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A Duty to Protect and Respect: Seneca Opposition to Legal Incorporation during the Removal Period

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After the passage of the 1830 Indian Removal Act seeking to relocate all Native Americans from the eastern United States to west of the Mississippi River, the Senecas, members of the Haudenosaunee-Iroquois Confederacy, faced increased pressure to surrender and remove from their northeastern lands. Almost simultaneously, in 1831 the US Supreme Court under Chief Justice John Marshall ruled that tribes were not foreign nations but constituted "domestic dependent nations," assigning them an odd, in-between status that made them subject to federal laws, but not those of the states.[1] Many scholars have speculated on Marshall's motivations for this ruling, which in effect attempted to legally incorporate Native Americans. In response to these existential threats of incorporation and displacement, some Senecas appealed to members of the federal government in protest, including written letters and petitions. Letter writers from all reservations, but primarily from Buffalo Creek and Tonawanda, asked that the United States and the conduct of its citizens be ruled by US laws, but that their tribal laws also be respected. When faced with supposedly protective attempts at making them subject to federal law to shield them from state laws, Seneca authors insisted that their own laws offered all the protection they required—provided they were to be heeded by the United States as well. When making this argument in their petitions, they were able to situate the discourse of protection within their own cultural traditions, as well as casting them as interactions between equals.

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These writings periodically invoked the notion of "protection," which during the previous century had been an instrument of cross-cultural diplomacy between various tribes and colonial governments. While a discourse of protection could easily be mistaken for an acceptance of or surrender to legal incorporation into the United States, on closer inspection it was exactly the opposite. In invoking protection, rather than legal opposition, Seneca authors were returning to an era when interactions between parties had been more equal and diplomatic. In particular, the means they chose for their appeals—the civil right to petition—reinforces that they viewed themselves as separate from the United States in that customarily, this right was used to permit all inhabitants of the United States access to civil rights as a way to justify the exclusion of some minorities from access to political ones.[2] For these Senecas, asking in letters and petitions for what I term "external" and "internal" protection constituted an insistence on continued and continuing separateness, a stance that is confirmed elsewhere in their correspondence with members of the federal government.[3] Among others, the Tonawanda Senecas drew on this discourse to try and regain their lands by means of a treaty concluded in 1857.

Seneca authors not only sought to defend themselves against settler takeover, but also to protect their equality at a moment when the United States was abandoning that notion. Their letters distinguish between two different kinds of protection: one originated externally from the United States government, which Senecas requested most often when the laws of the United States itself had been broken or ignored. Another kind, however, seems to have been more important and was usually alluded to more obliquely: the internal protection offered by respecting the Senecas' own laws and by prohibiting any actions that violated these tribal laws. Because the focus of federal policy was still on tribes, rather than individuals, the removal era was perhaps the last time Native Americans were in a position to draw on this discourse.

The Seneca Removal Crisis

Although removal was the official Indian policy of the United States government from 1830 to 1887, the idea was put forward by Thomas Jefferson and others, long before President Andrew Jackson proposed the removal bill that narrowly passed in 1830.[4] This occurred at almost the same time as Chief Justice John Marshall coined the "doctrine of wardship" in the *Cherokee v. Georgia* decision, writing that Native Americans were "in a state of pupilage" and that "their relation to the United States resembles that of a ward to his guardian."[5] In 1830, these two events jointly worked to displace the Senecas from what remained of their ancestral lands in what is now the northeastern United States.

Probably many Senecas knew of this statement likening them to wards of the US government. Some of the letters by members of the Iroquois Confederacy showed a sound knowledge of the government's professed duties under the wardship principle. In May 1840, Governor Blacksnake (Tah-won-ne-ahs) and others directed a petition to the president criticizing the Supreme Court's judgment in *Cherokee v. Georgia* (1831). In suggesting that the Cherokees had the status of wards in a domestic

dependent nation, they argued, the chief justice's logic conflicted with the entire concept of treaties. Since treaties imply that the contracting parties have a certain degree of equality, a ward would be unable to enter into a valid treaty contract. They not only suggested that this legal ruling cast doubt over the validity of previous agreements of this nature, but also that they were not willing to accept wardship status, writing, "we were extremely pained to hear that some of the senators advised that our rights guaranteed as by solemn treaty should be taken from us + we [are to] be treated as minors."[6]

The Senecas and others of the Haudenosaunee had a long history of treaty making with settlers, yet slowly the balance of power had been changing.[7] The League initially had been a formidable military force, but after the 1701 treaties at Albany and Montreal, the so-called Grand Settlement, "the Iroquois leaders tried to abandon warfare as a means of dealing with the diplomatic problems."[8] One of their strategies during the colonial period was to sell lands far away from their traditional territories in Iroquoia, which were not actually theirs.[9] As the power balance shifted after the French and Indian War, the Iroquois came under more and more pressure and finally, were forced into ceding some of their traditional lands. The Haudenosaunee, including the Senecas, attempted to curb such land losses, and, at the 1768 Treaty of Fort Stanwix, believed that a permanent line had been agreed to between them and whites.[10] In spite of such efforts, the Iroquois suffered further land losses when the colonies broke away from Britain and gained their independence. At the Treaty of Canandaigua in 1794, they believed that the United States had recognized their confederacy as sovereign and their territorial boundaries were to be respected, according to historian Laurence Hauptman.[11] Yet in the years to follow, many more lands were lost.

These land losses culminated in the late 1830s and early 1840s, with two treaties concluded at Buffalo Creek. As Hauptman has shown, these Iroquois land cessions were intricately connected to the rise of New York State and especially, the transportation revolution taking place in the nineteenth century.[12] As the US federal government confirmed, very irregular land cessions repeatedly and blatantly violated the Trade and Intercourse acts.[13] The second treaty of Buffalo Creek in 1838 repeated many of the same corrupt methods that an inquiry into the 1826 treaty had revealed: by means of bribery, forgery, and the use of alcohol, as well as other illegal acts, the Seneca came to surrender almost all their remaining New York lands to the Ogden Land Company, which previously had purchased the pre-emption rights. Fewer than half of the chiefs had signed the document, and many of those who did affix their signature had been bribed or coerced.[14]

The majority of the Senecas opposed this sale, but nonetheless the occupants of the Buffalo Creek reservation were removed during the next seven years.[15] From January 1838 to the spring of 1842, many among the Senecas waged a campaign against the 1838 treaty and this determined opposition led to the so-called compromise treaty of 1842. This, however, only regained the Allegany and Cattaraugus reservations and thus confirmed the loss of Buffalo Creek and Tonawanda. Although these losses aggravated tribal divisions, nonetheless the majority of the Senecas mounted a determined resistance against the dual threat of legal incorporation and removal. When doing so,

they drew on the older notion of protection, but reshaped it in order to safeguard their ongoing separateness from the United States.

