TAXING NEIGHBORS: TRIBAL AND MUNICIPAL CONFLICT OVER NEW YORK'S FISCAL BORDERS

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In 2005, the Cayuga Indian Nation of New York (CIN) lost a federal land claim that would have allowed it to reclaim the historic reservation that New York State illegally bought at the turn of the 18th century. After losing the case, the nation began to pursue a new strategy to rebuild its reservation: buying land on the open market that one day might be converted to federal trust land. Following these recent purchases, the nation has refused to pay property taxes and to collect sales taxes at its local businesses, much to the chagrin of most local politicians and many town residents. As these politicians and residents denounce the nation for not paying/collecting these taxes, they offer the CIN an either/or choice for belonging in this space: come here as local citizens, or uphold Cayuga sovereignty as a foreign nation moving into "our" territory. Cayuga representatives, in contrast, describe options that sit outside of this binary: the CIN can belong in this space as a sovereign nation, and also as a part of the Seneca Falls community. They call upon fiscal models that depict tribal nations both as sovereign entities and as net contributors to the larger regional economy. This dissertation examines the complex discourses about the CIN's tax refusals in Seneca Falls to show how dominant notions of tribal sovereignty present a conceptual binary that in effect asks tribal nations to deny their sovereignty to gain a place in the modern world. This dissertation also demonstrates that tribal nations such as the CIN use local fiscal systems to carve out alternative modes of political belonging.

BIOGRAPHICAL SKETCH

Emily Levitt was born in London, UK. She attended Oxford University where she studied Archaeology and Anthropology and graduated with a BA in 2006, and an MPhil in Material Anthropology and Museum Ethnography in 2008. She began studying for a PhD at Cornell in 2010. She was awarded a Doctoral Dissertation Improvement Grant from the NSF, a Fieldwork Grant from the Wenner-Gren Foundation, and the Emslie Horniman Anthropological Scholarship from the Royal Anthropological Institute.

DEDICATION

To Jackie and Jim, Terrie and Paul, who provided for me so well

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Over the course of my doctoral journey, I have received support and encouragement from so many people. Peter Whiteley first introduced me to the issue of the Cayuga land claims, and patiently put up with my mediocre clerical skills as I learned more about this intriguing topic. Paul Nadasdy oversaw the development of this project from proposal to dissertation; his comments always clearly revealed the way forward even when I had lost sight of the path myself. Eric Cheyfitz's consistent reminders of my project's wider value helped me sustain my own interest. From day one, Hiro Miyazaki's provocative questions revealed new ways of thinking.

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LIST OF ABBREVIATIONS

BIA	Bureau of Indian Affairs
BOS	Board of Supervisors
CCSC	Concerned Citizens of Seneca County
CIN	Cayuga Indian Nation of New York
FR	Federal Representative
HUD	Housing and Urban Development
IBIA	Internal Board of Indian Appeals
IDA	Industrial Development Authority
IGRA	Indian Gaming Regulatory Act
LIT	Land Into Trust
NYACS	New York Association of Convenience Stores
OIN	Oneida Indian Nation
PILOT	Payment In Lieu of Taxation
SCIDA	Seneca County Industrial Development Authority
SMI	Seneca Meadows, Inc.
UCE	Upstate Citizens for Equality

NOTE ON NAMES

In this dissertation, I anonymized all of the names of my interlocutors. Many of them are public figures, and it would be easy for a reader to find their real names based on their official and professional titles—which I did not change. I also changed the names of some of the businesses that I discuss, which would also be easy for a reader to uncover should they wish.

INTRODUCTION

Introduction

Seneca Falls, NY is a striking representation of the small-town USA that many Americans think of as their heritage. At roughly 4.5 square miles and 6,000 inhabitants, it has a mix of grand Victorian houses on tree-lined boulevards, raised ranches in more recently developed neighborhoods, and a Main Street with several banks, stores and restaurants. Much of the town's acreage is still farmland, and the town itself sits in long, thin and agriculturally productive Seneca County in the Finger Lakes region of New York State. It is a picturesque setting, and the town center attracts many tourists. Once a year the town even hosts an "*It's a Wonderful Life*" festival, dedicated to the iconic 1940s Christmas movie about a typical American man in a typical American town, the setting for which many locals claim was inspired by the director's visit to Seneca Falls.

It is a typical small American town in other regards as well. Local residents are deeply concerned about a dwindling supply of well-paying jobs, increasing crime and drug use, a decline in the number of young people, under-funded schools. As in many communities across the country, residents often talk about the biggest problems the community is facing, where those problems come from, and how best to combat them. In such conversations, the past often emerges as the most significant model for what the town should be. Comments such as "We used to be a white-collar town," or "there used to be a job for anyone who wanted one," arose daily in my interactions with local

residents. “Everyone used to have a job and pay their fair share,” a regular customer at a Main Street coffee shop told me. “Now half the people are on welfare. And the Indians are even worse.”

This coffee shop patron was referring to an aspect of modern life in Seneca Falls which is rather distinctive. In the early years of the 21st century, the Cayuga Indian Nation of New York (CIN) began buying property within the town’s borders from afar, claiming traditional and historic ties to the land and pursuing various methods to enact some form of sovereignty over it. Among other manifestations of that sovereignty, the nation has refused to collect state and local taxes from customers at the gas station that it opened in 2003, and since then has refused to pay the taxes that the local government levies on its property. These tax refusals are neither fully legal nor fully illegal, as will be explained below, and have prompted strong responses from many “locals.” The topics of which taxes the CIN owes, how the nation can be made to pay them, and how/whether the nation can avoid making those payments feature as common topics of conversation amongst both the Cayuga and non-Cayuga people who have come to share these 4.5 square miles.

In later chapters, I will explain in more detail how the CIN has been able to avoid collecting and paying these taxes, despite the fact that these refusals are not strictly *legal* according to federal and state laws. For now, it is sufficient to say that the issues pertain to overlapping claims of jurisdiction and sovereignty: in one context the nation’s legal team claims that some of its acres comprise a Cayuga reservation for the strict purpose of selling untaxed cigarettes to non-natives at its facilities, and in

another context the nation's legal team concedes that the nation might owe property taxes but cannot be coerced to pay them due to the doctrine of tribal sovereign immunity. In the two ensuing court cases, the legal teams of the town and county argued that the land in question was bought as private property and therefore falls under Seneca Falls' jurisdiction for fiscal and other purposes. In both cases the court upheld the nation's claim, although it did so without explicitly rendering those refusals *legal.* Despite these verdicts, many local government officials and townspeople still believe that with enough effort and persistence, they can convince the courts to take up the cases again and decide in their favor. However, the CIN's legal team is nothing if not patient—the nation has been fighting on and off for the recognition of its sovereignty over this land for hundreds of years. As a result, there is a sense in the contested space of Seneca Falls that these issues are unfinished and will not be resolved for a long time, if ever.

As the CIN attempts to carve out a sovereign space from the mass of private properties that comprise Seneca Falls, many local people invoke universalizing concepts of citizenship to argue against the possibility of Cayuga territorial, political or fiscal sovereignty over this space. In this setting, the fight over the fiscal jurisdiction that covers this small patch of territory in Central New York has come to stand for a question that has guided the history of Indigenous/state relations in the USA: are tribal people part of the American body politic, or are they distinct from it? It would be possible to examine this question from a legal angle, and to arrive at a technical answer regarding the specific laws and policies that frame individual Indians and tribal nations as citizens, sovereigns, or something in between. However, perhaps

more than any other type of law, there is a significant discrepancy between the body of statutes that comprise Federal Indian Law, and their far more slippery applications in the real world. Moreover, the American public is familiar with very few, if any, of the laws that pertain to tribal nations and their land. Therefore, in this analysis, I avoid foregrounding the specific Federal Indian Law that might apply from a legal scholarship perspective, in order to focus instead on how these issues were understood and discussed on the ground in Seneca Falls. Despite the legal provisions of Federal Indian Law, the position of tribal nations in the American body politic in general, and the CIN in Seneca Falls in particular, is still very much unresolved. Rather than zooming out to refer to laws that never arose in my fieldwork, I zoom in on how these issues were treated in situ. In doing so, I unearth the concepts of proper Indian political belonging that undergird the lived experiences of these local tax controversies.

The political theorist Kevin Bruyneel (2007) writes about how dominant American discourse frames the proper role of tribal nations in the following terms: if a "tribe is 'part of the United States,' it is not sovereign, but if it is to be sovereign, it cannot be part of…the United States," (2007: xiii). He describes how, on a discursive level, this binary leaves tribal nations with an effectively non-existent space to enact their sovereignty in an acceptable manner. Seneca Falls officials express and reproduce this conceptual straight-jacket when they talk about the nation's tax refusals in terms of greed and hostility. Moreover, they demonstrate that this binary is not only a discursive issue: my dissertation foregrounds how this conceptual framework has had direct and tangible effects on the CIN's pursuit of a sovereign reservation.

Over the course of this introduction, I will lay out a brief history of how the CIN and the municipality of Seneca Falls came to be engaged in a struggle over taxation. I will also provide a description of the setting where my ethnographic research took place. Then I will situate this research in recent anthropological discussions about taxation and different modes of political belonging, paying specific attention to how these themes pertain to colonial encounters, before providing an overview of the dissertation's structure. Through careful ethnographic examination of this American Everytown, over whose acres a tribal nation and other local governments are fighting for the rights to exercise fiscal jurisdiction, I aim to shed light on dynamics that are both ancient and emerging, deeply embedded in the structures of American history and also reflective of a specific moment and place.

Tribes, Taxation and Sovereignty

This dissertation investigates how fiscal demands and refusals serve to enact political communities: when local politicians demand that the population residing within the Seneca Falls jurisdiction all pay the same taxes, they invoke a municipal community of co-citizens perfectly encapsulated within the town's spatial boundaries. When CIN tribal representatives refuse to participate in local fiscal schemes, they instead invoke their nation as the political entity to which they primarily belong. This does not necessarily boil down to an either/or situation: the CIN's representatives described several models that partially integrated the nation into the larger political community without giving up its sovereignty. However, most Seneca Falls officials

insist on such an either/or framework. By framing belonging in the local community and the tribal nation as mutually exclusive, the CIN is left with the choice of belonging in this space as a group of local Seneca Falls citizens, or as a distinct nation that maintains non-porous, sovereign borders—something which is impossible for *domestic dependent* Indian nations in the USA. In this dissertation, I aim to demonstrate that local tax controversies in the spaces where tribal and non-tribal populations neighbor each other are one of the primary sites where this conceptual binary of local citizen **or** sovereign nation is reproduced, and also contested.

Before I directly examine this phenomenon, the reader must grasp how fiscal demands and refusals have come to be so important for tribal/local government relations in general. This relates to the history of how tribal nations in the USA have emerged as a specific legal formation, and why issues of taxation are so fundamental to tribal sovereignty today. An overview of this larger history will lead into a discussion of the Cayuga particularities of this phenomenon.

