



WHERE HISTORIES MEET: INDIGENOUS AND SETTLER ENCOUNTERS IN THE TORONTO AREA

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Black Wampum

The British Indian Department was created to maintain military and trading alliances with Indigenous peoples. After the War of 1812, when the need for allies receded, the department was tasked with “civilizing” and preparing Indigenous people to be peaceful, economically self-sufficient subjects who would give up most of their lands to settlers. But insatiable settler demand undermined the civilizational agenda: First Nations of the Toronto area and elsewhere were repeatedly uprooted, denied title to their lands or adequate compensation for them, cheated out of their band funds by corrupt department officials, and relegated to small isolated reserves where farming was difficult.

Although their way of life changed drastically, Indigenous peoples did not assimilate as intended but remained separate peoples, wary of settler intentions on the one hand and shunned and treated as second-class citizens by settlers on the other. When Indigenous populations stabilized and “temporary” reserves looked anything but, the imperial government wanted to rid itself of the financial burden that Indigenous peoples now represented without being accused by humanitarians of utterly abandoning them.

In the mid-1800s, several government inquiries investigated the administration of the Indian Department and why its civilization policy had not been as successful as anticipated. They examined expenses, policies and procedures, financial and reporting practices, the number of employees, and the expense of annual presents and considered whether the department should be disbanded and its responsibilities shifted to other administrative units. These issues became even more acute when the Imperial Parliament transferred authority over Indian affairs to the provincial government. Funding had always been in short supply and there had always been pressure to cut costs, but now the colony itself would be on the hook.

Between 1840 and 1860, when Indian Affairs was still under the control of the Imperial Parliament, an annual parliamentary grant covered the salaries and pensions of Indian agents, officers, and some missionaries and teachers. A smaller General Fund from interest, the sale of Indigenous lands, and fines for unlawfully cut timber paid for the small headquarters staff and a few other expenses. The

Land Fund, generated by sales of ceded Indian Lands, paid 10 per cent of the cost of operating the Crown Lands Department.

Until it was merged with other funds in 1860, the Six Nations Estate was a fourth source of income intended to pay for the management of that reserve. Finally, each community paid Chiefs, interpreters, missionaries, doctors, and schoolmasters from band funds accrued from the annuities paid in perpetuity for land cessions.¹

Indigenous lands and band funds tempted administrators seeking new sources of revenue. Trustees misappropriated Haudenosaunee funds to finance numerous colonial infrastructure projects. For example, in 1846, the trustees transferred £200 to Simcoe District for unknown reasons and £4,412 to the City of Toronto. In 1846 and 1847, £2,900 of Haudenosaunee money was used to build roads in York County and does not appear to have been repaid. Significantly larger amounts were transferred to Public Works and towards the public debt. Most egregiously, in 1861 trustees informed the Confederacy Council that a significant proportion of its funds had been invested in the Grand River Navigation Company without its knowledge or consent and had been lost when the company declared bankruptcy.²

Historically, the Five Nations tract of land was basically bankrolling Canada at the beginning of Canada. And we have records that show that. And that's what we have before the courts today.

—Phil Montour, Six Nations of the Grand River³

On-reserve resources were another target. In 1850, Canada West empowered Crown land commissioners to grant licences for cutting timber on reserve lands and to fine trespassers (i.e., white settlers) for cutting illegally. Revenue from fines and licences would be directed to a fund to “benefit the Indians”; in practice, the money financed the Indian Department and was used to make small interest payments to bands. Timber sales became a significant source of revenue. The department insisted that all logs cut on Indian lands should be sold through the Indian agent, who administered the fund.⁴

As the end of the imperial grant approached, the Pennefather Commission in 1856 addressed the Indian Department's financing. Superintendent-General Richard Pennefather recommended that the department be restructured and subsumed within Provincial Crown Lands. The commissioner of Crown lands for the province of Canada would become the superintendent-general of Indian Affairs, a clear conflict of interest. The same official responsible for safeguarding Indigenous peoples' interests and upholding treaties would also be overseeing the disbursement of land and resources for settlers.

