Letter to a Senator for Ontario

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18 November 2026

The Honourable Katherine Hay
Senator for Ontario
The Senate of Canada
Ottawa, Ontario K1A 0A4

Re: The settlement of title on the Haldimand Tract, and the Senate public bill

Dear Senator Hay,

You sit in the Senate for Ontario. The Haldimand Tract lies wholly in Ontario: six miles on each side of the Grand River, from its head at Dundalk to Lake Erie, some 950,000 acres through Wellington, Waterloo, Brant and Haldimand and the cities and towns along the river. I write to put the oldest unresolved question of title in the province before you plainly, and to ask whether you will carry it in the Senate.

> **In brief.** The Haldimand Tract carries a Crown interest that has never been discharged. It belongs to the Loyalist Mohawk posterity of the three villages, not to any band, and the Crown can settle it without unsettling anyone's home. The enclosed bills set out how. We ask four questions, at the end of this letter, and would be grateful for your answers in writing.

A RELATIONSHIP OLDER THAN CANADA

The Mohawk alliance with the Crown did not begin in 1784. In 1710 four Mohawk leaders were received by Queen Anne in London, and the Silver Covenant Chain of friendship was made between the Mohawk and the Crown directly. In 1779 Governor Haldimand pledged the King's word to the Mohawks of the three villages, on the faith of a Christian and as a soldier. In 1784 the Crown kept that pledge with the Grand River. On 24 December 1791 the Crown's committee pledged the faith of government to the Mohawk chiefs and resolved that every precaution be taken to secure them in quiet possession of their lands. In 2010 Queen Elizabeth II gave the Chapels Royal of the Mohawks silver bells inscribed for the Silver Chain of Friendship, 1710 to 2010. Three centuries of the Crown's own word run to the Mohawk. None of it runs through a band council.

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The Tract in Ontario



The Haldimand Tract on the Nation's map. The black line is six miles from the water on each side of the Grand, from its head to Lake Erie; the river is blue; green marks where a surveyed municipal limit runs on that line; red dots mark the ends, which depend on how the Proclamation is read. The river is taken from the Grand River Conservation Authority's open data (GRCA Open Data Licence v2); from it we measure six statute miles on the ground, by simple arithmetic and GPS positions, to build out the real six-mile constitutional boundary. Any address can be looked up at mohreg.org/is-it-in-the-tract.

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OUR APPROACH TO SETTLING TITLE

The Mohawk Nation of Grand River deals with the Crown directly, nation to Crown. We are not an Indian Act band and we do not speak for one. Our position rests on four Crown instruments and nothing more: the Haldimand Pledge of 7 April 1779 to the Mohawks of Canajoharie, Tikondarago and Aughquaga; the Haldimand Proclamation of 1784; Lord Dorchester's Order in Council of 9 November 1789, which established the Mark of Honour; and Simcoe's Proclamation of 6 April 1796, which directed that the Loyalists be ascertained on oath before the magistrates.

Read together, those instruments describe a Crown-derived interest of exclusive use and enjoyment, hereditary in the posterity of the class. It is not an Aboriginal right under section 35, and it is not land held in trust. At Confederation it passed to Ontario subject to it, as an "interest other than that of the Province" under section 109 of the Constitution Act, 1867, and section 52 makes it supreme over any law that conflicts with it. The Mohawk of the three villages never surrendered it, and a statutory body created in a later century cannot surrender it for them.

And the Crown is bound to it. In 1791 the Crown confirmed the Proclamation and pledged its faith, and that confirmation became a duty imposed by law. At Confederation, section 109 carried it into the structure of the country. In *McAteer v. Canada*, 2014 ONCA 578, the Court of Appeal held that the oath to the Sovereign is an oath to Canada's form of government, its whole constitutional order. Every member, minister, judge and officer who swears it swears to the structure that holds the 1791 confirmation and section 109, and is liable to observe them. You took that oath when you were summoned to the Senate.

The Supreme Court has already shown how this is put right. In the *Manitoba Language Reference* of 1985 it found that Manitoba had enacted its laws for ninety years without obeying the constitution, held them of no force under section 52, and kept them running only for the time needed to bring them into line. The Tract is the same case. No law enacted for it since 1784 has been made subject to the exclusive use and enjoyment for which it was set apart. Those laws can stand only until the Crown brings them into line, and the enclosed bills do that in order. The Tract is also acquired territory in the sense international law gives the term, held, in the words of the *Island of Palmas* award, to the exclusion of any other, so the question reaches beyond Canada's own courts.

The Crown never carried out the step its own instrument required. The class was never ascertained on oath and never recorded. That omission is the latent defect running beneath every title on the Tract, and it is one the Crown can cure. We are not asking anyone to give up a home or a farm. We do not seek to invalidate private titles that do not conflict with the interest. We ask that the Crown observe what it undertook: recognise the Nation's Register as the record of the class; let land and assets in the Tract return to the Loyalist Mohawk as they fall free, whether surplus Crown land, decommissioned police and fire vehicles, or land that would otherwise go to tax sale, so that no one is dispossessed; and arrange an orderly handover of powers on the Tract to the Nation's own officers. We have drafted companion Ontario and federal bills to that end. They do not ask any government to grant us land; they ask Parliament and the Legislature to honour section 109 and set out that handover in law. We are seeking members and senators who will not only table them but help pass them.