At the core of tribal nations' legal capabilities within the American body politic is the notion of the "domestic dependent nation," which comes from seminal early 19th century case law (namely the "Marshall Trilogy": *Johnson v Macintosh* 1823[1], *Cherokee Nation v Georgia* 1831[2], *Worcester v Georgia* 1832[3]). These cases examined whether American Indians traditionally owned their land, or simply

[1] Johnson v. Macintosh, 21 U.S. 543 (1823)

[2] Cherokee Nation v. Georgia, 30 U.S. 1 (1831)

[3] Worcester v. Georgia, 31 U.S. 515 (1832)

occupied it. In *Johnson v Macintosh,* the presiding Judge Marshall first used the label "domestic dependent nations," framing tribal polities as groups of uncivilized people incapable of proper care and improvement of their land. This created the conditions for Indian removal and the subsequent protector-ward relationships that have arisen between tribal nations and the Federal Government. These laws are still upheld as precedents, and they continue to underlie new federal Indian case law today. The fact that the laws governing Indigenous Americans are still today "organized around a set of legal precedents and accompanying legal discourse that views Indians as lawless savages and interprets their rights accordingly" (Williams 2005: xxxiii) reveals the near-impossible battle for tribal people in the US to attain their desired form of political authority. As a result, tribal nations and their lawyers have had to use highly diverse and creative legal strategies to pursue the moving target of sovereign authority (in its various forms) over their land and people.

Because federal law conceives of American Indian political groupings as nations, albeit "domestic" and "dependent" ones, this entity in theory sits outside of state or local jurisdiction. Aleinikoff (2002) points out that many Americans, if asked to name the bodies that are considered sovereign in their country, will probably identify the Federal Government and the 50 states, but do not think of tribal nations as also exercising their own modes of sovereignty (displaying the historical amnesia that, as Williams (2005) demonstrates, continues to justify and reproduce the colonial structures of tribal-state/federal relations today). Many scholars have discussed what tribal sovereignty looks like today and what its invocation can achieve, without offering a concrete definition (Wilkins & Lomawaima 2001; Barker 2005; Reyes &

Kaufman 2011; Rickard 2011). I want to continue in this vein of foregoing an abstract definition of tribal sovereignty and focusing on how the phenomenon works on the ground; for the purpose of this discussion, I emphasize only that tribal sovereignty is legally distinct from state sovereignty. In theory, tribal lands are subject to federal law but not the laws of neighboring state or local governments, although there are several exceptions[4]. As a result, complications often arise about what rules apply where. Nowhere is this more evident than in the domain of taxation.

In the USA, federal, state, local governments each collect different taxes. For example, individuals pay portions of their incomes to the Federal Government and to most state governments. When someone buys an item in a store, they usually have to pay an associated *ad valorem* sales tax to the state and/or county governments. And in many states across the country, once a year local governments issue property taxes proportional to the value of that property, which go to fund local services such as schools, roads and sewer maintenance. Because reservations sit outside of state and local jurisdiction, state and local taxes (including property and sales tax) are not collected or levied in these territories. In the border spaces where reservation and non-reservation lands meet, the question of whether or not these state and local taxes are

[4] Exceptions include reservation lands that are governed by Public Law 280 (Public Law 83-280 (18 U.S.C. § 1162, 28 U.S.C. § 1360))—a federal law codified in 1953 that mandated a transfer of federal law enforcement authority on certain tribal territories to state governments. They also include state-tribal gaming compacts, municipal-tribal service sharing agreements, and several other complex legal and jurisdictional arrangements.

charged and collected may be the biggest marker of the difference between tribal and non-tribal territory.

This fiscal distinction has emerged as a crucial aspect of how modern tribal nations fund their national projects and programs. Today on almost any reservation across the USA, a visitor can find a gas station that sells untaxed cigarettes and gasoline—two items that state governments regulate and tax. Despite the historic roots of tobacco in American Indian cultures, the proliferation of smokeshops on reservations is not due to this cultural link but due to the strong revenue stream that the price differential between taxed and untaxed cigarettes guarantees. This accounts for why visitors are willing to travel sometimes very great distances to a reservation to buy their gasoline and tobacco products. Similarly, since the mid 20th century, tribal nations have often allowed various forms of gambling on their territory, attracting visitors from within and without the reservation. During the late 1980s, in an attempt to ensure that tribal nations could secure sufficient funding to take care of their members[5] (and also to curtail some of these gaming efforts), Congress regulated gaming on reservations with the Indian Gaming Regulatory Act[6] (IGRA), which

[5] The colonial matrix of tribal-federal relations does not mean that Indian nations have consistently been treated with explicit terms of subjugation. Wilkinson uses the metaphor of a pendulum to describe the historic swings in federal Indian laws and policies from those that insist on assimilation to those that aim to foster self-determination (1987). Importantly, those intended to foster self-determination have in many ways also eroded tribal political authority and sovereignty by requiring tribal nations to adopt a "modern" statist structure, which I discuss later in this dissertation. See Alfred (2005), Nadasdy (2012, 2017) for further discussion of how federal policies that foster self-determination often have the effect of making tribal nations more "state like" and eroding traditional political formations.

[6] Indian Gaming Regulatory Act. Pub.L. 100-497, 25 U.S.C. 2701 *et seq.*

ushered in the modern era of Indian casinos. Today the revenue that comes from some combination of cigarettes, gasoline and gambling is crucial to most tribal nations whose reservations are situated in locations that are convenient for visitors. This is not the case for all reservations: some are not conveniently located to attract visitors. Moreover, some nations choose not to offer gaming for cultural or political reasons. Overall, Indian country is still very poor, but in many cases, gaming has greatly increased tribal revenue streams in the post-IGRA era.

This new access to revenue has resulted in changes in how tribal people are discursively framed in the USA (Cattelino 2008; Corntassel & Witmer 2008; Harmon 2010). Now that land with tribal reservation status is often conceived of as facilitating profit, those living in the non-native communities on the other sides of those borders often express resentment that Indians are exploiting their "special status." By insisting on tribal affiliation's status as an ethnicity rather than nation-based category, they frame tribal sovereignty as a construct that unfairly bestows privileges on some American citizens and not others. Attempts to classify tribal exemptions to state and local laws as unfair have been repeatedly struck down, because these rights in fact stem from national sovereignty rather than membership in a protected ethnic category (e.g. the fight over Ojibwe fishing rights (Nesper 2002); or the *Morton v Mancari* (1974)[7] trial that examined the BIA's practice of giving hiring preference to American

[7] *Rogers C. B. Morton, Secretary of Interion, et al., Appellants v. C.R. Mancari, et al.* 417 U.S. 535 94 S.Ct. 2474, 41 L.Ed.2d 290

Indians). But in many cases people refuse to recognize the distinction, and their resentment persists.

The potential for this sort of acrimony is particularly strong in the areas where the borders between reservation and non-reservation land have only been recently established or re-established. As the Federal Government has tried to foster tribal self-determination in recent years, new policies and procedures have emerged through which tribal nations can expand their present reservations or re-establish formerly "abandoned" reservations. In these circumstances, certain properties that for a long time were not recognized as tribal land have been transformed into reservation. In recent years, this has been increasingly common amongst the "eastern tribes" (the Federal Government classifies tribes according to several geographical regions). Depending on when and how "contact[8]" and subsequent encounters occurred, Indigenous people in the East were in general killed, forcibly integrated into the various settler populations, or removed to Indian territory. Narratives about the full eradication of tribal people in these spaces became entrenched in dominant discourse (O'Brien 2010)[9], exemplified in the words of a former Seneca Falls history teacher

[8] The archaeologist Stephen Silliman argues that a specific moment of initial colonial contact is a misleading concept (2005). He rightfully points out that contact terminology "(1) emphasizes short-term encounters over long-term entanglements; (2) downplays the severity of interaction between groups and the radically different levels of political power that structured those relationships; and (3) privileges predefined and almost essentialized cultural traits over creative, creolized, or novel cultural products," (2005: 56). I only use 'contact' as shorthand for this more complex, broader range of inter-cultural encounters.

9 In contrast, many counties and towns in the American West have grown up around neighboring reservations, which the Federal Government developed as a tool for pacification and control during its mid 19th century westward expansion (Biolsi 1995). This is not to say that there is no hostility between Indian and non-Indian communities in western regions, but that it is rarely accompanied by the claim that Indians left the area hundreds of years before.

when he told me that "our module on the Cayugas mentioned longhouses, arrowheads, and not much else." In recent years, tribal nations have begun to demand recognition of their sovereignty in regions whose inhabitants have historically been taught that the Indigenous population had entirely disappeared from local spaces. In this milieu, many residents of Seneca Falls and other places where tribal nations are trying to reclaim land find these developments to be deeply troubling.

Cayuga Sovereign Territory: Loss and Return

When people in Seneca Falls argue about which taxes the CIN should pay, they are arguing about who has jurisdiction over the land, and which political, social and economic communities the nation should belong to. There are high stakes involved in claiming that the CIN and its property should or should not be subject to local and state tax regimes. To understand the stakes of these overlapping claims, it is necessary that I first provide a brief overview of Cayuga history, particularly how the Cayuga people came to be alienated from their land, how certain Cayuga political bodies came to reclaim it centuries later, and how the "Cayuga Indian Nation of New York" came to be the specific political unit that is today making such claims to sovereignty and land.

At the time of "contact," the Cayuga people comprised part of the Haudenosaunee Confederacy. This was initially an alliance of five tribes (the Seneca,

Cayuga, Onondaga, Oneida, and Mohawk,) who resided in what is today upstate New York, later joined by the Tuscarora in the early 18th century. They shared a clan system as well as other cultural and linguistic traits. While some decisions were made at the tribal level (which in turn served as an umbrella administrative unit of the different clans and families,) the Confederacy had its own set of responsibilities in overseeing all member tribes (Johansen & Mann 2000). Early in the colonial era, the Haudenosaunee Confederacy prospered through the fur trade, but eventually lost much in terms of sovereignty and land-base (Parmenter 2001, 2007). As European colonial interest in the region grew, treaties emerged first as the main way of establishing agreements about trading and hunting, and eventually became the main instrument for delineating the boundaries between the lands of the various colonial governments and the Confederacy (Miller 2009). In1763, the British Crown issued the Royal Proclamation, which forbade individual colonies and settlers from moving west of the Appalachian mountain range[10], although some illegal settlement occurred at this time. The resulting tension between the settlers who wanted to move westward and the Crown is often considered a fundamental cause of the Revolutionary War, which broke out between the British Crown and its colonists in 1775 (Taylor 2007).

Writing an ethnohistory of these decisions in the mid-19th century, Lewis Henry Morgan argued that when the Confederacy was forced from its neutral position, the British cause was "the natural one," because alliances had been made in the King's

[10] The Proclamation was in part intended to attract the loyalty of the tribal people based around the Great Lakes (which were west of the newly proclaimed borders,) who historically had ties to the French (Calloway 2006).

name, while "the injuries which had come to the Indians…were never done in the royal name, but were the work of individuals, most of whom took the American side," (Morgan 1904 [1851] II:195). The Oneida and Tuscarora tribes officially affiliated with the American forces, although the nature of the warfare was highly decentralized and some warriors from these tribes fought for the British (Calloway 1995). Most historians believe that the Cayuga and remaining member tribes of the Confederacy fought for the British (Graymont 1972; Hagan 1975), although some Cayuga oral historians argue that the nation remained neutral. There were many pressures on the tribe as individuals and as a group, and therefore pinpointing a single political orientation for the whole Cayuga people is difficult and problematic (Whiteley 2000). Despite this ambiguity, George Washington perceived that the Cayugas fought on the British side. The military therefore treated the treaty-designated Cayuga lands (which were at the time west of the border of New York and British colonial territory altogether, but today are situated inside of the state,) as enemy territory. In 1779, during the Clinton-Sullivan Campaign, two of Washington's generals traveled with their companies to what is today called Cayuga Lake with the purpose of razing the villages and eradicating the livelihoods of the Cayuga people who were imagined to be enemy fighters, thus earning for their campaign the moniker of "warfare against vegetables," (Graymont 1972: 359). Most Cayuga people fled the area as a result of this destruction. Some went further west to take refuge with the Seneca. Others went north to British territory (modern-day Canada) where they were given reservation land in return for their military service.