Changing Ideas about Protection

Revealing a bias recently challenged in a special issue of the *Pacific Historical Review*, scholarship on the discourse of protection often focuses on the British world and tends to assume that British humanitarians created that discourse.[16] In the United States, although with some notable exceptions, protection has been less explored.[17] As the following analysis will show, Senecas still turned to the idea of protection in the first half of the nineteenth century when fighting against removal. The tribe's use of the concept shows traces of colonial antecedents not from Britain alone. When in the seventeenth century the French king sought to extend his sovereignty over Indigenous peoples of the Americas, he placed them under a form of domination known as "protection." Gilles Harvard has made a key distinction, writing, "this concept of 'protection' is compatible with the idea of alliance" that is different from the feudal power to compel vassals in exchange for protection, or "suzerainty."[18] Protection instead was understood as an unequal alliance, with the greater power offering protection to the lesser one. Under this understanding, protection made the Indians "subordinate allies who had performed an act of political allegiance."[19] Indeed, this development in North America aligns with the conceptual shift from suzerainty to sovereignty underway since the Middle Ages, with sovereignty theoretically involving the ability to govern and dispense justice.

The Iroquois Confederacy—occupants of a contested border area between the French and the British—no doubt were familiar with this discourse. This enduring trend saw Natives officially being placed under the protection of the French king, who treated them as allies and entered into treaties with them. Thus, "the discourse of protection and unequal alliance . . . allowed the king to formalize a relationship of domination" as well.[20] Not exclusive to French dominions, this kind of protection status "[blended] the promise of shelter from enemies with the rationale of protection against the arbitrary power of despots and tyrants," as Lauren Benton and Lisa Ford have pointed out, and moreover, "the British discourse of protection used the term in new ways."[21] Yet, they suggest, it remained unclear if Indigenous nations accepting protection in such circumstances would indicate an alliance or signify submission. Benton and Ford posit that this ambiguity constituted part of the appeal of the concept of protection for colonizers: with no clear understanding of the legal relationship between protected and protector, promises of protection nonetheless helped to reinforce British legitimacy.[22] Arguably, "protection talk developed precisely at the blurred border of inside and outside legalities [because] internal protection efforts sought to bring exotic legal subjects . . . within imperial jurisdiction."[23] Penelope Edmonds and Anna Johnston have similarly referred to "the messy realities of colonial contact zones," an environment in which the notion of protection would have thrived,[24] while New Zealand scholar Tony Ballantyne has similarly argued that protection was used as a "legitimating device for empire."[25]

Notably, protection insisted on forms of cooperation that require the internalization of the protection regime itself, the "colonialism of the mind" identified and decried by many decolonizing voices.[26] In addition, as historians Christina Twomey and Katherine Ellinghaus have pointed out, "there were many moments when colonisers used the trope of protection to soothe their consciences, justify their crimes, or to find some way to ameliorate the suffering they witnessed."[27] The result of these influences was what Amanda Nettelbeck has called a "schizophrenic paternalism."[28] This, the Senecas discovered, permitted some space for them to assert their continuing agency as nations. As Euro-American colonizers shaped protection to their needs, Indigenous people too invoked different notions of protection.

The concept of protection gained more exposure in mid-nineteenth-century discourse through the historical antecedents of the concept of protection combined with a growing, eighteenth-century worldwide trend towards humanitarianism, which in Europe and the United States culminated in humanitarian and abolitionist movements of the 1830s.[29] Importantly, although protection policies did not always incorporate the term "protection,"[30] they were informed by established ideas that some people needed care and protection, including Blacks, Native Americans, women, and children. The Indian Removal Act of 1830, like other settler-colonial logics, ostensibly sought to protect tribes by giving them time to "progress towards civilization" safely away from detrimental white influences and disavows the goal of lands cleared of Indigenous people.[31]

In the earlier "zone of ambiguous control," to borrow Benton and Clulow's wording, Native and white legal systems had coexisted, however uneasily. At the intersection of different legal systems, compromises could be reached through the realm of diplomacy. In various forms, promises of and demands for protection had been an important feature of such diplomatic encounters in the colonial period and into the early republic, even though there was no clear understanding of the relationship between protected and protector in this uncertain realm.[32] Haudenosaunee-Iroquois and others had been able to insist on some of their customs being followed and had seen at least some of their demands acceded to. This was not unusual for the time. As Lisa Ford has shown, it was only from the 1820s to the 1840s that settler polities came to extend their jurisdiction over Indigenous peoples. Until this process had been completed, plural legal practices were still possible.[33]

To defend themselves in the removal era from legal subjugation that shifted their status from protected allies to domestic dependent nations, Senecas used as best they could the "multiplicity of meaning" in the "chameleon concept" of protection, intended to work against them, in order to return to an era of actual, bona fide diplomacy.[34] It was in such arenas that appeals for protection, often against settlers, had been made.[35] And it was in a similar setting—with letter-writing diplomacy in place of diplomatic meetings—that Senecas occasionally chose to appeal to the federal government for protection. However, with very selective appeals made primarily at times their own laws or those of the United States had not been adhered to, Seneca authors signaled their continued independence and positioned their nation outside of the sphere of US law as much as possible.[36] Significantly, in using letters and petitions, members of

the Haudenosaunee exercised a civil right, one "afforded all inhabitants of the United States, regardless of station or demographic," created to balance a political right usually only afforded to a select few.[37] Yet while more commonly the US government would distinguish between types of rights as a means of excluding some people from enjoying full political rights, this was not necessarily an issue for many among the Iroquois who turned to pen and paper in the removal era specifically *because* they were keen to preserve their right to a separate political existence.

It was also a conscious decision that they avoid constructing elaborate arguments within US law, but use instead the ambiguous notion of protection merely to state, in general terms, that US law was supposed to apply to the United States and Iroquois law to the Senecas—and that this application would give the tribe all the protection they needed, including intrusions by New York State. This approach to using petitions and writing in general fitted with the broader Iroquois strategy to situate themselves as outside of, or separate from, the United States,[38] simultaneously permitting them to argue that they were entitled to protection nonetheless. For years, the amorphous nature of protection suited Europeans; in the mid-1800s, the Senecas deployed it for their purposes. To do so, they drew on ideas about external and internal protection and also situated the discourse within distinctly Iroquois frames of reference.

External Protection and United States Law

Senecas opposed to removal asked for protection and appealed to "rights" in a rather general way, suggesting that they viewed this area as an obligation of the federal government. This also implied that New York State had no right to intrude in this relationship among equals. This approach, which subtly hinted at the Marshall court's wardship decision—without ever actually accepting the legal incorporation that it implied—was not adopted for lack of familiarity with US law. Ely S. Parker and Maris B. Pierce, frequent writers on behalf of their tribe, were not only educated and well versed in US law, but also were fulfilling important functions as they rose from runners or scribes within the Iroquois hierarchy to chiefly positions.[39] They likely realized the dangers of the "domestic dependent nations" ruling and the clear line that they must draw between separate realms of responsibility in appealing for protection. Senecas were not necessarily averse to taking matters to US courts, however, nor to draw on external legal knowledge. In the 1850s, Seneca leader John Blacksmith of Tonawanda brought a suit against Joseph Fellows, who had assaulted him when trying to take over a sawmill Blacksmith operated.[40] However, this case concerned individual grievances and did not raise issues regarding the tribe and its continuing political autonomy.

In contrast, those Senecas who contacted the federal government on behalf of the tribe seldom referred explicitly to rights in the United States. When they did, they pointed out transgressions against US laws, telling the federal government that it as well as its citizens needed to obey them; this, they implied, would offer them some protection. The Senecas frequently insisted both that their rights be protected and their own laws respected. Citing various principles, they portrayed protection against removal as governmental duty. In addition to invoking the United States' duty

of guardianship and insisting on what they identified as their rights, most often with reference to land, they alluded to history and appealed for justice, referring to older treaties in which the United States made promises of protection as an aspect of lawful behavior that characterizes a civilized society.