None of this is new to the Crown. Since 2014 we have put it in writing to more than two hundred public officials: Ontario's Director of Titles and three of its ministers; the City of Brantford, by Notice of Interest on 16 December 2019; the clerks of municipalities across Ontario, by our notice of 5 May 2022, many of whom answered, asked that it be made public, or placed it in their council information packages and on their websites, as the Township of Wainfleet and the Municipality of Clarington did; seven Members of Parliament; the Chief Justices and Attorneys General of Canada and Ontario; and His Majesty, by Representation published on 1 April 2026. Federal departments have answered in writing, Crown-Indigenous Relations in April 2021 and National Defence in July 2024 among them. We have asked six Ontario authorities on what date the Tract became part of Ontario. None has named one. On 1 April 2026 Ontario's land registry branch confirmed that the *Land Titles Act* has no way to record the interest.

Canada cannot even count us. In June 2021 I wrote to the Chief Statistician about the census on the Tract. The Director General of the Census replied that the census is dwelling-based, so Statistics Canada does not know who lives in the homes it enumerates, and he wrote of the off-reserve households of "the Mohawk residents you represent" in the Brantford area, apart from the Six Nations, whose leadership had opted out. The posterity living in and around the city is as invisible to the census as it was to the magistrates in 1796. The Nation's Register is the only record that counts them.

WHO HOLDS THE INTEREST

The interest belongs to the Loyalist Mohawk posterity of the three villages. It does not belong to the Six Nations of the Grand River Elected Council, which is a band council under the *Indian Act*, and the Council does not speak for the posterity. The Council has said as much in writing. On 12 October 1995 it entered a Memorandum of Agreement with the Mohawk People of the Americas as a separate party, under Band Council Resolution No. 17 of 10 October 1995. No one can contract with himself. The lawsuit the band began against Canada and Ontario that same year, now in the first phase of its trial, does not include the posterity. When I asked the band and its counsel on 9 October 2024 whether the band claims to represent the Mohawk Nation of Grand River, no answer came. Whatever settlement ends that action, it cannot release an interest held by people who were never party to it.

The danger is not imagined. When a Mohawk group went to court in 2007, Helen Miller, later a Six Nations elected councillor, answered it in *Turtle Island News* on 21 February: what difference does it make who sits at the negotiating table, she asked, as long as the entire community benefits? It makes every difference. The grant was made to the Mohawk of the three villages and their posterity, for their exclusive use and enjoyment. Settled for the benefit of a whole community, it becomes a collective interest held by a band, and the exclusive right is gone. Whoever sits at the table decides who the interest belongs to.

The Crown has drawn the same line. On 27 October 1984, two and a half years after section 35 came into force, Queen Elizabeth II unveiled the federal plaque at Her Majesty's Chapel of the Mohawks in Brantford, set in English, French and Mohawk on one stone. It records the grant to the Mohawks, not to the Six Nations, and it still stands on the Crown's own chapel. Any settlement of title that leaves the posterity out will not settle it.

THE SENATE AND THE TRACT

The Senate was made to speak for the regions, and to give sober second thought to what the House does not do. Members of the House along the river answer to a byelection or a whip; a senator answers to neither. A Senate public bill can be introduced by any senator, and read a first time without a vote, so that the Crown's promise of 1784 is on the record of Parliament whatever the House does.

We have written to every member of the House and of the Legislature whose riding lies on the Tract, to the candidates in the Brantford–Brant South byelection, and to the two councils whose reserves lie on it. We now write to every senator for Ontario, and to the Speaker, the Government Representative and the leader of each group in the Senate.

WHAT WE ASK

We ask you, as a senator for Ontario, four questions, and would be grateful for your answers in writing:

1. Will you acknowledge that the Haldimand Proclamation of 1784 is an "interest other than that of the Province" preserved by section 109, held by the Loyalist Mohawk posterity and not by any band?

2. Will you sponsor the enclosed Senate public bill, the *Haldimand Proclamation Recognition Act*, and introduce it in the Senate?

3. If the bill is introduced, will you support its referral to the Standing Senate Committee on Legal and Constitutional Affairs, since it turns on sections 109 and 52 of the Constitution?

4. Will you insist that no settlement of the band's 1995 action is made binding on the posterity, who are not party to it, and meet with the Secretariat, nation to Crown, to discuss an orderly settlement of title on the Tract?

Our door is open, and our Register is open. We would welcome the chance to work with a member who will put this question where it belongs.

Yours faithfully,



Benjamin Doolittle UE
Secretary-General
Mohawk Nation of Grand River Secretariat
Grand River Territory, Ohsweken

Enclosures (draft bills): *Haldimand Proclamation Recognition Act*, as a private member's bill, a government bill and a Senate public bill; *Haldimand Proclamation Act, 2026* (Ontario), as a private member's bill and a government bill

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