After the war ended in 1783, Haudenosaunee representatives signed a series of treaties with representatives of the fledgling Federal Government. These treaties greatly reduced the territories of the individual Haudenosaunee member states. The final federal treaty in 1794 ("The Treaty of Canandaigua[11]") reduced Cayuga territory from a Crown-guaranteed reservation of 1,700 square miles of territory to a 64,000-acre horseshoe at the north end of Cayuga Lake. At this point, individual states were required to divest some of their sovereign authorities to the new Federal Government. In particular, the 1790 Non-Intercourse Act relegated the exclusive right to sign treaties with Indian nations to the Federal Government. However, over the course of the following two decades, New York State representatives continued to sign treaties with representatives of the Cayuga people—who had almost all moved away from their federally recognized reservation fearing for their safety and survival. In 1807, Cayuga representatives based in Canada and on Seneca territory finally sold the last of this land from afar to New York State for $1.50 an acre or $4,800 in total and an annuity into perpetuity of $1,800. In the years that followed these conveyances of land, New York State sold most of these acres to prospectors and made a profit of many times the purchase price (Whitely 2000: 58).

New York eventually grew into the Empire State it is today, with its 62 counties and thousands of cities, villages and towns, including Seneca Falls. The Cayuga people, in the meantime, lived in increasingly disparate groups. By the 1870s,

[11] Treaty with the Six Nations (Treaty of Canandaigua). Ratified 1-24-1795. Special Collections, New York Public Library. New York.

there were three "widely separated groups of Cayugas," after one group of Cayuga people had settled in the Grand River reserve in Canada[12], and a second retreated first to Ohio and then to "Indian Country" (today's Kansas and Oklahoma)[13], (Whitely 2000: 67). The third group consisted of those who stayed in New York on non-Cayuga land, and it is this group that came to be known as the Cayuga Indian Nation of New York (CIN). They lived mainly on three different Seneca reservations, where the Cayuga people had varying degrees of political rights and duties as "tenants," but never full access to the political decision-making positions for the whole reservation (Whiteley 2000: 70).

Not long after the Cayugas (were) relocated from their homeland/federal reservation, the Cayuga people who remained in New York began to lobby the State Legislature for a land base of their own, and for a fairer annuity return on the land conveyed to the state in the 1795 treaty[14] and 1807 sale[15]. The Legislature debated giving the Cayugas land or money several times over the following centuries (in 1853[16] and in 1906[17], among other dates). However, it consistently refused to revise

[12] Today the largest group of Cayuga people live in Canada. In particular, there are over 7,000 enrolled Cayuga people, comprising two bands, based on the Six Nations of the Grand River Reserve, where there are members of each of the Haudenosaunee Confederacy nations.

[13] From a Seneca reservation which was established in eastern Ohio, a group of Cayuga people moved to Oklahoma in the 1830s, forming what is today the 5,000-member-strong Seneca-Cayuga Nation, alternatively known as the Seneca-Cayuga Tribe of Oklahoma.

[14] Treaty held at Cayuga Ferry with the Cayuga Indians, 7-27-1795. From Indian Claims Commission Docket 343, Exhibit 5.

[15] Laws of New York, 30th Session 1807, ch.XXI, An Act relative to the Sale of certain Lots in the Cayuga, Onondaga, and Oneida Reservations.

[16] New York State, 1853, Memorial of Dr. Peter Wilson. New York Senate Document 56, 1853. Albany.

[17] Memorial to the State of New York from the Cayuga Nation of Indians, 1906. Before the Honorable Commissioners of the Land Office. Decker Papers 1903-09.

the terms of the initial sales. After the Second World War when Congress deemed that Indian participation in the military warranted a federal commission to settle Indian land claims once and for all, the Cayugas (including the CIN and other Cayuga groups) tried to pursue compensation at the federal level. Citing among other things the fact that the Cayuga had sided with the British in the Revolutionary War, the Commission found no *federal* responsibility in having illegally reduced the Cayuga land base (leaving the question of state responsibility unexamined), (Whitely 2000). This effectively exhausted the Cayugas' ability to gain compensation through the legislative branches of the New York State or Federal governments.

In the middle of the 20th century, the members of the CIN were still not satisfied with the terms of their annuity and with having no land base of their own. Around this time, several different Indian nations around the country and their legal teams began to pursue remedy for loss of sovereign land through the judicial rather than legislative branches. Certain tribes developed land claim lawsuits based primarily on the ways in which their historic treaties had broken federal law. They specifically focused on the Congressional Non-Intercourse Act of 1790[18], which designated the Federal Government as the only legitimate body to make Indian treaties. In these mid-20th century land claim cases, nations' legal teams argued that any treaty between a state government and an Indian nation that came after 1790 was invalid. Several of the treaties through which the Cayugas were alienated from their land fell into this

[18] An Act to Regulate Trade & Intercourse with the Indian Tribes, Congress of the Unites States, at the 2nd Session, begun and held at the City of New York, on Monday the 4th January, 1790. O'Reilly Papers, vol. 6, item 13. New York Historical Society. New York.

category. Although this argument based on the Non-Intercourse Act had been part of the earlier cases that the CIN had made to the State Legislature, it had never been the crux of the nation's claim. Instead, the earlier Cayuga cases, like those of other Indian nations and tribes, had been based largely on the state's excessive profits when selling former Indian lands. A series of cases initiated by Indian tribes in Maine and other parts of New York during the 1960s and 70s foregrounded this new Non-Intercourse Act-based approach, causing a "revolution" in Indian law (Shattuck 1991).

In the 1970s, the CIN used this new approach as leverage to pursue a settlement regarding money and land with the Federal Government and New York State. These settlement negotiations took place mostly in Washington D.C. and Albany (the state capitol)—two cities that are far from both the present-day Cayuga base in Western New York and the land claim area in Central New York. Settlement options included one-off payments plus the transferral of certain parcels of federal and state-owned land within the Cayuga land claim area to the CIN. In 1980, a "Bill for Settlement of Cayuga Claims" came before the federal House of Representatives and was voted down[19]. Later that year, the CIN filed a suit in the United States District Court for the Northern District of New York against the state and the two counties (Seneca and Cayuga), claiming that the land in the federally recognized Cayuga reservation established in 1794, which was never officially disestablished, was still a reservation.

[19] H.R. 6631, 96th Sess. Of 1980.

This lawsuit was slow moving. Over the course of 21 years, the court saw several preliminary motions that determined first that New York State was liable, and second, which methods could be used to determine the remedy. During one such motion, the presiding judge decided that the nation could only pursue financial compensation, rather than "the remedy of ejectment" (i.e. forcibly taking present-day owners' land[20]) ("*Cayuga v Cuomo VIII"* 1999[21]), which meant that much of the trial distilled to the question of how much the historic dispossession of Cayuga land was worth in the present-day. The case finally came before a jury in the Federal District Court in 2001 ("*Cayuga v Pataki XIV*[22]"). Jury members determined that the fair rental and market value of the land was $36.9 million based on the testimonies of various types of expert witnesses, and the interest came to $211 million, which the state immediately appealed.

Soon after the District Court verdict, the Supreme Court issued a decision in a related trial over the land claim of the Oneida Indian Nation (OIN), based 100 miles to the east of the contested Cayuga reservation. This case had similar merits: it also entailed an Indian nation claiming some sovereignty over a lost reservation based on the Non-Intercourse Act. When the Supreme Court saw this case in 2005, they issued

[20] Based on later conversations I had with the CIN's legal teams, their explicit goal in pressing a land claim case had always been financial compensation rather than ejectment, but ejectment was included as a possible remedy to boost the nation's leverage. The nation's plan was to use the compensation funds to buy property within the land claim area from willing sellers, which would then be fully recognized as reservation land.

[21] *Cayuga Indian Nation of N.Y. v. Mario Cuomo, as Governor of the State of New York. 1999 WL 509442 (N.D.N.Y. 1999)*

[22] *Cayuga Indian Nation of N.Y. v. Pataki,* 165 F. Supp. 2d 266 (N.D.N.Y. 2001).

a landmark decision that used the doctrine of laches to say that the OIN had waited too long to press its claim and could no longer claim sovereignty over the land in question ("*City of Sherrill*[23]"). A few months later, the CIN's case came before the United States Court of Appeals for the Second Circuit ("*Cayuga v Pataki XV*"[24]). Citing the *City of Sherrill,* the Court used the laches defense to reverse the lower decision that granted the CIN monetary damages[25]. The panel majority reasoned that although the 1794 historic reservation had never been formally disestablished, the state owed the CIN nothing due to the doctrines of laches, acquiescence and impossibility, essentially saying that so much time had passed that upholding the CIN's rights to a reservation would be "inequitable" to the area's present-day inhabitants. After 26 years of legal proceedings (and nearly 200 years after the last sale of Cayuga land to New York State) the CIN's land claim trial was closed—granting the nation neither land restitution nor financial compensation.

Up until this point in the history of the modern-day Cayuga attempts to re-claim their reservation, the CIN had been pursuing this claim from afar. During the "land claim era"—a term that local people used to refer to the years between 1980 and 2005 when the CIN was pressing this claim in federal court—many of the people who

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[23] *City of Sherrill v. Oneida Indian Nation of New York, 544 U.S. 197 (2005)*

[24] *Cayuga Indian Nation of N.Y. v. George Pataki, as Governor of the State of New York.* 413 F.3d 266 (2d Cir. 2005)

[25] Several legal experts, including the presiding judge who wrote the dissent in *Cayuga v Pataki XV* (Janet C. Hall), have argued that this laches defense in federal Indian land claim cases was highly problematic, considering how many barriers were in place that prevented tribal nations from pressing this suit against New York State throughout the 19th and 20th centuries (including, for example, the fact that New York State exercised its sovereign immunity multiple times with Haudenosaunee nations prior to the 1990s; Fort 2011).

lived in the 64,000-acre land claim area were frightened that they might lose their land, despite the court having rejected the remedy of ejectment in 1999. This fear was largely a faceless one. While Cayuga representatives would occasionally visit the region to scout out sites of a possible future reservation (including the Simpson naval preserve on Seneca Lake and other sites), the main action of this courtroom drama took place in Syracuse, (an hour's drive to the east,) Albany, (three hours beyond that,) and New York City, (a five-six hour drive away). And the CIN was based near the Seneca reservations, nearly 200 miles to the west. That facelessness changed during the short window between the district court 2001 verdict that granted the CIN $240+ million, and the 2005 circuit court verdict that reversed that decision. During those four years when the nation's claim to some sovereignty over these 64,000 acres had been upheld in a federal court and not yet reversed, the CIN began to buy land within its land claim area, which consisted of approximately 44,000 acres in Cayuga County on the eastern shore of Cayuga Lake, and 20,000 acres in Seneca County on the western shore. This was the first time the nation possessed land in the area for over 200 years.