The government directed the department to replace imperial funding with increased sales of Indigenous land and resources but doing so would require expanded jurisdiction. At this time, the concept of protection shifted away from protecting Indigenous lands for the use of Indigenous peoples to protecting the government's ability to exclusively manage those lands and their fish, mineral, and timber wealth for

government purposes. The role of Indian agents changed from distributing presents and annuities to administering local finances and band funds that were kept out of community control. They regulated reserve resource economies, including Indigenous resource use, increasing conflict with Indigenous leaders and communities.⁵

When Indian agents found it impossible to police Indigenous people's sales of their own timber, the solicitor general said they could be charged as trespassers on their own lands: "Cutting timber, staves or wood for any purpose upon Indian lands has been rendered unlawful . . . any persons whether *Indians* or others offending against the said statute will be prosecuted with rigor."⁶

Similarly, the Fishing Act of 1857 was "an undisguised effort to transfer the wealth of the aboriginal fisheries from the First Nations . . . to the department."⁷ The act favoured non-Indigenous sports fisheries over Indigenous fisheries, imposed overseers and a licensing system, and regulated fishing seasons for various species. The Anishinaabek of Lakes Huron and Simcoe vigorously protested this legislation and reminded the government that "when we surrendered our lands to the Government we did not sign over all the game and the fish. Indians have always the privilege of hunting wherever they pleased."⁸

The Push to Break Up Reserves

The 1857 Gradual Civilization Act was an even more ambitious law meant to break up reserves to create individual citizens and end government

financial obligations to Indigenous peoples. The Pennefather Commission's interim report had recommended individual land tenure to address the "problem" of communal land ownership and speed up assimilation. Following this logic, the legislation created a pathway for the removal of all legal distinctions between "Indians" and other residents of the colony, ending their special status as distinct peoples.⁹ Indigenous men over the age of twenty-one, able to speak, read, and write in either English or French and "sufficiently advanced in the elementary branches of education and . . . of good moral character and free from debt," could apply to be enfranchised (given the rights of citizens, including the right to vote if they met property qualifications).¹⁰ Once enfranchised, each man would receive a share of band annuities and a 50-acre allotment taken from reserve land. Individual bands retained some control over the process in that local council approval was required.

The legislation, by removing "all legal distinctions between Indians and Euro-Canadians actually established them."¹¹ It did so by defining who was an Indian. It stipulated that such a person could not be accorded the same rights and privileges enjoyed by Euro-Canadians until he passed certain tests, although, in fact, many settlers would not have been able to pass the tests. Ironically, the legislation codified the principle "that to be an Indian was not to be a citizen, and to be a citizen was not to be an Indian."¹²

Ominously, the act undermined the legal status of Indigenous women. Through the act, their status as "Indians" and membership in their

communities now depended on their husbands' status. The wife, widow, and lineal descendants of an enfranchised man would be automatically enfranchised and no longer a member of their own or their husband's Nation, regardless of their wishes or ties to their birth community. However, if a widow or descendant of an enfranchised man married an "Indian," she would become a member of her husband's Nation or band and no longer enfranchised. The Gradual Civilization Act marked the beginning of a sustained attack on Indigenous women's rights that would persist for generations, with the repercussions still being felt today.

Because the act repudiated the historic treaty relationship, Indigenous reaction was overwhelmingly negative. In 1858, seventy-nine representatives from fifteen Indigenous communities met in Council at Six Nations and agreed to present the government with a petition and a string of Black wampum, a symbol of war or discord.¹³ The legislation, in their view, was designed to break up reserves, communities, and even families and to absorb Indigenous people—as individuals—into mainstream society.¹⁴ David Thorburn, superintendent of Six Nations, reported that the Chiefs were particularly concerned by provisions to dismantle reserves, which would threaten their existence as peoples: it was an attempt "to break them to pieces."¹⁵ The Six Nations rejected the legislation because they believed the communal ownership of land was necessary to maintain their integrity as Nations.¹⁶ The legislation also clearly threatened Indigenous sovereignty: by granting itself the authority to decide who was

legally an Indian, the government threatened the ability of First Nations to determine their own membership and be self-governing.

The framers of the legislation wrongly assumed Indigenous men would jump at the opportunity to become British subjects with voting rights: over the next twenty years, only one Indigenous man chose to enfranchise.¹⁷ In fact, a number of Indigenous people had abandoned the goal of "civilization" altogether. The Pennefather report described limited farming at Rama, for example. Many of the houses were derelict, and school was taught only half the time—surely a form of resistance. As the Chippewas had learned from bitter experience, if they farmed and improved their land, settlers only coveted it more.

