claim. Pope viewed the Six Nations' claim as "pretensions" (document 4). The Indian Affairs branch in turn noted, "The Six Nations are not now, and have not been for 'many centuries' a recognized or self-governing people," and reaffirmed that British and Dominion laws applied to the Six Nations as to any other subjects (document 4). Finally, Avenol's intention was to "bury" the issue (document 2). It is interesting to note that both Pope and Avenol were known for their conservative and bureaucratic personalities, for their disdain for the League's ideology, and for their admiration of the British Empire, its strength and stability.<sup>14</sup> These individuals seemed predetermined to look unfavourably on an ideal of nationhood that challenged what they held precious: British supremacy and a belief in the primacy of bureaucratic procedure. It was this disparate view of the concept of "nation" and the narrow interpretation of that term by the League bureaucracy that subsequently undermined the success of Deskaheh's mission.

## Notes

- 1 Joelle Rostkowski, "The Redman's Appeal for Justice," in *Indians and Europe*, edited by Christian Feest (Aachen: Herodot, 1987), p. 436; Richard Veach, *Canada and the League of Nations* (Toronto: University of Toronto Press, 1975) p. 99.
- 2 Sally M. Weaver, "The Iroquois: The Grand River Reserve in the Late Nineteenth and Early Twentieth Centuries, 1875-1945," in *Aboriginal Ontario*, edited by E.S. Rogers and Donald B. Smith (Toronto: Dundurn Press, 1994), pp. 247-49; see also Rostkowski, pp. 437-38.
- 3 This information is based on a memorandum from Sir Herbert Ames, financial director of the League of Nations, to Prime Minister Mackenzie King, 28 December 1923. Document R 612, 11/31340/28075, League of Nations Archives, Palais des Nations, Geneva.
- 4 Ibid.

- 5 Ibid. It should also be noted that, contrary to what is widely believed, the covenant of the League of Nations contains no mention of national minorities or their protection by the League of Nations. The protection of minorities was an issue based on international instruments to which the League was not a party. See P. De Azcarate, *League of Nations and National Minorities: An Experiment* (Washington: Carnegie Endowment for International Peace, 1945), pp. 92, 95.
- 6 Document 5: Acting Under-Secretary of External Affairs Walker to the Secretary General Avenol of the League of Nations, 27 November 1924. R612 11/34286/28075.
- 7 Wilson, as quoted in S.P. Duggan, *The League of Nations* (Boston: Atlantic Monthly Press, 1919), p. 70; Secretariat of the League of Nations, *The Aims, Methods, and Activity of the League of Nations* (Geneva: The League of Nations, 1935), p. 22.
- 8 Sir Charles Walston, *The English-Speaking Brotherhood and the League of Nations* (New York: Columbia University, 1919), pp. 11-12.
- 9 Ibid., pp. 21-22.
- 10 Ibid., p. 22. In his writings, Walston quotes Lord Acton's views of nationhood.
- 11 Document 1: R612 11/29185/28075, League of Nations Archives, Palais des Nations, Geneva.
- 12 Veach, p. 95.
- 13 Darlene M. Johnston, "The Quest of the Six Nations Confederacy for Self-Determination," in *University of Toronto Faculty of Law Review* 44, no.1 (1986). Johnston gives a detailed description of the significance of the Great Law of Peace upon which the Six Nations Confederacy is based, and it is this description that has provided the basis for the arguments presented in this paper.
- 14 See James Barros, *Betrayal from Within* (London: Yale University Press, 1969) for a description of Avenol. For a description of Pope and his political philosophy, see John Hilliker, *Canada's Department of External Affairs*, vol.1 (Montreal: McGill-Queen's Press, 1990). p. 43.

## Document One

Six Nations' Appeal to  
the Government of  
The Netherlands

To the Government of Her Majesty  
The Queen of the Netherlands.

The Six Nations of the Grand River appeal for exercise of the good offices of the Government of Her Majesty in presenting to the League of Nations, through its representatives, the case of our great trouble with our British neighbours.

We are an organised and self-governing people and the same people who, on the coming of the Dutch to the Valley of the Hudson in North America, entered into treaties with them and faithfully observed our promises of friendship. The British, who came later, in turn recognised us as a confederacy of independent states and established friendly relations with us solemnized by treaties, from the time when your government of that day yielded its settlements to the British, down to the time of the revolution of the British Colonies. The young British Colony of New York survived the hostile attacks of the French from the north only through our protection. Thereafter the British gained dominion north of the Great Lakes only through the assistance we rendered them. Our relations with the British during that period were attested by a series of treaties ending with that of the year 1768, when the British Crown solemnly guaranteed us against encroachment within our borders, either friendly or hostile, at the hands of any British subjects or officials. When the British became sufficiently strong to give us actual protection in case of need, and on giving us the British promise to do so, we entered into an alliance in arms with them against the British Colonies who had revolted. At the same time we were given the express promise of the British Crown to compensate us for all losses we might suffer in consequence of that alliance. Having been driven from our Home-lands in that war by the revolting colonists, King George III, in fulfilment of his promise, invited us to accept a home beyond the limits of the new United States, on the banks of the Grand River, in place of our guaranteed home-lands then lost to our people. We, through our great Chief, Joseph Brant, accepted this offer of the King confirmed by his Governor General of Canada, Sir Frederick Haldimand, whereby the Grand River