In 2003, the CIN purchased two gas station/convenience stores: one in Union Springs in Cayuga County, and one in Seneca Falls in Seneca County. These gas stations soon reopened as Lake View Trading I and II, respectively, and these new CIN-owned businesses did not collect state or local taxes. Soon after, the CIN purchased an auto parts store in Union Springs and reopened it as a bingo hall, "Lake View Entertainment" (which was an illegal establishment according to Union Springs

laws) and built an addition on the Seneca Falls gas station for bingo and other small-scale gambling.

After the 2005 Circuit Court decision denied the CIN its land claim settlement, many local people believed that these facilities, which were operating under the premise that they were on the Cayuga reservation, would shut down. Indeed, the two gaming facilities did shut down[26]. The two gas stations remained open, however, and they continued to forego charging customers taxes. For most tribal nations operating such gas stations, there would be no question that New York State could shutter these stores because the properties would not fall under state jurisdiction; but the recent *Cayuga v Pataki XV* ruling indicated that these properties did not count as a normal reservation[27]. Therefore county and municipal officials attempted to get New York State to force Lake View to comply with state cigarette tax laws[28]. Despite these county and municipal efforts, New York State officials were reticent about getting

[26] A local politician with an acrimonious relationship with the CIN told me that the nation had shut them down not for fear of lawsuits, but because the contracted gaming equipment rental companies would no longer honor the lease for pull tab and other machines.

[27] It is important to note that there is no such thing as a "normal" reservation: there are many different legal classifications of tribal land tenure in the US, and this dissertation goes on to describe several of them. The main point in this specific context is that it was not obvious that these Seneca and Cayuga county properties fell outside of state jurisdiction, unlike most other properties classified as "reservation."

[28] In trying to get the state to intervene, these county politicians and lawyers made several legal arguments. Firstly, they argued that the land in question was not a reservation based on the recent *Cayuga v Pataki XV* ruling. Moreover, they argued that New York State was obliged to have a policy in place that would allow it to force tribal nations to collect sales tax at all tribal smokeshops. Ever since the Supreme Court issued a decision saying that states could force tribal nations to do so in Moe v. Salish & Kootenai Tribes, 425 U.S. 463 (1976) ("*Moe v Salish*"), New York State had been promising to implement such a scheme. However, at the time of these events, New York State had not yet implemented one (in part because, despite the *Moe v Salish* verdict, collecting state taxes on tribal land posed many legal and technical complications). This led many county officials to believe that all New York State had to do was to develop and implement a particular taxing scheme for reservations, and yet the state was refusing to do so.

involved in a tribal tobacco tax controversy, even one that—considering the recent dismissal of the land claim—had more merits than most. Throughout the 90s, the state had come into conflict with other Haudenosaunee nations about cigarette taxes[29]; state officials therefore wanted to steer clear of such altercations. Therefore, after several unsuccessful attempts to get New York State to force Lake View's compliance, county and local police forces took matters into their own hands: they forcibly seized some of the nation's property (namely, all of the cigarettes on premises and computers that allegedly held data about untaxed sales) in November 2008.

Even after the county and town seized this property, the CIN did not simply shut down or agree to begin collecting sales taxes. Instead, the CIN immediately sued the counties and municipalities in state court, arguing that it was under no obligation to act as a New York State tax collector on property that was still, in some limited capacities, reservation land[30]. After a district court judge sided with the county, the appeals court eventually decided in the CIN's favor in 2010. The store has for the most part remained open, without collecting any sales tax, ever since.

Although state courts deemed that the Lake View stores were allowed to operate without collecting sales taxes, most local officials continue to believe the nation's tax-free businesses are operating illegally. The resulting tension has been

[29] Most famously, in 1992 the State attempted *interdiction* (the interception of fuel and cigarette shipments and seizure of the shipments that were found to be in noncompliance with state tax laws). In response, Seneca Indians on the Cattauragus Reservation burned tires on the New York State Thruway, which resulted in the closing of a 30 mile stretch of road, 200 state troopers being called, and the arrest of 13 people (Associated Press 1992).

[30] The dissonance between the *Cayuga v Pataki* (2005) verdict that rejected the CIN's land claim, and this argument that the land in question still comprised reservation in some limited capacities, will be addressed in more detail in chapter 1.

exacerbated by the fact that the CIN has used much of the revenue from this business to purchase more land. And each year since, when the local government bodies serve the CIN with a tax bill for these properties, the nation has refused to pay. In 2011, Seneca and Cayuga counties moved to foreclose on these delinquent properties. In response, the CIN counter-sued, invoking the doctrine of sovereign immunity which protects tribal nations from lawsuits unless Congress intervenes. In 2012, the CIN won the case on appeal, which meant that—barring a Supreme Court reversal—there was nothing the counties could do to compel the CIN to pay; and the nation has refused to pay the bulk of its property taxes ever since. In this way, after 200 years of failed settlement attempts and land claims, the Cayuga people (in the form of the CIN) finally began to manifest their claims to sovereign authority over this contested patch of land.

The Setting of Seneca Falls

During the land-claim era (1980-2005), there was no specific site where tensions between local and tribal governments played out other than the courtrooms where the trial unfolded. Residents of the 64,000-acre land claim area, which was split across two counties and several towns and villages, equally shared the fear that their land could be taken away and/or their communities could become deeply altered if the CIN won its lawsuit. When the land claim was dismissed in 2005 and the CIN changed its strategies to gain sovereign territory, the geographic area whose residents felt they had something at stake in the CIN's pursuit of a reservation sharply

contracted. The nation owned a gas station in Union Springs and one in Seneca Falls as well as a handful of other businesses. In the following years, the CIN bought more and more private property in the town of Seneca Falls, which increasingly localized this tension and made this town an attractive site for my research.

When I moved to Seneca Falls to begin my fieldwork, I expected to find a strong divide between "the Nation" and "the Town." This expectation reflected the particular trajectory through which I had learned about the Cayuga tax refusals to begin with. I first learned about this tense scenario years earlier when I had worked as an assistant for Dr. Peter Whiteley, who served as an expert witness for the CIN during its land claim trial. I worked for him in the years following the dismissal of the land claim (2008-2009), helping him to organize the notes and documents he had used during the trial. In this capacity, I not only learned about the history behind the land claim case, but also encountered the ongoing tensions surrounding the CIN's continuing attempts to pursue some form of sovereignty over its reservation. In particular, I came across several active websites for groups dedicated to the eradication of the alleged special status afforded to Cayuga sovereignty (as well as that of other tribal nations). The most relevant of these groups was the Seneca-Cayuga chapter of the Upstate Citizens for Equality, a regional anti-treaty group, which I refer to from now on as "the UCE". Discovering this group sparked my interest in this topic and had a significant impact on the structure of my project.

The UCE was established in the larger Cayuga land claim area in the late 1990s as the District Court land claim trial approached. Throughout the 1970s and

1980s, as tribal nations across the country were beginning to develop new strategies for practicing and strengthening their sovereignty, anti-treaty groups like the UCE emerged in response. Anthropologists, geographers and social historians have written about different examples of the larger American anti-treaty movement, as well as parallel movements in Canada (Nesper 2002; Mackey 2002, 2016; Goldstein 2008; Grossman 2017). Although their beliefs and arguments are not entirely homogenous, these groups generally contend "that federal Indian law violates constitutional equality accorded citizens by recognizing American Indian semi-autonomy and, if only at times, the semblance of nation-to-nation relations," (Goldstein 2008: 853). Members of such groups characterize the constitutional equality of citizens as a moral principle that has motivated and justified American empire-building, regardless of its violence[31]. Therefore acknowledging any form of tribal sovereignty within American territory directly refutes what they consider to be the moral grounding of the American nation-state. This understanding by implication justifies Indigenous genocide and dispossession in the past, and perpetuates the disempowerment of tribal people—if they want to exist as anything other than American citizens—in the present.

While the UCE had been a large presence across Seneca and Cayuga counties during the land claim era, by the time I began my fieldwork, the group was more localized around Seneca Falls. Several local residents told me that ten years before, there had been hundreds of signs that proclaimed the group's motto of "No Reservation, No Sovereign Nation" throughout the region, but when I moved to the

[31] Although it is worth pointing out that such groups tend to be white and racially homogenous, rarely arguing for the full political inclusion of ethnic minorities in other contexts (Goldstein 2008).

town in 2013, there were only a handful of these signs, mostly dotting the edges of large agricultural properties on the town's outskirts (FIGURE 1).

Figure 1, UCE sign, author's photo

When I began my dissertation fieldwork, I expected that the UCE would be one of my main research subjects. However, soon after I moved to the field, I quickly learned that this organization, which had first focused my anthropological lens on this area, was no longer a particularly significant player in the local struggle against the CIN's exercises of its sovereignty. Their methods for combatting Cayuga sovereignty were more relevant to the earlier land claim era. During the final years of the land claim case, the organization had successfully fomented local antagonism against the idea of a tribal nation receiving land and removing it from local and state jurisdiction. They were far less successful, much to their chagrin, at sustaining that antagonism against a tribal nation that owned a gas station that sold cheap cigarettes and withheld property tax payments, which, as I will explain below, had effectively no financial impact on individual taxpayers.

As the focus of these debates moved from the land claim to the CIN's tax refusals, the players changed and so did their discourse. During the land claim era, the UCE and other local residents struggling against the Cayuga land claim articulated a politically conservative argument in which the USA and New York State may have illegally appropriated Cayuga land, but, to paraphrase, *might means right* and tribal nations must be subsumed into the larger American empire. There are implicit and occasionally explicit racial aspects of this argument: it characterizes Indians as a fundamentally weaker people (both in a biological and political sense) who have given way to the stronger American nation-state. In comparison, the fiscal focus of today's struggle against Cayuga sovereignty in many ways stems from a liberal position that calls upon notions of community, care and the common good. Many politicians and officials are quick to point out that they do not object to the notion of Cayuga sovereignty per se, but they do object to what the CIN is trying to do in the name of sovereignty (i.e. refuse to pay its taxes). This discourse treats Indian sovereignty in gentler terms than the UCE's, yet it still reflects and reproduces the notion that tribal nations that are not fully subsumed within the American nation-state are acting unfairly[32].

When I moved to Seneca Falls in September 2013, I had already been studying these tax debates for several years. Prior to starting full-time fieldwork, I had attended several UCE events that I learned about through the organization's listserv, where the

[32] Moreover, as Williams (2005) argues, this more recent discourse about fiscal equality is still grounded in the belief that tribal political formations are uncivilized and inferior to the dominant settler state, and, by extension, that tribal people themselves are uncivilized.

group's members bemoaned the CIN's tax refusals. Additionally I was familiar with the many relevant court cases and legal documents. Although these two sets of sources often explicitly contradicted each other (few UCE members had any real understanding of the legal facts of the nation's tax cases), they both presented a model in which there was a strong divide between "the Nation" and "the Town." I did not accept this division uncritically, but at the beginning of my fieldwork I expected to find that town residents generally held one position, and members of the nation another, and that people would fall into two camps as a result. In reality, the division between Cayuga and non-Cayuga *territory* was very controversial indeed and warranted much attention, but not so much the divisions between the people themselves. Cayuga and non-Cayuga people were friends, colleagues and neighbors. They shopped at the same stores and went to the same places to unwind after work. Moreover, most of the people who frequented the nation's stores and bought its cigarettes and gasoline were non-Cayuga locals. In this milieu, I had to learn from scratch who had what at stake in the debates about whether or not the CIN should collect and pay local and state taxes. Yet in some ways this misdirection at the start of my fieldwork was very productive: how I addressed this false dichotomy of town vs. nation came to be a central theme of my dissertation.