Sometimes Senecas overtly and explicitly asked for protection, while at other times they implied only a need to be protected. On other occasions, they suggested that if promises were kept and rights respected, protection would be afforded them, often alluding to promises made in past treaties, such as the 1784 Fort Stanwix treaty by which the United States received the Senecas "into their protection." Both the Buffalo Creek treaties of 1838 and 1842 reiterate this notion, invoking not only "perpetual peace and friendship," but also promising to "protect and defend them in the peaceable possession of their . . . homes" and "protect . . . the lands of the Seneca Indians, within the state of New York."[41] Similarly, the 1794 treaty of Canandaigua had implied the concept of protection in an article that outlines methods of conflict resolution by making complaints to the US president.[42]

Possibly given hope by such promises of protection, Senecas often lodged protests against improprieties and irregularities at treaty negotiations, especially those at Buffalo Creek in 1838. When protesting against inappropriate behavior, Seneca authors claimed that protection, which they suggested was due them under the conditions of past treaties, had not been provided when such abuses had been allowed to take place. With "fraud" and "bribery" high on the list of complaints, the Senecas drew attention to unlawful acts at treaty councils in connection with this compact and asked that the treaty be disallowed because it broke US legal norms.[43] By doing so, they implied that they needed protection because the United States permitted its own laws to be violated.

Other correspondence evidences that the Senecas mostly felt the need to appeal to protection when the United States had failed to adhere to its own laws and that when this occurred, they returned to the earlier realm of diplomacy, when demands for protection against transgressions by US citizens had been a common theme during treaty negotiations.[44] In 1843, two years after the women had written, Tonawanda chiefs alerted the president to the Ogden Land Company's various legal breaches and asked for his protection against them, just as they had appealed to the secretary of war less than a month earlier.[45] Tonawanda representatives requested protection several more times and in similar circumstances.[46]

In February 1838, residents of Onondaga Castle informed the Senate and the House of Representatives that they wished "the general government to protect us in our rights" as they were being pushed "to dispose of our land against our will and consent."[47] In 1841, the women of Tonawanda contacted President John Tyler to ask for his protection and invoked a prior treaty concluded with George Washington. The president had wanted to secure freedom for them and their children, these 207 women reasoned, and they specifically requested government protection to prevent them from losing their reservation.[48] Some of the arguments they put forward were the same or closely resembled those communicated in other letters. Indeed, the women reminded their correspondent that they were writing "as our own Chiefs have often said," and as

authors deviate only rarely from this presumably agreed-upon script, these views likely represented a traditional, majority consensus.[49]

In his private correspondence, Parker was critical of some of the chiefs, comparing himself to a slave and describing Chief John Blacksmith as a coward.[50] When writing as part of the group or on behalf of the tribe, however, Parker adhered to the script. On April 14, 1851, Chief Blacksmith died and despite his youth, Parker was "raised up" to be chief, given the condoled name Do-ne-ha-ga-wa (Open Door), and the authority to act as a spokesman for his Tonawanda people.[51] Nonetheless, in one letter Parker informs the recipients that he has been instructed by chiefs and head men of Tonawanda Band, evidencing that though he was no longer a mere runner, he still felt beholden to convey what had been agreed upon in council.[52] Matters were likely similar for Maris B. Pierce, who very occasionally wrote to members of the federal government as an individual, rather than on behalf of his tribe.[53] Only in these letters did Pierce deviate from his usual official tenor, which was very much in line with Iroquois codes of conduct.

Differing interpretations regarding treaties may stem from the language used in the context of treaty councils. During a council in November 1840, an Allegany chief told the government representative present that they still held to the treaty made with the Great Father in Washington, which they maintained guaranteed their possession of their "lands as long as grass grows and water runs."[54] President Washington's official agent for this treaty, Timothy Pickering, who would later become secretary of state, had used the phrase "as long as the sun shone" in his speech, but not in the actual treaty. This is likely the reason letter writers did not quote from the actual agreement, but instead referred to the surrounding language referencing Iroquois internal law's ability to protect them.[55] The treaty declared amity, specified the area that constituted Iroquois land, set out principles for dealing with territorial disputes, and agreed that the federal government would pay the Iroquois the sum of $4,500 annually. Given the commonality of rather vague protection clauses in the early modern period, when there was no clear understanding of the relationship between protector and protected, it is unsurprising that the Iroquois embraced the idea that the president had some moral paternalistic duties towards them, especially if it helped to protect them against New York State.[56]

Internal Protection and Seneca Traditions

Notions of protection were also held within Indigenous frames of reference, as when Seneca writers frame protection as a kinship duty. In traditional society, kinship structures ensured that everyone knew their place and the duties that came with it, and under Iroquois customs were expected to fulfill these duties. Their understanding of protection was inseparable from this context and thus authors often draw on kinship terminology as they attempt to convey such arguments about protection to their correspondents. Late in 1848, for example, Cattaraugus Senecas proclaimed themselves to be "dependent upon the United States for protection; and [said that they] call the President our Great Father," using a kinship term which had come into common use

in dealings with Indians. These men described the United States as a kind guardian, but informed the president "he is too far from us to see our wants, and protect our interests."[57] At the same time, these Seneca chiefs referenced no fewer than four older treaties, including the 1794 Treaty of Canandaigua, which they believed had promised them protection of their territorial integrity.

The Senecas intended to make the most of this area—in which their ideas of duty approximated notions of protection as used by the federal government—and cast these duties in ways familiar to them. When the authors of messages to the federal government used kinship terminology to talk to or about the president, they nearly always used the term "father." Although in matrilineal Iroquois society the father was of less importance than a maternal uncle, to the Indians of the Northeast the father had a duty of care. In English society, as legal scholar Mark D. Walters has emphasized, the king was considered to be the father of the people, but in contrast, "a sovereign king who enjoyed a common law *power of discretion* over vulnerable wards."[58] Still, the Iroquois, including Seneca letter writers, would have understood at least some of what the Europeans had in mind when using the term, including that the basis of its meaning was moving away from Iroquois expectations and obligations to a shifting and constantly negotiated middle ground.[59] Indeed, the persistence of this and other customary practices in Seneca letters asking for protection, even in a modified form, shows the writers' determination to remain where they were—physically as well as politically—but on their own terms.