The next summer, another Grand Council was convened at Rama to discuss the abrogation of Indigenous land and treaty rights, including hunting and fishing rights. Remarkably, the Chiefs chose a young Anishinaabe woman to travel to England to bring their land grievances to the attention of Queen Victoria and to inform her of the "peculiar and oppressive circumstances under which the Indians in British North America are placed."¹⁸

Nahnebahwequay

Nahnebahwequay (Upright or Standing Woman), also known as Catherine Sutton, was a Mississauga woman of the Eagle Doodem who had been raised at the Credit Mission and referred to Peter Jones (also of the Eagle Doodem) as her uncle. A protégé of Eliza Field, his British wife,

she accompanied Field to England in 1837 at the age of thirteen. Peter Jones joined them as he embarked on a fundraising tour for missions and sought an audience with the Queen. After a year in England, Nahnebahwequay returned to the Credit Mission. In early 1839, she married Englishman William Sutton, a committed Methodist ally of the Mississaugas.

The Suttons lived at the Credit Village and raised their children as Mississaugas. They moved to the Saugeen territory in 1846, expecting other Mississaugas of the Credit to join them as part of the first relocation plan. But once the poor quality of the land was recognized, only the families of David Sawyer (son of Chief Joseph Sawyer) and Abner Elliott joined them. Most Mississaugas of the Credit moved to New Credit on the Haldimand Tract instead.

The Suttons' land tenure seemed secure. The Saugeen Anishinaabek had offered them 200 acres of reserve land, and Queen Victoria had made an Imperial Declaration in 1847 to confirm Anishinaabe ownership of the entire Saugeen Peninsula. Nahnebahwequay therefore joined the Nawash band in 1852–53, relinquishing her rights to annuities through the Mississaugas of the Credit.

A series of events and government rulings dispossessed the Suttons of their land. In 1854 the British, claiming they couldn't protect the land from squatters, pressured the Saugeen Anishinaabek to sign the Saugeen Peninsula Treaty (Treaty 72), which ceded 450,000 acres or three-quarters of their land base. Only five small reserves remained, one of which included



Photograph of Nahnebahwequay / Catharine Sutton, n.d. | Courtesy of Grey Roots Archival Collection, Owen Sound

the Suttons' land. In 1857, under more pressure, a small unofficial group went to Toronto and surrendered more land (the Owen Sound / Nawash Treaty 82), including the Sutton, Sawyer, and Elliott farms. The process did not follow the Royal Proclamation's requirement that surrenders needed majority consent at a public meeting on the territory in question. Nevertheless, the



Ann, daughter of Chief Joseph Snake, n.d. | Courtesy of Chippewas of Georgina Island Historical Photo Collection

government ruled the cession was valid. The Suttons no longer had title to their lands.

Nahnebahwequay protested this injustice. The government offered her the option to buy the land at half price but then rescinded the offer

because Indians, as minors, could not purchase surrendered lands. In a further twist, the Indian Department refused to pay Nahnebahwequay or her children Nawash annuities because it no longer considered her an Indian. Indian agent William Bartlett informed her, “When an Indian woman marries a white man she is no longer considered a member of the Indian community, and if she be a participant in their monies, her name is erased from the list she must therefore follow the fortunes of her husband.”¹⁹

Now legally deemed “white,” Nahnebahwequay was denied reserve land under the Crown Lands Protection Act of 1839. Yet Eliza Field Jones, Peter Jones’ wife, and Mary Holtby, the British second wife of John Jones, were legally “Indians”: their children had status and rights to annuities, regardless of whether they spoke the language or knew anything about Anishinaabe culture. In addition, other Mississauga and Haudenosaunee women had married non-Indigenous men, but they and their children had not lost their status.²⁰

The Gradual Civilization Act contradicted and undermined the role of women in their communities by only recognizing male political participation and land ownership in a system of private property. Before colonization, Anishinaabe and Haudenosaunee women held respected roles and exercised jurisdiction over some forms of property and aspects of governance. Anishinaabe women held responsibilities and rights over water, shoreline areas, and sugar bushes, which were economically important for wild rice and sugar production.²¹ Because women kept

their Doodem identity (passed down from their fathers) but joined their husband's families, and because all Anishinaabek had to marry outside their Clan, women frequently moved to other Anishinaabe communities. They developed social and familial connections and contributed to governance through the maintenance of Doodem relationships and alliances between communities.²² Anishinaabe women also contributed to political decision-making through Women's Councils, which met alongside Men's Councils. The Chief woman, or Ogimaakwe, presented the results to the men. These advised on "matters of both peace and war." In some cases, women were signatories to treaties, as in the Between the Lakes Treaty of 1784.²³

