Grand River Mohawks in Superior Court

By Jen Mt. Pleasant

TORONTO – Tensions were high last week as members of the Mohawk Nation of Grand River (MNGR), formerly known as the Mohawk Workers, were at the Superior Court of Justice in Toronto asserting their sovereignty to not only the federal court but the federal government as well.

The defendant in this matter was lawyer Michael McCulloch who was representing the Department of Justice. He urged the court to strike down the motion of the representative of MNGR, lawyer, Gregory-John Bloom.

The Plaintiff, Mr. Bloom, on behalf of the MNGR, referenced the British North America Act of 1867 which was later re-named the Constitution Act in 1982 in his argument. He stated, "Without consultation and contrary to placing a foreign constitution on a domestic constitution that was here long before white contact the Great Binding Law, or Kaianere'kó:wa..." The main argument of the Mohawk Nation of Grand River is that Canadian law does not apply to the Mohawk Nation because sovereignty was never surrendered. The idea, when settlers first arrived and treaties were being made, was that Onkwehon:we people would never give up their sovereignty as a people and would agree to live in peace and harmony with settler colonies so long as one nation does not try and dominate and assert authority over the other. This was the underlying principle of the Two Row Wampum or Guswhenta which was enacted with the Europeans in 1613.

Yet, in 1867 Canada went ahead and asserted and assumed authority over Onkwehon:we people by creating the British North America Act. Section 17 of the Act states, "There shall be One Parliament of Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons." This Act therefore, goes directly against the Two Row Wampum not to mention the fact that Onkwehon:we people never surrendered their autonomy and never walked away from the Great Law. This alone, was the main argument in the Superior Court of Justice last week.

But like many times before, representatives of Canada shrugged off these claims and made repeated references directed at the MNGR lawyer that this claim was 'frivolous and vexatious,' stating that it is a 'waste of this courts time to proceed with this action.' Therefore, Canada continues to lack acknowledgement of the Two Row Wampum, of the Great Law of Peace and of the Mohawk Nation 'and such others' as listed in the Haldimand Proclamation.

For, in so acknowledging the Two Row Wampum, the Great Law of Peace and the Haldimand Proclamation, they (Canada) must then acknowledge the trillions of dollars held up in the Indian Trust Fund that the Onkwehon:we have been fighting the courts to get for many years now. They would have to acknowledge as well, the racist government policies in forms such as the Indian Act. They would also have to acknowledge the physical and cultural genocide associated with the residential school system that their political ancestors forced upon Onkwehon:we nationwide to 'take the Indian out of the child.'

So it was no surprise that the Defendant, the federal government (aka Canada), shrugged Mr. Bloom's claims off as 'frivolous and vexatious,' and refused to take any responsibility whatsoever. Even the judge seemed to get agitated the more Bloom asserted that Canada has no authority over the Mohawk Nation. "The Department of Justice is inconsistent with the Two Row Wampum and the Department of Justice is not a Nation," declared Bloom, "Relying on the decision of the Department of Justice is relying on an assumption

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against the relationship of the Haudenosaunee. It is inconsistent with the Haudenosaunee and the Crown, and inconsistent with the Two Row to pull another into his ship."

Bloom explained to the court that any nation of the Six Nations are allies to the British Crown, 'not subjects and not subject to rules and regulations of the Department of Justice,' and, stated that 'the Department of Justice cannot extinguish Aboriginal rights.' Bloom argued that treaties are a relationship between the sovereign (such as the Mohawk nation) and the Crown and that the onus of establishing strict proof of extinguishment of treaty lies strictly upon the Crown, something that the Crown says it has documentation on but continuously fails to provide.

Bloom further argued that the province has no jurisdiction over North American Indians and neither does the federal government but that the federal government does have a fiduciary obligation to North American Indians.

Bloom asked "How is it possible to place a foreign constitution [the British North America Act] on top of a domestic constitution that was already in place," said Bloom. The judge was quick to show his authority by saying, 'the reason I am up here Mr. Bloom is that I don't have to answer questions!' He then suggested Mr. Bloom take his argument to the International Criminal Court in The Hague where, 'this should be dealt with.'

The point Mr. Bloom clearly made was that it was wrong for Canada to place their own constitution on top of an original constitution, which was also unlawful because Onkwehon:we people have never surrendered their sovereignty.

The judge overseeing the case has yet to make his decision and whether or not he decides in favour of the Mohawk Nation of Grand River does not matter. The whole point of taking this matter before the federal court was to assert that the Five Nations and the Tuscarora have their own Constitution, and their own law: the Kaianere'kó:wa. Canada has continuously failed to produce any documentation stating that the Five Nations and the Tuscarora surrendered their sovereignty.