In the removal era correspondence, Senecas ask for protection mainly against the actions of US citizens or organizations, sometimes also requesting the federal government to follow US law. While citing past promises of protection made by outside governments at times, be they vague promises as at Fort Stanwix or the more specific versions from the two treaties of Buffalo Creek,[60] on other occasions Senecas emphasized the continued validity of their own laws, implying that if respected by others, tribal law could protect the Seneca. In the diplomacy of the colonial era, especially in diplomatic encounters such as treaty councils, outsiders had often been obliged to adopt aspects of Haudenosaunee customary law.[61] Officials such as Timothy Pickering followed Iroquois customs because "he recognized that if he were to accomplish his own objectives . . . he would need to honor and respect Iroquois practices."[62] When opposing removal, many times Senecas continued to draw on some of the rules and protocols of the colonial era: what has been formerly referred to as the "forest diplomacy" of previous centuries had followed the principles of the Great Law of Peace of the Iroquois.[63] Pleas for protection would have been made at councils governed by these rules. The Great Law of Peace laid down the rights and duties of chiefs, clans, and nations and stressed the proper way of doing things, many of which still mattered to the Senecas, and they were seeking to uphold these in their relations with the United States.[64]

In 1841, Cold Spring Senecas asked President William Henry Harrison to protect their rights by investigating the 1838 treaty.[65] Again pointing out instances where the United States and its citizens had not conformed to US law, they informed him that there was an abundance of proof of fraud and corruption. Saluting the president as

"Respected Father," the authors, including the aged Governor Blacksnake, made this appeal for protection in the language of kinship often used in former diplomatic encounters, notably, however, also referring to themselves as his "Brothers" to indicate a more equal relationship. Two years later in February 1843, Tonawanda and Buffalo chiefs asked that the 1842 Buffalo Creek treaty be investigated. Although it had restored some of the lands lost through the 1838 treaty, this second agreement still surrendered Buffalo Creek and Tonawanda. These chiefs asked the "Great Father (the President)" to protect them, stating that they believed "he regards the welfare of his red Children."[66] For the Seneca, here US protection took the form of enforcing stipulations: questioning the legality of both treaties, they recounted the history of past interactions and promises, in the traditional narrative style of wampum, as a way of reinforcing the continued validity of older agreements.

Later that same year, Tonawanda chiefs, referring to themselves as his "Red Brothers," told Secretary of War John C. Spencer that they regarded the Ogden Land Company's sale of their lands as a treaty violation and asked him for protection.[67] A little over a month later, the Tonawanda chiefs complained to the president about the Ogden Land Company, in addition to the 1842 treaty, and again asked "Dear Father" for protection.[68] Since the violation of rights had happened under US law, apparently the chiefs' thinking was that the breach needed to be addressed in that arena—and that this remedy did not encroach on tribal law. In 1846, John Blacksmith and others asked for protection against the Ogden Company from President James K. Polk, whom they addressed as "Father" and referred to as "Great Father."[69] Delegate for the Tonawanda Reservation Ely S. Parker asked Polk for protection against armed men, presumably from New York State, just two weeks after this approach.[70] Parker was still requesting protection against white men as late as 1848, after some had attacked the Tonawanda Senecas with fists and clubs.[71] Parker demanded that such outrages be prevented in the future.[72]

Notably, on a number of occasions Senecas provided a historical retelling of past interactions that, based on wampum's considerable economic worth, had once been a vital part of councils to renew the peace.[73] Formerly, to prepare for the renewal of such accords, past agreements and their history were recited while wampum belts were held up. Because the backing of many was required to afford the precious beads of dark and light shell, wampum belts signified that a large number of Indians backed the cause. At Confederacy councils, the speakers took turns at formal talk where new issues could only be raised when those from previous speeches had been settled.[74] When a speech had concluded, the other side repeated what had been said before it responded.[75] Speeches followed a hierarchy, beginning with the least important issues and adopting a "rising sequence."[76]

Even in the removal era, it seems, the writers believed that wampum gave their words more weight and value. In the removal-era letters, which were in many ways substitutes for diplomatic councils, Seneca writers at times still followed these older diplomatic customs. One such example is a February 1855 letter that Cattaraugus Senecas wrote to Commissioner of Indian Affairs George W. Manypenny.[77] In it, the authors look back upon their history with white people and refer to their chain

of friendship, almost as if they were facing each other over a council fire.[78] Such past interactions, they are implying, should continue to protect them in the present, as they did not see their status as having changed. In Seneca estimation, history mattered, and thus past agreements were not past, nor were promises of protection, whether they had been recorded in written treaty documents, or remained in Iroquois memory.

On at least one important occasion—the challenge to the validity of the 1838 treaty—the Tonawanda Senecas asked the federal government for protection, but as the issue is a breach of their own customary law, they imply that they would not require any protection if US citizens or government representatives respected Seneca laws. The Tonawanda sachems, chiefs, and warriors saw the 1838 treaty as "unconstitutional and illegal as a majority of the chiefs of the four bands of the Seneca Nation did not sign it in open council"[79] and asked the US Senate to "do them justice and exercise that protection over us which equity and the principles of universal humanity demand."[80] They explained that the ratification by the Senate and president "did not give it any effect or binding force upon us whatever,"[81] implying that if Seneca laws were to be respected, the treaty would be disallowed. Tonawanda Senecas were clear that what could actually afford them protection was respect for their own law—indeed, they often asked for that respect while requesting protection. In other words, Seneca authors hardly ever felt the need to ask for protection from the United States when writing to insist that their own laws be followed, as these laws, if adhered to by all parties, would offer them all the protection they needed.

This certainty in relying on their own law may have been because key aspects of the Great Law of the Haudenosaunee remained unchanged even after the religious visions of Seneca prophet Handsome Lake took hold in 1799. These led to the creation of a religion based on Handsome Lake's teachings, but the Gaiwiio also drew significantly from Quaker instruction on progress towards civilization.[82] Nonetheless, key ideas about Iroquois law continued unchanged or almost unchanged. Arguably, the persistent resolve to do things the proper way amounted to an ongoing insistence on Iroquois customary law and demonstrates that many Haudenosaunee considered that some of these ways could help protect them against removal and land loss: they just needed to persuade the United States to respect them and to disallow all agreements not conducted properly according to these laws.

Senecas particularly emphasized a series of closely connected themes: conducting dealings in open council; exercising proper authority through appointed chiefs; obtaining the consent of all those whom the matter concerned; and only dealing with properly appointed delegates.[83] Subtly implied in this insistence on customary law was that if they were to be respected, the Senecas would not require external protection as they would receive it from their own law. Iroquois protocol required that all matters pertaining to a collective decision be discussed in open council so that everyone could have a say. Unless the proper way was followed, such agreements might not be binding. Even prior to the treaty of January 15, 1838, the Buffalo Creek Seneca chiefs notified the president that all national transactions (as they referred to them) needed to be conducted in open council, and they pointed to an earlier treaty, the one of Canandaigua, as an example of this procedure.[84] In 1838, the Senecas presented a

number of written protests against the Buffalo Creek treaty, which they objected to on the grounds that the Iroquois' proper way of having a discussion in open council had not been followed. For instance, in February of that year chiefs Black Kettle, Blacksmith and others stated that for their part, they would "acknowledge nothing that was not done in public."[85] Because Seneca customary law had not been adhered to, this and other such protests suggested, the treaty could not be binding.

Seneca authors, in keeping with their concept of the proper way of doing things, also demanded that those signing any treaty had to be properly selected by individual tribes and recognized as chiefs. This expectation similarly had not been met in the case of many of the signatories of the controversial Buffalo Creek treaty of 1838. As Chief Blacksmith and others explained in March 1838: "because several of those persons who are stated to have signed [the] said alleged treaty are not chiefs, never having been duly appointed by the nation and inducted into office, and therefore are not competent to act for the nation, neither is it bound by their decision."[86] Senecas disputed several times whether the signatories of the 1838 document represented the various Haudenosaunee tribes. Again, nonconformity to Seneca legal requirements, their arguments made clear, meant the treaty was not valid and therefore the United States should not allow it to stand. If the United States had chosen to respect the validity of Haudenosaunee law, it would disallow the treaty and thus their own laws would have afforded the Senecas all the protection they needed.