Haudenosaunee women, as members of a matrilineal society, likewise held central roles in politics and family law, especially since women were "holders of the land" under the Great Law of Peace and had rights and responsibilities over the large agricultural fields that supported Longhouse communities. Women cultivated the soil, headed their families (in partnership with the men), and selected *Royaners* (Hereditary Chiefs) from their Clan lineage. Clan mothers influenced men's decisions and could dehorn (depose) leaders who did not uphold their responsibilities. Since Clan identity was determined through the female line, national territories were also determined matrilineally.²⁴

Indigenous women would be increasingly impacted by Victorian ideas of women's roles over the next decades. They would come to be regarded as the legal appendages of their husbands,

as non-Indigenous women were regarded in law. Settler women did not gain the vote until after the First World War.

Perhaps because she was a thorn in his side, the Indian agent eventually offered Nahnebahwequay the opportunity to buy back her land at a reduced rate. But she needed to agree that the Nawash band's original grant of 200 acres to her was invalid and renounce her annuities from that band (and, hence, her Indian status). She refused on principle and was supported by a number of Anishinaabek. As Nahnebahwequay wrote in 1861, "Although I have been married 21 years, it was not until the last four years that the department has made this excuse for robbing me and my children of our birthright, which I inherited from my forefathers before the white man ever set his foot on our shores."

When the 1859 Council chose her to take their grievances to England, it was in recognition of her strength and eloquence in the face of injustice and her previous experience in England. The next spring, heavily pregnant, she travelled to London via New York. She was assisted by supportive Quakers and attacked by the *Toronto Globe* as an imposter. The newspaper tried to undermine her mission by claiming that Indians could buy land in the province and were well treated.²⁵

In England, Nahnebahwequay addressed the Aborigines Protection Society, "gaining many sympathizers among our philanthropic men and women."²⁶ Through her Quaker connections, she met with the colonial secretary, the Duke of Newcastle, and secured an audience with Queen

William
Armstrong, *Union
Station (1858–1871),
Waterfront,
West of York St.,
Toronto, Ontario,
1859*. As the city
industrialized,
some Indigenous
people took the
train into Toronto
to sell fish,
baskets, brooms,
and other items
| Toronto Public
Library, Canadian
Documentary Art
Collection, JRR291



Victoria. She gave birth to her sixth child three weeks later.²⁷

During her audience, she raised the issue of the way she, David Sawyer, and Abner Elliott had been treated by the Indian Department and presented the Queen with a petition from the Nawash Nation. The Queen listened and referred the matter to Newcastle. Newcastle was instructed to investigate the situation during the Prince of Wales' upcoming royal tour, planned for later in the year. The public was informed that the duke had been "charged by her Majesty to enquire into the condition of her Indian subjects in this country, whose complaints have recently reached the Royal ear."²⁸

Before leaving England, Nahnebahwequay gave a speech in Liverpool. The Aborigines Protection Society recorded her eloquent description of the failure of the civilization policy and the treatment of Indigenous people who tried to become farmers: "But how can the poor Indian be civilized? As soon as he makes his land valuable, he is driven further back . . . He is only clearing the land for the white men and making it valuable for the Indian department . . . And they know that the work they put on their land, that their children wont get the benefit of it . . . We should do to others as we should others to do to us."²⁹

Catherine Sutton is my relation on my mother's side . . . Now you see where I get my uppity talk!

—Garry Sault, Mississaugas of the Credit³⁰

Strategic Action during the 1860 Royal Tour

The Prince of Wales' visit provided an important opportunity for Indigenous peoples to draw attention to their ongoing presence and cultural persistence in a world that increasingly marginalized and erased them. By publicly demonstrating their loyalty to the Crown, they hoped to remind the Canadian public, colonial officials, and British royalty of the Crown's responsibilities as partners in a treaty relationship.