Because of my mistaken assumption about the divisions between the residents of Seneca Falls, I planned my fieldwork so that I would study first one side and then the other. When I began my fieldwork, I saw that this model of different bounded entities with clear and identifiable sides was inaccurate. I did, however, retain this methodological segmentation to some extent: I divided my research into different

stages in which I worked with members of the CIN, and then with organizations whose members often (though not always) opposed the CIN's tax refusals. For five months I worked full-time for the CIN's Lake View Trading in Seneca Falls, which left little time to conduct ethnography at other sites. Later on, I held short-term professional positions with local organizations such as the Seneca County Industrial Development Agency, the Women's Rights National Historic Site and the *It's a Wonderful Life* Museum. This largely structured my fieldwork around working with particular organizations, one at a time.

Several organizations debated these tax issues on behalf of "the CIN" or "Seneca County" or "Seneca Falls," but the relationship between these organizations and the categories of people they claimed to represent was not at all straightforward. For example, representatives of the Seneca Falls town council, Seneca Falls school district, and local business network all made claims—often contradictory—about how Seneca Falls was being impacted by the CIN's fiscal refusals. Even more explicitly, disagreements arose within the CIN during my fieldwork about who could speak for the nation: the corporate officers from the nation's parent company that owned the Lake View stores, the traditional leadership council, or the Federal Bureau of Indian Affairs (BIA)-appointed Federal Representative (institutions whose functions will be discussed in more detail below).

The reach of these varied organizations extended in many cases far beyond the municipal borders of Seneca Falls. For example, many Cayuga people—the vast majority in fact—were still either based on the Seneca reservations several hours to

the west or lived independently across the country. The CIN's activities were deeply impacted by policies set in place by the BIA based out of the US Department of the Interior in Washington DC. Certain New York State legislators played a significant role in this story from their base in Albany, as did lawyers and judges in far-off cities. Even within the region of my fieldsite, much of the important legal action occurred at the county level of government. The Seneca County seat is located in the neighboring village of Waterloo, and the Cayuga County seat is in the city of Auburn about 20 miles away. These examples demonstrate that choosing a fieldsite focuses ethnographic research in an artificial manner. I approached this construct by framing Seneca Falls as the main site of a conflict that was playing out for several stakeholders across a much broader space. Therefore it is important that I flesh out this setting as it appeared during my fieldwork.

Seneca Falls has an elected Town Council, which meets once a month to debate and decide local administrative issues. The town councilors were amongst my first interlocutors because they were public figures with easily accessible contact details who had official interests in the CIN's tax refusals. In one of my first interviews after moving to Seneca Falls, councilor James Hemroth met me in a coffee shop on Main Street. "Seneca Falls is having an identity crisis," he told me. "It used to be white collar, but now it's blue collar. Actually, it doesn't really have a collar anymore." Hemroth was expressing a commonly held sentiment. Without analyzing the regional census data, I can attest to a strongly held conviction that Seneca Falls was a once wealthy town that had fallen on hard times.

There were many "lifers" in this town, and many of these residents had a strong interest in local history. This interest in local history had grown during recent decades since the 1982 institution of the Women's Rights National Park at the site of the chapel where the first official American Women's Rights Convention was held in 1848[33]. The Seneca Falls Historic Society is particularly active and has produced several books and other documents for sale that focus on significant events in local history. The main narrative provided in these documents is that Seneca Falls was a small industrial center in an agricultural region that developed along with New York State's remarkable canal system during the mid-19th century (Barbieri & Jans-Duffy 2009)[34]. The town's role in the history of women's rights is folded into this story, with the cosmopolitanism and labor issues associated with industrialization having prompted Elizabeth Cady Stanton and others to join the regional, national and international struggle for women's suffrage. By the turn of the 20th century the canal system was no longer prominent, but the town continued to industrialize and prosper. By the 1950s and 1960s—the earliest years that most of the modern population still collectively remembers—the town had become a remarkable model of paternalistic capitalism. "We were a real company town," Hemroth explained, and the local history books affirm. "Everyone could get a job at Farelli Pumps or one or two other places. You could get a job doing maintenance, or in management. And you could have that job for life." During my time in Seneca Falls, I witnessed many civic efforts to tap into

[33] Immediately beforehand the building was being used as a laundromat, and before that a movie theatre.

[34] These texts rarely mention the Cayuga presence (either historical or present-day) in the town, and certainly do not examine the explicit link between the development of the canal network and the removal of the Haudenosaunee from their territory (Hauptman 1999).

the sense of community pride centering around this mid-century heyday. “Let’s bring back Aquafest” was a common request at town council meetings, referring to the annual festival from the 1960s when thousands of people would descend on the town’s water-side public spaces for parades, carnival rides and beauty pageants. This mid-century heyday was the theme of the town’s biggest tourist pull: the annual *It’s a Wonderful Life* festival. Although many locals admit that the attempts to prove that the director Frank Capra visited the town may be fruitless, “It’s us in spirit. We’re the real deal. A small American town,” I was told by the director of the *It’s a Wonderful Life* Museum, which sits at one end of Main Street and attracts a large number of tourists, especially in the winter season.

This increasing reliance on the tourist economy was reflected in the range of businesses in the town’s block-long commercial center. During my fieldwork, Main Street was divided between the museums and amenities catering to tourists (four museums, two art galleries, two antique shops, a high-end coffee shop) and facilities providing services to the local community (an office supply shop, copy center, florist, two or three restaurants that sold mostly pizza and wings, a VFW meeting hall). Additionally, there were many empty storefronts. Even during the two years that I lived there, I witnessed the opening and closing of several businesses. Farelli Pumps is still based in town, but in the 1990s an international conglomerate bought the company and spun it off into several different divisions. Today, the show room for prototypes of highly advanced pump equipment is still in Seneca Falls, and this requires a sizable work force. However, this is a highly skilled work force, and most employees are not “locals.” Few of them live in Seneca Falls. Instead, most choose to

live in the suburbs of bigger cities within an hour's drive, where they have access to better funded schools and more amenities. In local lore, the company was famous for incentivizing its managers with equity in the company. As a result there are many retired baby boomers who still live in the town with expensive cars and beautifully maintained houses, even though the rest of the town is no longer doing so well.

Not everyone who lives in this town practices the sort of civic engagement that proliferates around the historic sites in the town center. When I worked at the CIN-owned Lake View Trading in Seneca Falls, almost all of my colleagues were self-ascribed "non-Native" locals, making for the most part less than $10.00/hour. On the day of the annual *It's a Wonderful Life* winter parade, a horse and carriage drove through the town. Its main procession was through the historic downtown, where the picturesque Main Street was the focal point of the events, but for logistical reasons the carriage had to travel some back streets, intervening in local traffic patterns. When a co-worker arrived 15 minutes late, she moaned about the obstruction. "Who the hell is it for anyway? I don't give a damn about *It's a Wonderful Life*." This comment gets to the divide I encountered in the population of Seneca Falls between those who "are invested in the community" and those for who felt that such municipal events were "not for us."

At this point, the reader may be asking how the CIN fits into this account of the town. In the years following 2003, when Seneca Falls emerged as the center of the CIN's plans to buy back land in its reservation, Cayuga people began to move to this

space (i.e. modern-day Seneca Falls) for the first time in centuries[35]. When I arrived in Seneca Falls in 2013, the CIN owned 1,000 acres within the town's municipal limits. These acres included the gas station, a cigarette manufacturing plant, a hydroponic farm, a cattle farm, a vegetable stand, a bakery and a miniature golf range, but most CIN land was residential property, concentrated in the southeastern quadrant of the town because that is the section that lies within the historic Cayuga reservation.

I came to know which houses were owned by the CIN early on in my fieldwork because certain local activists fighting the CIN's tax refusals had taken this publicly available information[36] and had organized "educational events" to inform others about the extent of CIN land ownership in the town. Before I even moved to my fieldsite, for example, I attended a bus tour of all of the nation's properties. A man who I later learned was a self-appointed spokesman for the "concerned taxpayers of Seneca Falls" guided the tour and pointed out each of the CIN's properties, his accompanying commentary laced with disparaging remarks. In this way, I came to know that the CIN owned an array of houses located in different neighborhoods, varying in quality. They included large isolated Victorian farmhouses and raised ranches in dense developments. Later on, I learned more about who lived in these houses. Some of them were occupied by the Cayuga people who had moved to the

[35] Over the previous two centuries, there may very well have been Cayuga individuals and families living in this space, although I never heard of any. When the CIN purchased this land beginning in 2003, Cayuga citizens began to move to the area for the first time in any *official* capacity.

[36] The buyers and sellers of any property sale are registered with the county. Although it would require some digging, anyone who wanted to could do a search in the county deed office for properties owned by the CIN.

town to manage the CIN's businesses. Others were rented out to the non-Native staff who worked there. Still others remained empty.

During my fieldwork, there were never very many Cayuga people living in Seneca Falls. I heard estimates from both Cayuga and non-Cayuga officials which placed the number at around 25, having fluctuated a small amount over the past ten years. When I moved to Seneca Falls in 2013, I knew very little about this recent small-scale Cayuga migration: why did some Cayuga people end up moving to Seneca Falls? How were these particular properties selected for purchase? Who made these decisions? The answers reveal some of the difficulties of writing about singular political units like "the CIN."

First of all, it is crucial that I make the distinction between the "Cayuga people" and "the CIN." Identifying who is and who is not Cayuga is not my goal, but it is important to acknowledge the role of *enrollment*, which divides official members from non-members of the CIN (Russell 2006). There are many Cayuga people—in fact the majority—who belong to tribal entities other than the CIN. In 2003, the CIN had roughly 500 enrolled members, the largest portion of whom lived on the Cattaraugus Seneca Indian reservation, while others lived in different parts of the USA. The descendants of the Cayugas who had moved to Oklahoma during the Era of Removal comprised the Seneca-Cayuga Band of Indians (although their website now names the entity as the "Seneca-Cayuga Nation of Indians,") and the descendants of those who had moved to Crown lands after the Revolution today form two bands based on the Haudenosaunee Six Nations of the Grand River Reserve in Canada. An

all too typical consequence of the many policies that have framed tribal sovereignty in terms of enrollment in a particular nation or tribe are the strong divisions between these groups that might otherwise consider themselves to be related. The past two centuries have produced several occasions when the New York, Oklahoma and Six Nations-based Cayugas have had to compete for monetary compensation from New York State and the Federal Government, as well as other revenue, resulting in bad blood between these distinct Cayuga political entities.