Consent was another issue of continuing importance in Seneca letters and something, they similarly implied, would be able to protect them. The Tonawanda Senecas unfailingly insisted that what they had not agreed to could not be considered binding. They maintained that they could not be forced to adhere to treaties to which they had never consented. Usually, consent was the result of debate and persuasion in councils, forums in which opinions were voiced, considered, and debated. Discussions continued until the minority withdrew and allowed the opinion of the majority to stand, at least for the moment.[87] In Iroquois culture, chiefs did not have the power to compel other members of the tribe, but instead they had to use occasions such as councils to persuade others, and they were not authorized to agree to conditions that their followers would not approve. The open council was thus a tool to achieve consensus or unanimity, and to assure chiefs respected the people's desires. When Big Kettle and others admitted that some of the chiefs had signed the treaty of 1838, they claimed that these signatures had been obtained through bribery, intoxication, and intimidation—an occasion when the United States had not followed its own laws. In February 1838, Big Kettle and others argued that even though some Senecas had signed it, the treaty nonetheless had been completed without the consent of the members of the tribe and thus could not be valid.[88]

Senecas also continued to use lack of consent as a reason to dispute the validity of the so-called compromise treaty of 1842, which restored some lands to the Haudenosaunee at the expense of the loss of others. This argument was especially important to the Tonawanda Senecas who, under the terms of this agreement, nonetheless stood to lose their entire reservation. Their chiefs maintained in December 1843 that "the Seneca Nation have never assented to rules and regulations which

secure to the majority a right to control the minority and as we did not give our consent to the Treaty of 1842 it is not binding upon us."[89] In the previous and even into the early nineteenth century, there had been room to negotiate in the zone of ambiguous control of the colonial period and early republic—and the Senecas sought to continue to exercise at least that level of control in order to protect themselves.

Proper authorization or consent remained important to the Senecas to protect themselves against US interference and meddling, and especially so when it came to naming as well as sending delegates for in-person meetings with government officials. They disputed the authority or credibility of some delegations.[90] Unless delegates or signatories had been properly authorized, Seneca writers held, agreements could not be considered binding. If, as a result, these agreements were disallowed, the implication was that the Senecas would not require the US government's protection. In January 1844, the Tonawanda chiefs in a letter to President Tyler were protesting against a delegation they believed the "emigration party" was sending to Washington.[91] They clearly feared that the members of this delegation would hurt Tonawanda's cause and thus asked the president "not to pay any attention to them until you see our delegation."[92] Seneca writers realized that their own laws and systems could protect them—if only they could persuade their correspondents from within the federal government to make the agents of the United States respect them.[93]

Because it would have afforded them protection from the US attempts at getting to their lands, examples of doing things the "proper way" are not merely instances of adherence to tradition for the sake of upholding customary Iroquois laws. They also reflect Haudenosaunee, and in particular Seneca, insistence that their own laws be followed and that this constituted internal protection. Had that been the case, they insinuated, these laws would have offered them the protection that they otherwise had to seek from the federal government. The implication from the removal era letters was that both sides should respect one another's laws as they were separate entities with separate legal systems.

Conclusion

The elusiveness of the "chameleon concept" of protection had always been something that benefited colonizers, who used it to try to dominate and legally incorporate their intended subjects. Yet by resorting to a civil right of petition to try and defend, or even regain, political rights already lost or under threat, Senecas used a distinction between civil and political rights that was more often employed to exclude them from some rights to defend themselves against attacks by US citizens, New York State, and the federal government itself. Seneca authors asked the federal government for protection most often when one or several systems of law had not been respected, with the type of protection they requested depending upon the nature of the breach. Often, appeals to external protection for violations of US law were either against individual US citizens or in opposition to actions attributable to New York State.

Under these circumstances, drawing upon a civil right intended to keep them apart made perfect sense: it permitted Senecas to ask the federal government for protection

against New York State and others and also without consenting thereby to legal incorporation under the wardship ruling of the US Supreme Court under Marshall. Seneca internal and external protection discourses thus aimed to make it clear to the federal government that the behavior of states was its responsibility—but suggested at the same time that accepting government protection in one area did not include a surrender to legal incorporation. In doing so, Seneca authors creatively reinterpreted the ruling's wardship status.

Equally importantly, however, many of the Senecas' letters implied that they would be able to protect themselves if only the United States were to respect the continued validity of Haudenosaunee and Seneca laws. Using the ambiguous notion of protection was also a conscious decision not to construct elaborate arguments on US law, but to merely state in more general terms that US law was supposed to apply to the United States and Iroquois law to the Senecas, and that these would give the tribe the protection they needed. Senecas asked for protection as equals and as proper, independent nations. They positioned themselves outside of the sphere of US law and kept insisting on their separateness—the last time that Senecas were able to use such a strategy. While removal was aimed at tribes, subsequent policies such as allotment, relocation, or termination increasingly sought to break up tribal units, with the result that tribal governments were unable to ask for their tribes to be protected according to older promises.

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Notes

1. See, for example, Lindsay G. Robertson, *Conquest by Law. How the Discovery of America Dispossessed Indigenous Peoples of their Land* (Oxford University Press, 2005); Robert A. Williams, Jr., *Linking Arms Together. American Indian Treaty Visions of Law and Peace, 1600–1800* (New York: Routledge, 1999); Robert A. Williams, Jr., *The American Indian in Western Legal Thought: The Discourse of Conquest* (Oxford University Press, 1990); David E. Wilkins and K. Tsianina Lomawaima, *Uneven Ground: American Indian Sovereignty and Federal Law* (Norman: University of Oklahoma Press, 2001); David E. Wilkins, *American Indian Sovereignty and the Supreme Court: The Masking of Justice* (Austin: University of Texas Press, 1997); Steven T. Newcomb, "The Evidence of Christian Nationalism in Federal Indian Law: The Doctrine of Discovery, *Johnson v. McIntosh*, and Plenary Power," *New York University Review of Law & Social Change* 20, no. 2 (1993): 303–41; Peter d'Errico, "John Marshall: Indian Lover?," *Journal of the West* 39, no. 3 (2000): 20–31; Jill Norgren, *The Cherokee Cases: The Confrontation of Law and Politics* (New York: McGraw-Hill, 1996); Tim Alan Garrison, *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Nations* (Athens: The University of Georgia Press, 2002).

2. Maggie McKinley, "Lobbying and the Petition Clause," *Stanford Law Review* 68 (May 2016): 1,131–205.

3. See especially Claudia B. Haake, *Modernity through Letter Writing—Cherokee and Seneca Political Representations in Response to Removal, c. 1830–1857* (Lincoln: University of Nebraska Press, 2020).

4. See, among others, Timothy Sweet, *American Georgics. Economy and Environment in Early American Literature* (Philadelphia: University of Pennsylvania Press, 2002), 130; and Theda Perdue and Michael D. Green, *The Cherokee Nation and the Trail of Tears* (New York: Viking, 2007), 52. For a recent discussion of the investigation of removal, see John P. Bowes, "American Indian Removal beyond the Removal Act," *Native American and Indigenous Studies* 1, no. 1 (2014): 65-87, https://doi.org/10.5749/natiindistudj.1.1.0065.

