

Crown. They assume the position of a protectorate, governed by their own hereditary council of the Six Nations—preserving its historic forms, rights and powers, intact from very ancient times—and not subject to the laws and authority of Canada except in so far as these are affected municipally—an *imperium in imperio*. Incidentally, the term hereditary indicates that this council is not elective, but in direct descent from time immemorial. The claim of under-sovereignty is based on the fact that the British Government and British Colonial governors from the very beginning of friendly relations always regarded and referred to the Six Nations as allies with whom they made treaties and compacts, recognizing them as a free and independent state possessing the fundamental rights of governing its own internal affairs in its own way; and that nothing since has transpired to alter or destroy that status. It is pointed out in their behalf that they were given extensive territory in Canada by patent under the Great Seal which they and their posterity were to enjoy forever in the most free and ample manner according to their several customs and usages. When the management of Indian Affairs was transferred from Imperial to Canadian hands in 1860, all Indian rights and titles, as then existing, were carried on unimpaired. The interference of the Indian Department with the internal affairs of the Six Nations and the assumption of Parliament to make laws governing them are, in essence, the complaints made by these people who seek a recognition of their ancient status.

I have here tried to state as clearly and fairly as possible the case of the Six Nations which on the face of it would appear to raise a nice constitutional issue. Unfortunately for the case, it is confronted with facts and conditions that make the law and govern the situation and not a theory of historic rights. It is true that at

a time when the French and English were in deadly conflict in America and the Six Nations were an important factor, they were referred to as allies and in other terms of friendly equality, such as "brothers" and so on, but it is also true that the Six Nations acknowledged themselves to be subjects of the King. In many of the conferences with the Governor of New York, the latter would speak of them as being subjects of the same sovereign and he actually exercised authority over them in matters which affected their relations with their "white brothers". The speeches at these conferences were filled with an imagery and rhetoric suited to the comprehension of the "untutored mind" that are not to be taken too seriously at this date and were not taken too seriously by the Indians themselves at that date. In fact, the Indians were adepts in ornate and highly poetic expression which did not bind them too seriously to any line of action and their alliances had to be frequently renewed for that very reason. The Six Nations formed a buffer between the French and English Colonies and it was highly diplomatic to always refer to them as "Allies" and "brothers". Moreover, the Six Nations specifically acknowledged the right of conquest, and while they were never conquered by the British in the usual sense and were never at war with them, except as they harried white settlements at times, there is another kind of conquest which comes of occupation which only superior might can resist. The possession of North America by the whites is largely the result of that kind of conquest. Dr. McKenna, in the April issue of *The Canadian Magazine* very clearly, or as clearly as it is possible to do so, defines the nature of sovereignty over a country originally sparsely inhabited in a more or less nomadic way by the Indians. It is the kind of title in sovereignty that has given us large areas in Africa, India and other parts