

Mohawks "change direction" On Jurisdiction

BRANTFORD - What was to have been a week-long legal argument in the province's highest court challenging the powers of Canadian courts on Native territory ended on the first day - Monday - after a mere 2 hours.

The 8 Mohawks who joined forces to challenge the jurisdiction of the Canadian legal system on First Nation lands elected to argue their point at trial rather than continue with their application in the General Division of Provincial Court. Four of the accused are from Six Nations. Hazel Hill is charged with common assault; Dick Hill faces charges of possession of contraband tobacco and conspiracy to smuggle cigarettes into Canada; David Johns is charged with conspiracy to smuggle cigarettes into Canada; Larry Green is accused of obstructing a police officer, obstructing justice and dangerous driving.

Their lawyer, Owen Young says the Federal and Provincial Crown Attorneys who opposed him changed the rules and forced him to change tactics.

The application asked the court to rule that the lower court did not have jurisdiction to hear the cases against the Mohawks because the Canadian court system is biased against Native defendants and does not have jurisdiction over First Nations territory. The Mohawks face a variety of charges under the Excise Act and the Criminal Code.

Young anticipated he could argue the motion without putting his clients at risk in any future trial should the judge rule against him. He proposed to say during the hearing, for the sake of argument, that his clients did what they are accused of doing,

so that he could continue with his argument that they did it outside the jurisdiction of Canadian law. That admission was not to be an admission of guilt but a way of opening up the legal points to be debated.

Young said he could not get the Crown Attorneys to tell him who they would cross-examine. This left the possibility open that questions about the alleged criminal acts could be asked of his clients. Rather than take that risk he withdrew the application.

"This is a legal argument not a trial," Young told reporters. "It's a jurisdictional argument, not, Did this guy do it?"

"It's like you go into a fight thinking it's Marquis of Queensbury rules and when you get in the ring, they tell you it's kickboxing," Young explained. "I don't mind kickboxing, but it's a different fight. Let me go get my gloves on."

The cases of the 8 accused Mohawks had been combined into one case so that the jurisdictional question could be addressed. Now each accused will raise the issue separately at each trial.

"We could get 11 different judges deciding 11 different things," said Young.

The Mohawks' lawyer wanted to focus the argument and simplify matters. He felt the Crown did not want that to happen.

"They had a definite strategy to run this off the rails and that's what they did," Young added.

Young told the court how he would have argued had he been able to proceed.

"Modern day law finds its roots inescapably in colonial law," he told Judge James Kent.

"Those principles of law are fundamentally biased and based on the principle that North American Indians were uncivilized. It's a bias the court cannot escape."

"The driving force behind colonial law was the expansion of the British empire. If modern-day law cannot escape its colonial roots, in the lower courts, it deprives Natives of the right to justice" he continued.

Young said he may elect to make one case a test case and take it to trial in the hope of creating a precedent that would eliminate the need to make the jurisdictional argument at each trial.

The 4 area accused - Hazel Hill, Dick Hill, David Johns and Larry Green were remanded to appear in Provincial Division next Monday.

Brantford Crown Attorney Keth Swanson, acting as a Provincial Crown in this matter, said he was surprised that Young withdrew the application.

"We're not sure why," he said, when asked why Young withdrew, "We were taken by surprise."

He speculated the accused may be running low on money for their defense.

Swanson denied the Mohawks were left with no choice but to abandon their application by the Crown's tactics.

Owen Young emphasized that the claim that Canadian courts do not have jurisdiction over the Mohawks would not go away.

"This isn't us backing off," he said. "We're just changing direction."

Source: TEKAWENNAKE3-22-95

Grand Chief Peltier Does Not Want Land Negotiations To Suffer

Montreal, March 29, 1995 - "The priority for the Kanestake Community is

Kanestake Mohawk Council Denies "Iroquois Confederacy External Affairs Committee" is Settling Their Claims

Kahnawake, Mohawk Territory, April 5, 1995. The Mohawk Council of Kanestake has discredited an "Indian Times" story that they have mandated the Iroquois Confederacy External Affairs Committee to settle their land claims.

On July 16th, 1991, the Mohawk Council of Kanestake met with Indian Affairs, the Grand Council and Mohawk Council of Akwesasne in Toronto. On July 22nd, 1991 they received a letter for Jack Donegani of Indian & Northern Affairs asking them to give a mandate to the Grand Council (External Affairs Committee) to speak on their behalf in their dealings with the federal government.

On July 23rd, 1991, the Mohawk Council of Kanestake met and refused to mandate the Confederacy to speak on their behalf and furthermore that the Federal Government deal directly with them on all matters affecting them and their territory. Grand Chief Jerry Peltier stated they are currently engaged in negotiations with Canada including the redress of their grievances over their land rights.

On March 18th and 19th, 1995 Grand Council reaffirmed this External Affairs Committee group. It is illegal and cannot represent any Iroquois Nation and cannot be recognized by Canada as it would be against the will and wish-

es of the people. The process was not used whereby each Iroquois Nation named delegates to this committee. It appears this committee will continue to mandate itself to exert power over the Iroquois territories.

At one time, a "Land Rights Committee" was duly formed using the process of the their Kaianerekowa. Authority was given by each Iroquois nation naming delegates through their community traditional councils and then had the chiefs of all the nations ratify the group at a Grand Council meeting. They acted as runners and educational tools, but could not make decisions or exercise any power over the Iroquois.

This Iroquois Confederacy External Affairs Committee is made up of Oren Lyons, John mohawks, Brian Skidders, Bernie Parker, Paul Williams, and Harvey Longboat. It can now be safely said that the Canadian government is behind this Committee, just like it was during the 1990 crisis. Canada was secretly meeting with this Committee outside the negotiations that were taking place with the Mohawk Nation during the crisis. The government clearly knew that these persons did not represent the Mohawk Nation and yet today continues to try to set this Committee up to intervene on internal matters of each of the Iroquois nations.

to settle their land claims, since that constitutes the foundation of our econom-

ic development. That is the basis on which we will build our future, and
continued on next page