In addition to the problems of equating all Cayuga people with the specific political unit of the CIN, it would be equally inaccurate to read the CIN itself as a politically cohesive, monolithic entity. In 2003, the CIN practiced what its members would refer to as the "traditional" form of government, consisting of a clan-based system where people are appointed, not elected, to the governing council[37]. In theory, this traditional council—comprised of men from each of the clans that feature in Haudenosaunee nations—uses consensus to make decisions about business development strategies and tribal environmental policy, and also performs ceremonies. Today, in addition to the traditional council, the BIA requires each federally recognized Indian nation to have a "Federal Representative" (FR) who liaises with the bureau in order to access federal funds and grants and to perform administrative tasks on-site. In the modern world, this position has become as important as that of council

[37] This traditional form of government contrasts with the "modern" forms of government. Over the past two centuries, many tribal nations, including several other members of the Haudenosaunee Confederacy, have switched to election-based forms of government as a result of a mix of internal and external pressures, most importantly stemming from the federal Indian Reorganization Act of 1934, which explicitly required tribal nations to adopt democratic governance structures in order to gain access to certain resources.

member for day-to-day tribal governance. Unsurprisingly, disagreements between internally appointed traditional councils and federally ratified FRs often occur. The resulting confusion over where the highest authority resides has been problematic for many tribal nations, including the CIN.

During my fieldwork, the CIN's FR was a man named Cliff Athill[38]. He was also the CEO of Great Swamp Enterprises, the nation-owned parent company that owned Lake View Trading as well as the nation's other businesses in Union Springs and Seneca Falls[39]. He had been the CEO since the two Lake View gas stations first opened in 2003. The combination of serving as FR and CEO, some distance away from most of the enrolled CIN members back on the Seneca reservations, meant that he was in a position to make many important decisions about tribal revenue on behalf of the nation's 500 enrolled members. But the decisions he and his management team made were not always supported by all members of the CIN. Indeed, as I later came to realize during my fieldwork, his decisions were often distinctly unpopular.

During my fieldwork, many of the Cayuga people who lived in Seneca Falls had relatives who belonged to other tribal nations. Because of the long history of

[38] I never arrived at a full understanding of how the CIN chooses who fills the FR position in general, or how Athill came to have this role. Considering that the CIN did not have a working reservation for much of the 19th and 20th centuries, the nation did not have the same federal-facing administrative responsibilities as most nations. Therefore the CIN did not have to develop a body of procedural rules about modern governance that many other nations have had to develop, and the nation is only now codifying these internal rules—a process which is proving to be very controversial, as I learned firsthand later on in my fieldwork.

[39] In addition to his role as FR, I never fully grasped how Athill was chosen to be the Great Swamp CEO. Great Swamp Enterprises was relatively young—the Union Springs Lake View branch that opened in 2003 was its first business. More than anything, the lack of a transparent selection process for this nation-owned company reflects the growing pains of a tribal nation engaging in sizable commercial activity for the first time.

Cayuga people living on Seneca reservations, several Senecas who were related to Cayuga people moved to the contested Cayuga reservation along with their Cayuga kin. In the modern era, the distinctions between the different Haudenosaunee nations are both highly legalistic and also highly fluid. This dissertation makes no claim to analyzing modern-day Haudenosaunee systems of kinship, but it is still important that I draw attention to this intimate link between the Cayugas and Senecas living in Seneca Falls in order to illustrate the inexact boundaries between the Cayuga and non-Cayuga population in this town. Other factors further muddied the distinction between the Cayugas and non-Cayugas. The school-age Cayuga children attended local public schools. The adult Cayuga people bought their groceries and other purchases in the same stores as everyone else. At the Cayuga businesses, Cayuga and non-Cayuga people worked together and made comparable wages. Although I heard some accounts of Cayuga or Seneca people being made to feel unwelcome in certain local establishments, I did not hear many. The Cayuga population of Seneca Falls did not comprise a distinct social group in the town. And yet they belonged to a distinct nation, whose borders were fiercely policed and contested by members and non-members alike.

Framing the Debates

During the years I lived in Seneca Falls, I encountered many venues where people discussed the CIN's refusal to collect and pay taxes. These debates about whether and why the CIN should pay/collect local taxes reflected deeply held ideas

about political belonging. In this section of my introduction, I examine anthropological theories about taxes, sovereignty and citizenship in order to shed light on what was at stake as people fought over the state and local tax burden of the CIN.

Taxation

There is no substantial body of anthropological literature that specifically focuses on taxation. Indeed, a prominent thread in the limited anthropological literature on taxation is in fact a call for more treatment of the topic (Maurer *unpublished*). There is on the other hand a much larger, historically deep body of anthropological literature that focuses on money, which often touches upon taxation even if it does not focus on it explicitly.

Money has long fascinated anthropologists who have tended to focus on two different aspects: its role in the political sphere (i.e. creating a relationship between state and subject) and its role in economic relations (i.e. attributing value to objects and marking the terms of exchange). In his discussion of the two-sided nature of modern coins, the anthropologist Keith Hart writes:

> One side reminds us that states underwrite currencies and that money is originally a relation between persons in society, a token perhaps. The other reveals the coin as a thing, capable of entering into definite relations with other things, as a quantitative ratio independent of the persons engaged in any particular transaction...heads and tails stand for

> social organization from the top down and from the bottom up, epitomized in modern theory by the state and the market respectively, (Hart 1986: 638).

Like money, taxes also have this dual aspect. To borrow a metaphor of state spatiality from Ferguson and Gupta (2002), taxes incubate a particular subject-state set of "vertical" relationships, and they also draw taxpayers into "horizontal" relationships with one another. This dissertation employs both approaches to examine how the Cayuga and non-Cayuga residents of Seneca Falls conceive of the CIN's refusal to collect/pay certain taxes.

In conjunction with how money itself functions, taxation has a role in extending the presence of the government and/or state into the domain of value and economy. As Robert Foster writes: "The government is the ultimate source of all money circulating…Money then, is the mundane instrument through which "the Government" asserts and legitimates its holistic existence and reality," (2002: 6). In this way, taxation is a government instrument that expands the state's domain into everyday exchanges that on the surface of things might appear to have little to do with state activity. A fiscal regime in this case inserts itself into a subject's life by situating the state as the only legitimate source of currency, and, by extension, the source and standardizer of economic value.

Janet Roitman examines this role of the state as source of wealth and value in colonial and post-colonial Cameroon. She highlights the particular mechanism of a "tax-price complex," in which the French and then national Cameroonian governments

have used price controls and sales tax to situate the state as the *prior* creator of the value of all things in circulation (Roitman 2010).

> Tax-price became a political technology that exemplified the materialist icon of colonial power in its fiscal form. Through it, Cameroonians became both consumers of colonial currency and sources of European monetary wealth, or the fiscal subjects of French colonial empire. (2010: 10-11).

Money and taxation in the models put forward by Foster and Roitman serve to extend the state's purview into all exchanges that employ the same standard of currency. Such a fiscal regime theoretically has the effect of establishing a national community's material boundaries, which are tantamount to the territorial domain where the currency is viable. Importantly, this match between the zone where a state currency circulates and that state's sovereign jurisdiction reflects a top-down perspective which may not reflect how state sovereignty works in practice (Cameron 2006). As Agnew (2005) demonstrates in his discussion of countries that either officially or unofficially use foreign currencies, the space where a state currency circulates often does not map exactly onto the space of national sovereignty. Indeed, he argues that the idea of an official, national sovereignty (*de jure* sovereignty, as opposed to *de facto* sovereignty) is itself misleading. The inexact fit between the zones where currency travels and the territorial boundaries of a state presents an especially helpful lens into the fiction of centralized state authority.

Agnew and Roitman present case studies where economic actors transgress the formal state-subject relationship to problematize the taken-for-grantedness of state sovereignty. The historian Sean Redding (2008) takes a different approach. He examines a site where people ostensibly followed the rules of currency and taxation, and yet the payers were not fully interpolated economic subjects. He discusses how the late 19th century South African government constructed a narrative in which forcing the indigenous population to pay a head tax was an act of subjectification (2008). At the same time, his subaltern research demonstrates that members of the tax-paying population viewed their payments in a very different light: "Effectively, rural Africans "bought" autonomy from the state through the medium of taxpaying," (2008:6-7). Because the act of paying colonial taxes mapped onto older rituals of tribute and sacrifice, the tax-payers believed that they were purchasing some version of freedom from the colonial government. These examples illustrate that a fiscal regime may be part of a larger effort to create a national or colonial unified body with identifiable boundaries, but such efforts are not always successful—even in cases where subjects appear to pay their tax bills dutifully.

While the anthropology of taxation has in many ways been an offshoot of the anthropology of money, sociology has historically treated the nation-building capacity of fiscal regimes more directly. The German sociologist Norbert Elias wrote about the fundamental role that taxation plays in state formation in the early 20th century. He argues that creating a monopoly over fiscal authority was the act that allowed late Medieval European polities to establish what we now understand as "the state."

> The society of what we call the modern age is characterized, above all, by a certain level of monopolization. Free use of military weapons is denied the individual and reserved to a central authority of whatever kind, and likewise the taxation of the property or income of individuals is concentrated in the hands of a central authority. The financial resources thus flowing into this central authority maintain its monopoly of military force, while this in turn maintains the monopoly of taxation... It is only with the emergence of this continuing monopoly of the central authority and this specialized apparatus for ruling that dominions take on the characters of "states." (Elias 1994: 268).

In this framework, all state authority derives from the authority to tax and redistribute that revenue, coupled with the authority to exert force to compel those payments. Elias applies this model beyond these specific early modern European case studies, arguing that by highlighting this specific historical transformation, we can better understand the role that fiscal monopolies play in present-day states.

More recently, there has been a resurgence in a "new fiscal sociology" (Martin et al. 2009). Focusing on modern-day and historic tax policies, these sociological studies highlight the ways in which states have attempted to build national communities through the redistribution of revenue. For example, the contributors to this literature compare how Brazil and South Africa have fostered national identities out of heterogeneous communities through their income tax systems (Lieberman 2003), or how highly localized modern American property tax systems create

sequestered communities that do not identify as part of the same population (Martin 2008). These sociological case-studies focus more on the "political-institutional" aspects of the redistributive processes of the state or more local forms of government (Lieberman 2003: 3). While my research also examines how various institutions feature in local discourses about taxes (for example: the local school district, town council, or BIA), I refrain from giving too much significance to the material functions of these redistributive institutions; the critiques aimed at the CIN about their fiscal refusals have little to do with questions of redistribution, equity and poverty[40]. As a result, I write in conversation with, but ultimately step away from, this materialist-institutional approach in order to examine how these tax controversies signify the literal and metaphorical space that tribal nations are allowed to occupy in the American body politic.

Sovereignty

Tribal sovereignty has been the subject of much discussion in anthropology and American Indian Studies. The main debates revolve around how well the label of sovereignty fits with the mode of political authority that tribal entities want to claim. The concept of sovereignty has roots in Europe rather than indigenous North America. In the early modern European nation-state (the "Westphalian state,") an incipient system of international treaty-based law created new forms of jurisdiction that in

[40] As I show in later chapters, the CIN's tax refusals have had no direct impact on individual local tax burdens or public spending.

theory rendered all states *sovereign* vis-à-vis other duly constituted states. This created the conditions for territorial sovereignty as nation-states practice it today, in which all space enclosed within a state's boundaries are equally subject to the rule of law. Scholars have debated the extent to which this accurately represents a historical shift (Strayer 1970; Murphy 1996) but it is still powerful as an "origin myth" (Nadasdy 2012: 504).