5. *Cherokee Nation v. Georgia*, 30 U.S. 1, 1831.

6. Undated petition received May 13, 1840, from Senecas to the (unnamed) president, National Archives and Records Administration (hereafter NARA), M234/584.

7. These tribes, resident in the Northeast of what is now the United States and into southern Canada, were joined by the Tuscarora and henceforth became known as the Six Nations. Together they formed the Great League of Peace, with the Senecas as the keepers of the western door. See Daniel K. Richter, "War and Culture: The Iroquois Experience," in *American Encounters: Natives and Newcomers from European Contact to Indian Removal—1500–1850*, ed. Peter C. Mancall and James H. Merrell (New York: Routledge, 2000), 84–310; and Daniel K. Richter, *The Ordeal of the Longhouse: The Peoples of the Iroquois League in the Era of European Colonization* (Chapel Hill: University of North Carolina Press, 1992), 3.

8. See William N. Fenton, *The Great Law and the Longhouse: A Political History of the Iroquois Confederacy* (Norman: University of Oklahoma Press, 1998), 330; and Richter, "War and Culture," 300. See also Richard Aquila, *The Iroquois Restoration: Iroquois Diplomacy on the Colonial Frontier, 1701–1754* (Lincoln: University of Nebraska Press, 1983); *The History and Culture of Iroquois Diplomacy*, ed. Francis Jennings (Syracuse: Syracuse University Press, 1985); *Beyond the Covenant Chain: The Iroquois and their Neighbors in Indian North America, 1600–1800*, ed. Daniel K. Richter and James H. Merrell (Syracuse: Syracuse University Press, 1987); and Richter, *The Ordeal of the Longhouse*.

9. Timothy J. Shannon, *Iroquois Diplomacy on the Early American Frontier* (New York: Penguin, 2008), 105.

10. Barbara Graymont, *The Iroquois in the American Revolution* (Syracuse: Syracuse University Press, 1972), 260.

11. Laurence M. Hauptman, *The Iroquois and the New Deal* (Syracuse: Syracuse University Press, 1981), 3f.

12. Laurence M. Hauptman, *Conspiracy of Interests: Iroquois Dispossession and the Rise of New York State* (Syracuse: Syracuse University Press, 1999), 7.

13. Ibid., 96. For how Timothy Pickering dealt with these illegal cessions in the Treaty of Canandaigua, see also Michael Leroy Oberg, *Peacemakers: The Iroquois, the United States, and the Treaty of Canandaigua* (Oxford University Press, 2015), 133; for subsequent actions by New York State, see 144.

14. Ibid, 176; and Dean R. Snow, *The Iroquois* (Oxford, UK: Blackwell, 1996), 166.

15. Hauptman, *Conspiracy of Interests*, 190.

16. Christina Twomey and Katherine Ellinghaus, "Protection: Global Genealogies, Local Practices," *Pacific Historical Review* 87, no. 1 (2018): 2–9, https://doi.org/10.1525/phr.2018.87.1.2. See also Christina Twomey, "Protecting Slaves and Aborigines: The Legacies of European Colonialism in the British Empire," *Pacific Historical Review* 87, no 1: 2018: 11, https://doi.org/10.1525/

phr.2018.87.1.10; Alan Lester and Faye Dussart, *Colonization and the Origins of Humanitarian Governance: Protecting Aborigines across the Nineteenth-Century British Empire* (Cambridge University Press, 2014), 36.

17. See Lester and Dussart, *Colonization and the Origins of Humanitarian Governance*. See also, for example, Alan Lester, *Imperial Networks: Creating Identities in Nineteenth-Century South Africa and Britain* (London: Routledge, 2001); Zoe Laidlaw, *Colonial Connections, 1815–45: Patronage, the Information Revolution and Colonial Government* (Manchester, UK: Manchester University Press, 2005); Elizabeth Elbourne, *Blood Ground: Colonialism, Missions and the Contest for Christianity in the Cape Colony and Britain, 1799–1853* (Montreal: McGill-Queens University Press, 2002); Julie Evans, Patricia Grimshaw, David Philips and Shurlee Swain, *Equal Subjects, Unequal Rights: Indigenous People in British Settlers Colonies, 1830–1910* (Manchester, UK: Manchester University Press, 2005); Christina Twomey, "Vagrancy, Indolence and Ignorance: Race, Class and the Idea of Civilization in the Era of Aboriginal 'Protection,' Port Phillip 1839–45," in *Writing Colonial Histories: Comparative Perspectives*, ed. Tracey Banivanua Mar and Julie Evans (Carlton: University of Melbourne, 2002), 93–113; Amanda Nettlebeck, "A Halo of Protection: Colonial Protectors and the Principle of Aboriginal Protection through Punishment," *Australian Historical Studies* 43, no. 3 (2012): 396–411, https://doi.org/10.1080/1031461X.2012.706621.

18. Gilles Harvard, "'Protection' and 'Unequal Alliance': The French Conception of Sovereignty over Indians in New France," in *French and Indians: In the Heart of North America, 1630–1815*, ed. Robert Englebert and Guillaume Teasdale (East Lansing: Michigan State University Press, 2013), 113, 117; see also 121.

19. Ibid., 118.

20. Ibid., 128.

21. Lauren Benton and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800–1850*, Cambridge, MA: Harvard University Press, 2016), 86, 89.

22. See also *Protection and Empire: A Global History*, ed. Lauren Benton, Adam Clulow, and Bain Attwood (Cambridge University Press, 2017), 2.

23. These concepts of internal and external protection are not to be confused with the similar-sounding ones discussed in *Protection and Empire: A Global History*, ibid. Rather, I follow here Benton and Ford's formulation in *Rage for Order*: "The exercise of protection of subjects by imperial powers ('inside' protection) served to thrust imperial influence into new territories and realms ('outside' protection)," at 115.

24. Penelope Edmonds and Anna Johnston, "Empire, Humanitarianism and Violence in the Colonies," *Journal of Colonialism and Colonial History* 17, no. 1 (2016): np,], https://doi.org/10.1353/cch.2016.0013.

25. Tony Ballantyne, *Entanglements of Empire: Missionaries, Maori, and the Question of the Body* (Durham: Duke University Press, 2014), 247.

26. Lauren Benton and Adam Clulow, "Introduction: The Long, Strange History of Protection," in *Protection and Empire*, 2.

27. Twomey and Ellinghaus, "Protection," 9. Similarly, Penelope Edmonds and Anna Johnston have pointed to "the diverse and contested relationship between humanitarianism and violence," in focusing on Anglophone societies; Edmonds and Johnston, "Empire, Humanitarianism and Violence."

28. Robert Foster and Amanda Nettelbeck, *Out of the Silence: South Australia's Frontier Wars in History and Memory* (Wakefield, MA: Wakefield Press, 2012), 19.

29. See Twomey, "Protecting Slaves and Aborigines."

30. Twomey and Ellinghaus, "Protection."

31. Patrick Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of Genocide Research* 8, no. 4 (2006): 387–409, https://doi.org/10.1080/14623520601056240.

32. See Benton and Ford, *Rage for Order*, 86; and Eric Hinderaker, "Diplomacy between Britons and Native Americans, c. 1600–1830," in *Britain's Oceanic Empire: Atlantic and Indian Ocean Worlds, c. 1550-1850*, ed. H. V. Bowen, Elizabeth Mancke, and John G. Reid (Cambridge University Press, 2012), 238.