lands were bestowed upon us and our posterity forever, under the express condition that we should enjoy them forever as the separate people we had ever been, and with the assurance of British protection renewed. We have since enjoyed home rule in these lands as a separate people. Recently, nevertheless, our British neighbours of the Dominion of Canada, planning our extinction as a separate people, undertook, under cover of Canadian laws and under the pretence of British sovereignty over us, to enforce British citizenship upon our members, to bring our lands under administration of Canadian laws and policy and to treat us, to the extent of their own pleasure, as British subjects.

We have abstained as yet from forcible resistance of these intruders. Instead, we appealed first in order to the Canadian Government to respect our rights, but in vain. We next appealed to the Imperial Government of Great Britain to respect its treaty with us and to protect us against this aggression of our Canadian neighbours, but in vain. We have never forfeited to the British by our own conduct, nor yielded our sovereign right to live as a free people in our home affairs.

On June 13th last the Canadian Government offered to submit to arbitrators the dispute between us as to our independent rights, including a dispute as to British liability to us on account of funds of ours held in trust by the British. Negotiations to that end have since proceeded [*sic*] to the point of acceptance by us on Tuesday the 5th inst. of the principles of the Canadian proposal. While our Government was engaged on its part in good faith in preparation for entering upon that arbitration the Canadian Government opened war upon us on the very next day, without notice or declaration on its part, and invaded our country with an armed force which maltreated many peaceful and unarmed of our members, and carried away several of them and threw them into Canadian prisons where they now languish.

We have exhausted every other recourse for gaining protection of our sovereignty by peaceful means before making this appeal to secure protection through the League of Nations. If this effort on our part shall fail we shall be compelled to resist [*sic*] by defensive action upon our part this British invasion of our Home-land, for we are determined to live the free people that we were born.

Hostility now exists between us and the Canadians, and war between us, defensive only on our part, threatens and imperils the relations between us and Canada destructive of the peace and good understanding which has long existed between us.

The Six Nations are ready to accept for the purpose of this dispute, if invited, the obligation of membership in the League of Nations upon such

just conditions as the Council may prescribe, having due regard to our slender resources.

The Six Nations invoke the Government of Her Majesty, the Queen of the Netherlands, within its friendly right as a member of the League of Nations, to bring attention of the Assembly or of the Council to the matter of our perilous situation, that the former peace between us and our Canadian neighbours may be restored and our own just rights of self-government assured to us and our posterity.

Done at Ohsweken on the Grand River, this Seventh day of December in the year One thousand and nine hundred and twenty-two.

By order of the Council.  
(Signed) DESKAHEH.  
(Speaker).

(Signed) DAVID HILL.  
Secretary, Six Nation Council.

## Document Two

## League of Nations Secretariat to Dr. Joost van Hamel, Dutch Jurist, Head of League's Legal Section

Geneva.

11/29549/28075

July 31st, 1923

Dear van Hamel,

Avenol, who is acting as Secretary-General, has asked me to reply to your note to him on the Six Nations question. He quite agrees that what must be done is to "enter" the matter. The question is how to do it. You suggest that the Secretary-General should mention the facts to the Council at a private meeting at its next session, and that the Council's opinion could then be communicated to the Dutch and Canadian Governments. Avenol feels that this on the contrary will give considerably more prominence to the matter than it either deserves or than you really desire. The whole matter will appear as mysterious and irregular, and in any case it will put the Secretary-General in a rather delicate position.

To Avenol there appear to be two courses open:

- 1) that the Dutch Government should inform us, officially, that they no longer wish the documents they sent us laid before the Council. You will remember that in the original letter Mr. Panhuys stated "mon Gouvernement vous saurait gré de bien vouloir porter cette requête à la connaissance du Conseil de la Société des Nations". He has not since cancelled this request, but has merely in his second letter stated that "le Gouvernement des Pays-Bas s'est borné à faire suivre le document en question à l'adresse compétente, et 'est à la Société des Nations de décider de la procédure à suivre dans cette affaire". Now the Société des Nations is not the Secretariat, and beside, the Canadian Government in its letter has stated "its confident hope that the Council will decide that the matter thus brought to its notice is one with which the League of Nations is not concerned". It is therefore not possible for the Secretariat to suppress this document unless the Dutch Government who sent it

formally requests it to do so. How they do it is a matter for them to decide.

- 2) The alternative course is to distribute this correspondence to the ten Members of Council "for information"—there never has been any question of communicating it to the other Members of the League. There is no doubt that this communication "for information" would have no reaction, and it is most unlikely that any Member of the Council would ask that the matter be put on the agenda. The question would be completely buried and never likely to be resuscitated.