European colonial officials brought this idea of sovereignty with them to North America and used it to label the form of political authority that was vested in the indigenous tribes, codified and enacted through treaties and other government-to-government relations. With such an idea of sovereignty written into treaties, verdicts, and other legislation, this concept has framed the space of tribal political struggles against various colonial governments. Since the latter part of the 20th century, as tribal entities have consistently fought for rights to self-determination and other political freedoms, claims to sovereignty have been by far the most powerful tool with which to do so. As Joanne Barker notes, invoking sovereignty has come to serve as the best method for "refuting the dominant notion that Indigenous peoples were merely one among many 'minority groups' under the administration of state social service and welfare programs," (2005: 18).

This equation of American Indian political authority and territorial sovereignty is, however, problematic. Using the concept of territoriality developed by geographers Soja (1971) and Sack (1986), Nadasdy demonstrates how the Canadian state's "territorial strategy" of resource management amongst First Nations has created many

social, ecological and cultural boundaries between tribal nations that were not previously there (2012, 2017). One of the particular instruments that accomplish this feat has been the treaty-based implementation of territorially delineated jurisdictions. "The new agreements…are not simply formalizing jurisdictional boundaries among pre-existing First Nation polities; they are mechanisms for creating the legal and administrative systems that bring those polities into being," (Nadasdy 2017: 346). A consequence of this new approach is that any overlap between jurisdictions needs to be "resolved," which discursively and mechanically serves to homogenize the people and other forms of life residing within those boundaries. In instituting such territorial boundaries through jurisdictional frameworks, different forms of political authority are flattened out and rendered uniform. This framework approaches national borders and the polities they contain as "a multichrome mosaic of monochrome ethnic, racial or cultural blocs," (Brubaker 2002:164). When applied to tribal nations, this mode of sovereignty eliminates the possibility of an Indigenous political authority not based in territoriality.

When the CIN representatives withhold local taxes, in some ways they are replicating this mosaic approach—claiming that the land in question is Cayuga sovereign territory and therefore the nation need not pay, collect, or remit state and local taxes. Under closer examination, however, the CIN's representatives are not necessarily claiming to be a fully distinct sovereign unit. Even as they refuse to pay or collect certain taxes, the fiscal relationships they try to cultivate with the local non-native people and municipalities reveal a far more nuanced approach to sovereignty. This fits with how several native studies theorists argue that sovereignty is in fact not a

good tool for understanding Indigenous political formations, either in pre-colonial contexts or today. As the prominent Native Studies scholar Taiaiake Alfred writes, "The concept of sovereignty as Native leaders have constructed it thus far is incompatible with traditional indigenous notions of power," (2009: 55). He objects to its "exclusionary" aspects, which arise out of the inside/outside implications of its territorial framework. In a more anthropological engagement with this tension, Nadasdy demonstrates how the discourse of the modern treaty-writing process in Canada requires that First Nations people translate their demands into "the language of territorial sovereignty," (2012: 500)[41]. In instating such a territory-based system of treaty rights, they may gain certain powers, but they also sacrifice much in terms of traditional ways of relating to land and each other.

Despite the colonial inheritance of the exclusionary, territory-based sovereignty that has so significantly impacted tribal political communities, there are ways in which tribal sovereignty can challenge this territoriality as well as reproduce it. It is easy to attack the territorialistic dimensions of sovereignty that emerge out of its historical relationship with the European Westphalian model of the nation-state and its history in the creation of static boundaries around tribal lands, reservations and communities. However, if other aspects of the contingent, lived version of tribal sovereignty are unpacked, the concept may be more flexible. Wilkins & Lomawaima argue that "the connections and interdependencies of the modern world deny the possibility of a self-contained, unfettered sovereign, but limited sovereignties exist all

[41] Cheyfitz and Harmon (2018) also examine how settler colonialism requires such acts of translation for indigenous survival.

around us," (Wilkins & Lomawaima 2001: 249). Many American Indian Studies scholars argue that the modes of sovereignty that tribal nations practice do not necessarily entail the all-or-nothing concept so central to dominant American understandings of sovereignty (Aleinikoff 2002; Bruyneel 2007; Rickard 2011; Simpson 2014). These scholars have illustrated the different possibilities of "differentiated" or "nested sovereignty" that is not about exclusive, territorial control but can accommodate varying degrees of political overlap. As Jessica Cattelino writes:

> Few have questioned the link between sovereignty and autonomy. Seminoles, however, enact sovereignty in part through relations of *interdependence,* for example through economic exchange and political and legal negotiations with other sovereigns. This observation compels a more general reconsideration of whether sovereignty should be conceptualized primarily in relation to autonomy, (2008: 17).

In shedding light on the possibilities for "interdependent," "differentiated," or "nested" sovereignties, these authors examine the possibility of *indigenizing* sovereignty (Rifkin 2009, Coté 2016). This entails identifying the colonial and imposed context of sovereignty, while also highlighting its important role in decolonization. In this sense, studying tribal sovereignty has much to offer the political theory debates that have largely investigated this concept through a Euro-centric lens.

Building on the scarce scholarship that examines Native and non-Native sovereignties together (Aleinikoff 2002; Nadasdy 2004; Grossman 2017), an interesting point of comparison arises in the relationship between *sovereignty* and *exception.* In the European trajectory, philosophical debates have examined the ways in which a sovereign body is able to decide when to make exceptions to otherwise uniform laws. In 1922 Schmitt wrote that the "sovereign is he who decides the exception," (2005: 5). Agamben responded decades later by prolonging the duration of this moment of decision into a lengthier "state of exception," (1998). These debates examine the ways in which sovereigns are able to issue exceptions to the laws of their land. Anthropological conversations that examine the political applications of the sovereign-as-exception largely take place in the Euro-American context (Fiskejo 2003), quite apart from the conversations that interrogate the role of the exception in Indigenous modes of sovereignty. In the American Indigenous framework, the sovereign body's ability to dictate when exceptions apply to itself is not as relevant as sovereignty's role in posing exceptions to the authority of the dominant settler state. Rifkin (2009) points out that examining American Indian political formations in terms of Agamben's sovereign exception reproduces the notion of the settler state's failure to synthesize a coherent body of law and policy for these *domestic dependent nations*.

> The language of exception, of inclusive exclusion, discursively brings Native peoples into the fold of sovereignty, implicitly offering an explanation for why Native peoples do not fit existing legal concepts (they are different) while assuming that they should be placed within the context of U.S. law. (2009: 90).

In Seneca Falls, Cayuga members invoke tribal sovereignty to justify why the CIN can be excepted from local and state tax laws, rather than to make exceptions to its own laws. This points to yet another way in which sovereignty is an awkward fit for tribal political authority—what Rifkin refers to as a "placeholder within settler-state governance," (2009: 115).

In these discussions, the definition of tribal sovereignty cannot be pinned down outside of the specific context in which it is invoked. Joanne Barker writes that sovereignty is "a term around which social movements formed and political agendas for decolonization and social justice were articulated," (2005: 1). I want to align my argument with this idea that sovereignty needs to be understood in terms of what it accomplishes (or what those who invoke it are attempting to accomplish), rather than as a specific, identifiable phenomenon.

Citizenship

When residents of the greater Seneca Falls area demand that the CIN collect state sales tax and pay local property tax, they often do so in the name of "citizenship." Just as I framed my approach to tribal sovereignty in the above section, in this dissertation I am not making any claims about what citizenship *is*; instead I shed light on how it discursively takes shape in these debates about fiscal obligations, and how it interacts with concepts of tribal political belonging.

When people criticize the CIN's tax refusals in Seneca Falls, they often do so in conjunction with describing what it is to be a *good citizen.* This invocation of citizenship has several dimensions: first, it refers to citizenship in a formal sense, which applies to all native-born and adopted Americans. They invoke this concept to emphasize the uniformity of the privileges and obligations that pertain to all American citizens—including American Indians—which is a fundamentally inclusive concept. Despite the rosiness that is normally attributed to inclusive discourses of national citizenship, several theorists have identified serious harms that this political formation has created for Indigenous Americans. American Indians "received" (or were forced to accept) American citizenship in 1924. While this allowed for the creation of a rights-based strategy for combatting some of the oppressive conditions of life as an American Indian in the 20th and 21st centuries, in other regards it has diminished the political capacities of tribal nations. This exemplifies an important distinction between American Indian struggles for political belonging and those of other minority groups in the USA[42]. While most ethnic minorities have struggled to access full political inclusion as citizens in the US, American Indians have struggled to resist this forcible integration, a fact which many of their critics fail to grasp[43].

[42] This is not to say that American Indians do not also experience problems typically associated with ethnic minorities, including high rates of poverty and incarceration. However, Audra Simpson refers to American Indians as "minoritized" through their forcible integration into the dominant settler state (Simpson 2016: 24).

[43] See Williams (2005) for a more detailed description of how the inclusionary aspects of American citizenship and civil rights are problematic for Indigenous Americans, in a way that they are not for other minority groups.

Responding to the unique pressures that the legal formation of American citizenship places on American Indian political belonging, the legal scholar and former president of the Seneca Nation, Robert Odawi Porter, discusses how citizenship in the American nation-state compromises Indigenous peoples' loyalties to their tribal nations (1999). Tribal political belonging is considered "sub-national" rather than a true second alternative, like when someone holds both American and UK citizenship. In order to redress dominant American attempts to deny tribal political legitimacy, Odawi Porter urges American Indians to consider themselves "Indigenous citizens" with a commitment "to their Indigenous nation," (1999: 169-70)[44]. This call demonstrates the ways in which using sovereignty and citizenship-based frameworks to address the forcible integration into the settler state often requires the reproduction of a similarly statist framework.

In addition to this formal, legal category of national affiliation, "citizenship" can also refer to a more informal mode of political belonging. This level of citizenship can apply to people who are not American citizens in a formal sense, but who choose to "follow all the rules" (including immigration and tax laws, among others) in order to gain membership in a particular community. It is important to note that the CIN and its members never articulated a rejection of formal American citizenship in these tax

[44] Historically, some tribes have emphasized citizenship as their internal political mode of belonging more than others. Today the Haudenosaunee Confederacy is known for demanding rights and recognition through its own framework of citizenship, exemplified in recent controversies surrounding the UK's refusal to admit the Haudenosaunee Confederacy's lacrosse team who were traveling on Haudenosaunee passports (Simpson 2014).

debates[45]: indeed, I met several Cayugas who talked about being highly patriotic American citizens even when they defended the nation's tax refusals[46]. They were, however, attempting to carve out a mode of legitimate political belonging in this space that did not derive from being a group of local citizens. The nation's critics exploited the messiness between these two levels of citizenship, often invoking the uniformity of the rights of the formal American citizen to highlight the unfairness of how the CIN and its members acted in terms of local, informal political belonging. This reliance on the formal category of citizenship as a model for inclusion in the local community is itself an important insight into the political ontology of the dominant American settler-state.

In dominant understandings of the nation-state, a bounded national territory comprises one political community. In the US version of this model, the nation-state is comprised of divisible parts including states, counties, municipalities and individual citizens (as well as non-citizens who choose to enter the US in a legitimate manner) that together form a singular, amalgamated polity. American Indian nations are particularly good at troubling this notion of a bounded, unified entity. Conceptually, tribal modes of political belonging "problematize the modular, epistemic, and

[45] In contrast, certain other tribal nations claim rights that seemingly transgress federal rather than state or local law, and therefore their formal American citizenship is itself at issue. For example, the Kahnawà:ke Mohawk reservation transects national boundaries, which causes many problems with federal American and Canadian law enforcement. Audra Simpson writes about how the Mohawks of this reservation "are nationals of a precontact Indigenous polity that simply refuse to stop being themselves. In other words, they insist on being and acting as peoples who belong to a nation other than the United States or Canada," (2014:2). In contrast, the CIN's members are not—at least in the particular context of their local tax refusals—trying to claim political belonging that defies or contradicts their American national citizenship.