33. Lisa Ford, *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788–1836* (Cambridge, MA: Harvard University Press, 2010). See also Laurence M. Hauptman, *The Tonawanda Senecas' Heroic Battle Against Removal: Conservative Activist Indians* (Albany: State University of New York Press, 2011), 19.

34. *Protection and Empire*, ed. Benton, Clulow, and Attwood, 7; and Benton and Ford, *Rage for Order*, 7.

35. Benton and Ford, *Rage for Order*, 23.

36. See Claudia B. Haake, "Iroquois Use of Customary Haudenosaunee and United States Law in Opposing Removal," *American Indian Culture and Research Journal* 36, no. 4 (2012): 29–56, https://doi.org/10.17953/aicr.36.4.652q76980007j330.

37. McKinley, "Lobbying and the Petition Clause," 1,182.

38. See Claudia B. Haake, "Civilization, Law, and Customary Diplomacy—Arguments against Removal in Cherokee and Seneca Communications to the Federal Government in the First Half of the Nineteenth Century," in *Native American and Indigenous Studies* 4, no. 2 (2017): 31–51, https://doi.org/10.5749/natiindistudj.4.2.0031; "Appeals to Civilization and Customary 'Forest Diplomacy': Arguments against Removal in Letters Written by the Iroquois, 1830–1857," *Wicazo Sa Review* 30, no. 2 (2015): 100–28, https://doi.org/10.5749/wicazosareview.30.2.0100; "'In the same predicament as heretofore': Pro-Removal Arguments in Iroquois Letters in the 1830s and 40s," *Ethnohistory* 61, no. 1 (2014): 57–78, https://doi.org/10.1215/00141801-2376078; and "Iroquois Use of Customary Haudenosaunee and United States Law."

39. For details, see Haake, *Modernity through Letter Writing*, especially ch. 3.

40. See Laurence Hauptman, *The Tonawanda Senecas*, 90ff.

41. See Charles J. Kappler, *Indian Laws and Treaties*, https://library.okstate.edu/search-and-find/collections/digital-collections/indian-affairs-laws-and-treaties.

42. Ibid.; also see Oberg, *Peacemakers*, 135.

43. See Big Kettle, James Robinson, Blacksmith, and many others to Samuel Prentiss of the United States Senate, February 28, 1838, NARA, M234/583.

44. This had also been typical historically, when one of the most frequent requests made had been one to restrain disruptive colonists. See Hinderaker, "Diplomacy between Britons and Native Americans," 238.

45. Tonawanda chiefs (including John Blacksmith) to president, July 12, 1843, NARA, M234/585; Tonawanda chiefs to Secretary of War John C. Spencer, June 5, 1843, NARA, M234/585; and E. S. Parker, Tonawanda interpreter, to Shankland, December 30, 1848, NARA, M234/587.

46. John Blacksmith and others to President James K. Polk, May 7, 1846; and Ely S. Parker, delegate, to President Polk, May 18, 1846; both in NARA, M234/586.

47. Captain Anliager and many others of Onondaga Castle to Senate and House of Representatives, February 1838, NARA, M234/583.

48. Minerva Black Smith and others to President John Tyler, March 14, 1841, NARA, M234/584. Presumably they were referring to the 1794 Treaty of Canandaigua. The fact that these women defied United States conventions by writing without male assistance proves that women had not lost their agency or all their power and influence. More commonly, however, men were the defenders against removal, possibly because male writers would have been considered more acceptable by the recipients of the missives. In colonial America, letter writing had been considered a masculine skill. While this had changed in the course of the eighteenth century and females increasingly gained

access to writing instruction, supposedly women were to write familiar letters rather than business or political ones. Actually, women in the North especially were leading abolitionists, temperance reformers, and also campaigned against Indian removal. Hence, Smith and the other female authors defied white outside expectations, exercising some of their customary authority to achieve what they considered the best outcome for themselves and their people.

For information on Iroquois women, see, for instance, Natalie Zemon Davies, "Iroquois Women, European Women," in *Women, "Race," and Writing in the Early Modern Period*, ed. Margo Hendricks and Patricia Parker (London: Routledge, 1994), 243–58; Fenton, *The Great Law and the Longhouse*; Hauptman, *The Tonawanda Senecas*; Diane Rothenberg, "The Mothers of the Nation: Seneca Resistance to Quaker Intervention," in *Women and Colonization*, ed. Mona Etienne and Eleanor Burke Leacock (New York: Holt, Rhinehart, & Winston, 1980); and Elisabeth Tooker, "Women in Iroquois Society," in *Extending the Rafters*, ed. Michael K. Foster, Jack Campisis and Marianne Mithun (Albany: State University of New York Press, 1984), 109–24. See also Konstantin Dierks, *In My Power: Letter Writing and Communications in Early America* (Philadelphia: University of Pennsylvania Press, 2009), 93.

49. Minerva Black Smith and others to President John Tyler, March 14, 1841, NARA, M234/584. See especially Elizabeth Tooker, "Women in Iroquois Society," 113, and Elisabeth Tooker, "The League of the Iroquois: Its History, Politics, and Ritual," in *Handbook of North American Indians, Volume 15: Northeast*, ed. Bruce G. Trigger (Washington, DC: Smithsonian Institution, 1978), 422. As Fenton has explained, such a consensus could simply mean the temporary withdrawal of the minority; see *The Great Law and the Longhouse*, 509.

50. Hauptman, *The Tonawanda Senecas*, 78.

51. Ibid., 84. See also C. Joseph Genetin-Pilawa, *Crooked Paths to Allotment: The Fight over Federal Indian Policy after the Civil War* (Chapel Hill: University of North Carolina Press, 2012), 37. In many of the letters written after this date, Parker identified himself as sachem.

52. See letter from Ely S. Parker, Chief and Special Delegate for the Tonawanda Senecas, to CIA Manypenny, July 18, 1853, NARA, M234/588.

53. For an example of letters in which Parker is clearly writing as an individual and not on behalf of his tribe, see a letter dated August 23, 1844 to Hartley Crawford in which he transmits a legal opinion, and one to President Zachary Taylor dated March 13, 1849 in which he clearly refers to himself as a "Cattaraugus resident" before providing his views on the situation on the reservation. See NARA, M234/585 and 587.

54. William Patterson, Meeting on November 3 with Allegany chiefs, in William Devereux to Commissioner of Indian Affairs Hartley Crawford, no date (1840), NARA, M234/584.

55. See Fenton, *The Great Law and the Longhouse*, 672.

56. Benton and Ford, *Rage for Order*, 86. On at least one other occasion, John Blacksmith and others referred to the federal government as the protector of the Indians without embracing the idea of being wards to the United States. See John Blacksmith and many others to unnamed president, March 15, 1849, NARA, M234/588.

57. Seneca memorial "To the Congress of the United States of America" by Seneca chiefs "assembled in public council on the Cattaraugus Reservation," December 3, 1848, NARA, SEN29A-G7.1.

58. Mark D. Walters, "'Your sovereign and our father': The Imperial Crown and the Idea of Legal-Ethnohistory," in *Law and Politics in British Colonial Thought: Transpositions of Empire*, ed. Shaunnagh Dorsett and Ian Hunter (Houndmills: Palgrave Macmillan, 2010), 97 (original emphasis).