Although First Nations grievances were not reported in the press, they used several opportunities to present petitions and draw attention to the injustices they had endured. On Newcastle's arrival in Toronto, a delegation of Anishinaabe leaders greeted him and presented him with a petition dealing with nine issues, including the Sutton, Sawyer, Elliott land claims; the insecurity of title and the need for proper title deeds; the embezzlement or mismanagement of funds and the Indian Department's accountability to the legislature; and the loss of annuities when Indigenous women married white men.³¹

Towards the end of the tour, several hundred mostly Anishinaabe men and women, including

at least eighty Chiefs, congregated at Sarnia, where they attended a reception for the prince. The following day, they presented a petition signed by "nearly every tribe and band of Canada":

It began by asking Newcastle to undertake a thorough investigation of the conduct of the Indian Department. The petition then referred to specific grievances: the loss through fraud and carelessness of several hundred thousand dollars received in payment of lands; the loss of islands used as fishing stations and the government's imposition of new charges for fishing rights long guaranteed by treaties; the illegal sale of Indian lands without the permission of bands or compensation paid to them; the forcible confiscation of large tracts without adequate compensation, and government plans that would make possible the alienation of reserve lands without prior consent from bands.³²

The petition stated that the department had been granted "authority to alienate our reserve lands, without obtaining our consent, and even against our will and remonstrance," a reference to the Gradual Civilization Act, which granted the superintendent-general the power to alienate up to 50 acres of reserve land for each man enfranchised.

The Sutton, Sawyer, and Elliott land claims were noticeably absent from this list of grievances. The Chiefs had refused to bring them forward, considering them private issues compared



Oronhyatekha in the ceremonial clothing he wore to meet the Prince of Wales in 1860 | Bodleian Library, Oxford University, c. 175, folio 366, Wikimedia Commons

to problems of a more general concern. During Nahnebahwequay's absence in England, some Anishinaabe Chiefs had also refused to support her trip and declined to endorse her petition, perhaps reflecting their ambivalence about the rights of Indigenous women and the influence of Victorian notions of womanhood.³³

When the prince left Sarnia for Brantford, he was greeted by one thousand "painted and armed" Haudenosaunee warriors. A young Oronhyatekha, the grandson of George Martin, was chosen by the Haudenosaunee to deliver a short welcoming speech. Oronhyatekha also delivered a Six Nations petition that drew attention to the loss of much of their territory on the Haldimand Tract without any surrender or treaty and asked for greater control over their affairs, especially finances. With Henry Acland, the prince's protégé, Oronhyatekha raised the issue of the Queen no longer fulfilling the treaty promise of presents in perpetuity.³⁴

The Mississaugas of the Credit met the prince in Hamilton. According to their Indian agent, James McLean, they wanted to discuss the treaty for their former lands on the Credit, for which they had not been paid, and their exclusive fishery on the river.³⁵

Newcastle received at least twelve petitions from First Nations, but his investigation of Indigenous grievances, including those of Nahnebahwequay, Sawyer, and Elliott and the Six Nations, was superficial at best. As Nahnebahwequay wrote: "The Indian Department, with the Governor General at its head, are the parties complained of, and the Duke made his investigations

entirely through them; not a solitary friend of the injured party was allowed to be present to take part.”³⁶ In another letter, she explained: “Had our friends been permitted to take part, they would have exhibited such an extensive state of wrongs and corruptions connected with the department, as would have astonished the public; but the department has had it all their own way.”³⁷

Although Newcastle had supported Nahnebahwequay in England, the political sands had shifted since then with the transfer of control of Indian Affairs from Britain to the Province of Canada. Newcastle and the British government did not want to interfere in what was now a Canadian matter.

In the end, Nahnebahwequay was unable to get her Indian status restored or purchase the farm she and her husband had worked so hard to

create, although, in 1861, the Indian Department did allow her husband to purchase four lots from the original land granted to her, at the base price. For the rest of her life, she continued to advocate for Indigenous rights. She advised the Anishinaabek of Manitoulin Island regarding their land title when the government pressured them for more land cessions, and she called for protection of Indigenous fishing rights. She died in 1865.

*I know about Catherine Sutton because
we were researching her site up in
Collingwood. She married out, right,
and so she got taken off the rights list
. . . She was an advocate. But she was
Christianized.*

—Carolyn King, Mississaugas of
the Credit³⁸