Will you please let us know by telegram whether you think there is any prospect of the Dutch Government taking the former course. These are the only ones open to us. We have delayed answering to the Canadian Government, both officially and privately, in order to give you time, and in doing so have acted against Drummond's wishes as expressed to me personally. So please let us know as soon as possible. We realise the diff [unreadable] for the Dutch Government to take the first course as it has already declined an opportunity of doing so that was offered to it. If however you have reason to think it will take the action please let us know by telegram, otherwise we must carry out the ordinary procedure.

Yours sincerely,

Dr. van Hamel,  
Badhotel,  
Baarn,  
Pays Bas.

## Document Three

## Van Hamel's Reply

Telegramm — Télégramme — Telegramma  
[Geneva, 4 August 1923, 1:10 a.m.]

yours 31 st second alternative preferable avoid  
every additional publicity = vanhamel

## Document Four The Canadian Government's Reply to the League of Nations and the Six Nations' Claim (Excerpts)

DEPARTMENT OF INDIAN AFFAIRS,  
OTTAWA, CANADA.

December 27th, 1923

### STATEMENT RESPECTING THE SIX NATIONS APPEAL TO THE LEAGUE OF NATIONS.

...

3. The Six Nations are not now, and have not been for "many centuries", a recognized or self-governing people but are, as aforesaid, subjects of the British Crown residing within the Dominion of Canada. The statement that the Six Nations have treated with the Dominion of Canada is incorrect. The Dominion of Canada has at no time entered into any treaty with the Six Nations, or recognized them as having any separate or sovereign rights.

...

... The statement that the Six Nations have at all time enjoyed recognition by the Imperial Government of Great Britian [*sic*] of their right to independence in home-rule is incorrect. On the contrary petitioners from the Six Nations have, in every case, been referred by the Imperial Government to the Canadian Government with the express statement that the subject is one that comes wholly within the competence of the latter authority. As a further evidence that the Imperial Government does not, and has not, recognized the aforesaid claims of the Six Nations, it may be pointed out that the various Acts of the Imperial Parliament establishing successive measures of autonomy in Canada, namely, the Constitutional Act of 1791, the Act of Union of 1840 and the British North America Act of 1867, do not exclude the Six Nations or their reserve lands or treat them as in any way otherwise peculiar.

...

11. Indians are subject to the laws of the land in the same manner as other of His Majesty's subjects. It is necessary to maintain order and punish offenders for the protection of the Indian community itself. Ever since their arrival in the country they have had the protection of the laws and access to the Courts. They have fully availed themselves of these privileges and have in no way conducted or maintained any separate courts or legal machinery of their own.

...

The Dominion Government has not, as stated by the petitioners, tried to force upon the Six Nations any change in their tribal form of Government. It may here be pointed out, however, that the Council represented by Mr. Levi General is selected by a hereditary system. The method adopted for the selection of Chiefs is a survival of a primitive matriarchal form of Government whereby the voting power rests solely with the oldest women of the clans of which the Six Nations are composed. It is not necessary that the Indians should continue this antiquated form of Government as the Indian Act, Sections 93-96 inclusive, Part I and 177-193 inclusive, Part 2, provides machinery for a simple elective system on Indian reserves. If the provisions of the Indian Act were applied to the Six Nations the Council would be elected by a majority vote of the whole band. It may here be explained that through their Council whether chosen by some tribal hereditary system as in the case of the Six Nations, or elected in a democratic manner as provided by the Sections of the Indians Act above referred to, the Indians are given a certain measure of local autonomy. At the meetings of the Council which are usually held once a month the Indian Agent occupies the chair and business is conducted in a regular manner, Resolutions respecting expenditures, by-laws, etc. are passed and the minutes are forwarded to the Department for approval. Thus the Indians themselves, through their Council, take part in the administration and expenditure of their capital and interest funds. The Department leaves decisions with respect to expenditure of band funds to the discretion of the Council, insofar as possible, consistent with proper economy and due regard for the interests of the Indians.

...

In view of the foregoing it is submitted that the prayers set out in the final Section of the petition do not in any wise merit the consideration of the League.

## Document Five The Canadian Government's Final Statements on the Six Nations' Claim

Department of External Affairs Canada

Ottawa, 27th November, 1924

Sir,

With reference to previous correspondence on the subject of the Complaint of the Six Nations Indians against the Government of Canada, I have the honour to enclose for your information copy of a report by the Commissioner appointed by the Canadian Government to investigate the affairs of these Indians.

It might be stated that the recommendation of the Commissioner in regard to the elective system of the Six Nations has already been put into effect, and that on the 17th September, 1924, an Order-in-Council was passed applying the election provisions of part two of the Indian Act. An election was held on the 21st October, 1924, and the new elected Council is now in office having replaced the former hereditary body. It is believed that this change to a more modern political system will have a good influence on the reserve and act as a stimulation to progress and advancement among the Six Nations.

I have the honour to be,  
Sir,

Your obedient servant,  
W.H. Walker  
Acting Under-Secretary of  
State for External Affairs

The Secretary General of the  
League of Nations  
Geneva, Switzerland