59. See, for instance, Shannon, *Iroquois Diplomacy*; Gail D. MacLeitch, *Imperial Entanglements. Iroquois Change and Persistence on the Frontiers of Empire* (Philadelphia: University of Pennsylvania Press, 2011); Fenton, *The Great Law and the Longhouse*; Richard White, *The Middle Ground: Indians,*

Empires, and Republics in the Great Lakes Region, 1650–1815 (Cambridge University Press, 1991); Jane T. Merritt, *At the Crossroads. Indians and Empires on a Mid-Atlantic Frontier, 1700–1763* (Chapel Hill: University of North Carolina Press, 2003); Daniel K. Richter, *Facing East from Indian Country: A Native History of Early America* (Cambridge, MA: Harvard University Press, 2001).

60. While the 1794 treaty of Canandaigua did not mention protection as such, it did talk about "a firm and permanent friendship" and assured the Six Nations that they would not be disturbed; see https://library.okstate.edu/search-and-find/collections/digital-collections/indian-affairs-laws-and-treaties.

61. For more on Iroquois diplomacy in the colonial era, see Shannon, *Iroquois Diplomacy*.

62. Oberg, *Peacemakers*, 116.

63. "Forest diplomacy" is a term used by anthropologist William Fenton, among others; see *The Great Law and the Longhouse*, 299. More recently the term has become controversial, but I am using it for lack of a better alternative. Others using the term include historians such as Francis Jennings, James Merrell, and Daniel Richter.

64. See Fenton, *The Great Law and the Longhouse*, 33. See also Anthony F. C. Wallace, "Origins of the Longhouse Religion," in *Handbook of North American Indians, Volume 15: Northeast*, 65.

65. Committee from Cold Spring to President William Henry Harrison, March 4, 1841, HR27A-G8.1.

66. Chiefs of Tonawanda and Buffalo Creek reservations to President John Tyler, February 1, 1843, NARA, M234/585.

67. Tonawanda chiefs to Secretary of War John C. Spencer, June 5, 1843, NARA, M234/585.

68. Tonawanda chiefs (including John Blacksmith) to unnamed president, July 12, 1843, NARA, M234/585.

69. John Blacksmith and others to President James K. Polk, May 7, 1846, NARA, M234/586.

70. Ely S. Parker, delegate, to President James K. Polk, May 18, 1846, NARA, M234/586.

71. E. S. Parker, Tonawanda interpreter, to Robert H. Shankland, subagent for the NY Indians, December 30, 1848, NARA, M234/587.

72. While the protests by Buffalo Creek were to no avail and the residents lost their reservation as a result of the treaties of 1838 and 1842, the Tonawanda Senecas' steadfast insistence on remaining on their reservation eventually yielded results. Yet it was not until 1857 that they were permitted to purchase back some of the lands they had lost through these previous treaties.

73. See Maureen Konkle, *Writing Indian Nations. Native Intellectuals and the Politics of Historiography, 1827–1863*, Chapel Hill: University of North Carolina Press, 2004, 231. See also Nancy Shoemaker, *A Strange Likeness: Becoming Red and White in Eighteenth-Century North America* (Oxford University Press, 2004), 71.

74. See Michael K. Foster, "When Words Become Deeds: An Analysis of Three Iroquois Longhouse Speech Events," in *Explorations in the Ethnography of Speaking*, ed. Richard Bauman and Joel Sherzer (Cambridge University Press, 1989), 354, and Timothy J. Shannon, *Indians and Colonists at the Crossroads of Empire: The Albany Congress of 1754* (Ithaca: Cornell University Press, 2000), 93.

75. See Michael K. Foster, "One Who Spoke First at Iroquois–White Councils: An Exercise in the Method of Upstreaming," in *Extending the Rafters*, ed. Foster, et al., 184.

76. See Foster, "When Words Become Deeds," 357.

77. Joshua Turkey and others to Commissioner of Indian Affairs George W. Manypenny (February 19, 1855), NARA, M234/588. See also Michael K. Foster, *From the Earth to Beyond the Sky: An Ethnographic Approach to Four Longhouse Iroquois Speech Events*, Ottawa: National Museum of Canada, 1974, 206.

78. Joshua Turkey and others to Commissioner of Indian Affairs George W. Manypenny (February 19, 1855), NARA, M234/588. See also Foster, *From the Earth to Beyond the Sky*, 206. The

chain of friendship was originally known as the covenant chain. See Timothy D. Willig, *Restoring the Chain of Friendship: British Policy and the Indians of the Great Lakes, 1783–1825* (Lincoln: University of Nebraska Press, 2008), 2.

79. Memorial of sachems, chiefs, and warriors of the Seneca Nation at Tonawanda to Senate (no date), NARA, SEN29A-G7.

80. Ibid.

81. Ibid.

82. See Hauptman, *Conspiracy of Interests*, 50–65. Especially for the witchcraft aspects of the Gaiwiio in the nineteenth century, see Matthew Dennis, *Seneca Possessed: Indians, Witchcraft, and Power in the Early American Republic* (Philadelphia: University of Pennsylvania Press, 2010). For a brief overview of the New Religion introduced by Handsome Lake, see Dean R. Snow, *The Iroquois* (Oxford: Blackwell, 1994), 159–162, but also, more generally, Wallace, *The Death and Rebirth of the Seneca*, especially 272.

83. This is not to suggest that these customary ways had not changed over time.

84. Buffalo Creek Seneca chiefs to President, October 2, 1837, NARA, M234/583.

85. Big Kettle, James Robinson, Blacksmith, and many others to Samuel Prentiss of the United States Senate, February 28, 1838, NARA, M234/583.

86. James Robinson, Blacksmith, John Kennedy, Zachariah Jimeson in the presence of Thomas Evans and Joseph Elkinton, March 20, 1838, NARA, M234/583.

87. This, however, did not mean that everything always happened at the councils; groups could have discussions before the official council so that they could instruct those who were to speak for them. There were also talks "in the bushes" during which matters could be raised once the council was underway, and groups could use these more informal meetings to come to understandings prior to a further day of council debates; see Fenton, *The Great Law and the Longhouse*, 467. The same rules could also apply at treaty councils; see Oberg, *Peacemakers*, 124.

88. See Big Kettle, James Robinson, Blacksmith, and many others to Samuel Prentiss of the United States Senate, February 28, 1838, NARA, M234/583.

89. Tonawanda chiefs to Secretary of War J. M. Porter, December 30, 1843, NARA, M234/585.

90. See for instance Thomson (S.) Harris and Little Johnson, Buffalo Reservation, to Secretary of War Lewis Cass, January 20, 1835, NARA, M234/583. See also Buffalo Chiefs to Secretary of War Lewis Cass, January 15, 1835, NARA, M234/583; and Edward Pusse, President of Seneca Nation of Indians, to Phillip E. Thomas (a Quaker), May 20, 1858, NARA, M234/589.

91. See Tonawanda chiefs to President John Tyler, January 26, 1844, NARA, M234/585.

92. Ibid.

93. The Tonawanda Senecas' stance on their rights to their reservation lands remained unchanged until they entered into another treaty in 1857, the year after the Parkers' letter was written. Subsequently the residents of Tonawanda were permitted to buy back some of their lands. See Hauptman, *The Tonawanda Senecas*.