[46] There may very well be Cayuga people who see their American and Cayuga citizenships as mutually exclusive, although I never encountered this idea.

universal space of the modern nation-state," Biolsi (2005: 241). As Bruyneel writes, "Indigenous tribes straddle the temporal and spatial boundaries of American politics, exposing the incoherence of these boundaries as they seek to secure and expand their tribal sovereign expression," (2007: xv). Nowhere is this clearer than in the ways they deal with the fiscal demands of neighboring, non-tribal government entities.

Dissertation Outline

During my research, I encountered several different versions of the larger debate over the CIN's fiscal obligations. Most of these individual conflicts had come to a head several years prior to my arrival, although they were still being played out during my fieldwork. Another erupted on the scene toward the end of my time in Seneca Falls. Each of these conflicts involved a specific court case, but the related events and discourses expanded far beyond the courtroom, dividing public opinion in their wake. This dissertation is organized into four chapters, each of which examines one of these conflicts and unpacks the terms of debate for the stakeholders.

In 2003, the CIN opened Lake View Trading II in Seneca Falls and began to sell cigarettes and gasoline without charging taxes. Within five years, town and county police had seized equipment and merchandise from this facility on the grounds that it was private property subject to local and state tax codes. The CIN sued the counties and towns that had taken those actions, commencing a four-year struggle that included several trials. In the end, the appellate judge upheld the CIN's right to sell cigarettes on its land without charging customers sales and excise tax. In the years that followed,

representatives, leaders and members of the CIN continued to operate their store and defend its tax-free operations. Over that time many local people—and others not so local—came to accept that Lake View was on reservation land and as such, the facility's "exceptional" status offered them benefits[47]. Still others continued to fight in whatever capacity they could to shutter the store. In Chapter One, I lay out the events that precipitated this court case, and analyze the legal arguments made by both sides as well as the resulting decision. I then go on to examine how people continued to discuss these issues years later during the time of my fieldwork. This controversy over the CIN's obligations to collect sales and excise taxes sheds light on the different ways in which tribal sovereign entities today are deeply entangled with and also resist being subsumed into the surrounding political and economic communities of the American nation-state.

Since Lake View opened its doors in 2003, the CIN has spent much of the resulting revenue buying property in its historic reservation area. After the CIN lost its land claim in 2005, the nation petitioned the BIA to take these acres into federal trust, which the Supreme Court deemed the "proper mechanism" for re-establishing a sovereign reservation in the *City of Sherrill* decision. Among other things, this would entail removing the land from the local tax base and jurisdiction. This petition has not yet been successful, but the conveyance of this land to federal trust is a possibility that

[47] I use the term "exceptional" in this context to demonstrate how many of the CIN's customers perceived the nation (i.e. as a political entity that comprised an exception to local and state laws). This is not to say that the CIN is in fact an unruly subject that poses an exception to the sovereign settler state; in many ways the CIN claims that it is not a subject at all. The fact that so many Seneca Falls locals perceive them as "exceptional," and the fact that the CIN consistently refuses that label, is at the heart of the tension that this dissertation unpacks.

is always on the minds of many Seneca Falls residents. In Chapter Two, I look at how local residents talk about the implications of a Cayuga reservation comprised of federal trust land. In particular, I examine how town and county officials conceive of Cayuga trust land as an entirely foreign body, which, if located within the confines of Seneca Falls, would present an invading force that would destroy the integrity of their communities. This reflects a binary in which Cayuga land, and tribal land in general, must either be fully interpolated into the settler state, or be located fully outside of it. This is in contrast to how the CIN representatives described the possibility of trust land, which, in some of their descriptions, could have defied this either/or situation and in doing so, created the conditions for cooperation and economic prosperity for the larger region.

In the years since the CIN began buying property in and around Seneca Falls, it has refused to pay the local taxes on most of those properties. When Seneca County moved to foreclose on these properties, as it regularly does with any tax delinquent parcel within its borders, the nation counter-sued and claimed sovereign immunity. The judge in the resulting court case upheld the nation's defense (although he explicitly stated that the argument was "contradictory" and made little sense). In Chapter Three, I again chronicle the events that led up to this court case and analyze the legal arguments made by both sides, before examining how people thought, spoke and acted about these issues during my fieldwork. Property taxes emerge as one of the most symbolic expressions of local citizenship, which was the only mode of political belonging offered to the CIN. By refusing to pay property taxes, the CIN was

upholding its claim that it belonged in this space not as a local citizen, but as a sovereign nation.

I arrived in Seneca Falls in the Autumn of 2013, believing that the CIN constituted a single political group. However, I soon learned otherwise. Divisions within the CIN came into relief over disagreements about how the revenue from the gas station should be managed and distributed, and a different "faction" of Cayuga leaders forcibly took over the Seneca Falls gas station in Spring of 2014. In the following months, episodes of violence periodically, and local and county police were often called to keep the peace. The two factions ended up using the state court system in an effort to prove why the other faction should be evicted from the property, ironically calling upon the state to uphold the proper order of Cayuga sovereign governance. In Chapter Four, I examine the events that led up to these trials, the trial events themselves, and what happened afterwards. As both factions tried to demonstrate why they were the rightful possessor of the property in question, they embarked upon regional public relations campaigns. In these campaigns, the two factions proposed alternative models of how they planned to "contribute" to the Seneca Falls community. Their alternative campaigns entailed different models of the territorial, social and fiscal relationship between the political entities of Seneca Falls and the CIN. In turn, the ways that local politicians received those campaigns reflected their own concepts of the proper place for tribal culture in Seneca Falls and the modern-day USA.

In this dissertation I show how local tax controversies work as a key venue for debating what role the CIN is allowed to take on in the town of Seneca Falls (and Seneca County). This discussion sheds light on how American polities across all levels have used taxation as a fundamental strategy for incorporating Indians into the political imaginary of American citizens. It also shows how American Indians have resisted that strategy, both historically and today.

CHAPTER 1

SALES TAX

Introduction

One warm afternoon in early October 2013, I drove to the Seneca Falls branch of the CIN-owned gas station, Lake View Trading. This building is a small cube of a store three miles outside of the historic village district. It has two outdoor pumps and a parking lot circumvented by a long gravel track. Beyond the track is a grass field with several smaller buildings. Across the road is a miniature golf course, an ice cream stand and a bakery (all owned by the CIN), as well as a few raised ranch houses (owned by various non-Cayuga local residents). Quiet traffic and an open, flat landscape usually make the area feel that it is far away from the center of things. But on that October afternoon, the place was full to capacity.

That day, Lake View Trading was hosting its ten-year anniversary party. I had heard about this event a few days before on a regional commercial radio station. In a sponsored plug, the DJ read off a list of what would be offered during the upcoming celebration. His words were bookended by a familiar jingle inviting the listener to "discover the nation next door." In the short time I had already spent in the town, I had heard several versions of that advertisement on local radio; it was regularly updated to provide listeners with the current price of gas and news about upcoming cigarette sales. On this occasion, the ad promised special prices on cigarettes and gasoline, a party with free food, raffles and other giveaways. Many people must have heard the same radio announcement, or perhaps they learned about the party from the posters

that were taped to the main doors when they visited the shop in the preceding weeks. In any case, when I arrived at the store on that October afternoon, the parking lot was full and new arrivals were being directed to other nation-owned properties across the street.

The people whose cars were now occupying three parking lots milled about the gravel-covered space in front of the store. There was a table set up where the staff handed out free hot dogs and soft drinks. Next to the food tables was an interactive game where guests could spin an arrow and receive prizes based on where it stopped. Prizes included cartons of the nation's name-brand cigarettes, a bulk load of water bottles from the nation-owned spring, and Lake View gift certificates, among other things. If the arrow landed on "Sorry," as it did when I spun it, there were lighters or air fresheners with the store's logo to choose from as consolation. In addition to this game, everyone was given a free ticket for the raffle in which a big screen TV, a computer monitor, and a tablet were to be given away. There was even a Money Machine, where guests were assigned numbers that were randomly called out, granting the bearer of that number the chance to step into a sealed wind chamber for one minute where they could keep as many of the dollar bills flying around as they could grab.

People congregated around the machine to watch others try their luck. I struck up a conversation with the man standing next to me, who was wearing a black tee shirt with an eagle and an American flag spread across the front and the slogan "Freedom isn't Free" on the back. He claimed that he never won anything. "But it's still fun to

come out. I like coming here. They're good to their customers. They do things like this," he said, gesturing to the festivities all around us. Most everyone at the celebration seemed to be thinking the same thing. Many of them, like my neighbor, chatted with the staff on a first name basis.

After the raffle was finished, a woman came through the front doors carrying a giant sheet cake. "This is to thank you all for coming down to Lake View for ten years." she called out. "We really appreciate it!" People rushed over to get a slice.

The main reason that the Lake View Trading store in Seneca Falls had so many customers that day, as well as on other days, is that its cigarettes are very cheap. Members of the CIN, the store's employees, and customers all appreciate these cheap cigarettes and the associated opportunities for employment and revenue; but not everyone that I met during my fieldwork held Lake View in such high regard. In Seneca Falls, there were many residents who believed that Lake View Trading was a local business exploiting loopholes in order to avoid collecting the sales taxes that all other competing businesses had to charge. They argued that the land where the CIN's business operated was part of the town and county and therefore subject to all the same tax laws as neighboring properties.

This conceptual framework presented two options for the CIN's belonging in this space: either the nation could begin to act as a local citizen by charging/remitting taxes to the local government, or, by refusing to do so, the nation could reject local political membership altogether. However, despite the nation's many critics who had naturalized this binary framework, I witnessed many complex relationships at Lake

View Trading which demonstrated several ways in which the CIN defied such a strict insider/outsider dichotomy.

Lake View Trading: a Qualified Reservation

When the Lake View stores opened in 2003, after nearly 25 years of land claim litigation, county and local politicians were not on friendly terms with the CIN and for the most part were highly critical of the stores' tax-free operations. They argued that these tax-free sales denied the county and the state their respective 4% shares of sales tax revenue, in addition to denying the state cigarette and gasoline excise taxes; but their hands were tied due to the recent 2001 District Court *Cayuga v Pataki XIV* verdict. These relations did not improve in the years following the *Cayuga v Pataki XV* decision that dismissed the land claim in 2005; many local politicians had hoped that the dismissal would require the nation to begin collecting taxes, but nothing changed at the Lake View stores. The issue finally came to a head when county and local police forces seized the Lake View stores' unstamped cigarettes and computers in 2008, prompting the CIN to counter-sue ("*Cayuga v Gould I"*[48]).

With the land claim argument exhausted, the CIN's legal team took a different approach. The lawyers argued that the Lake View properties themselves—as opposed to the whole 64,000 acres of the former land claim area—comprised a "qualified reservation." This is a term from a 1939 New York tax law that states that "qualified

[48] *Cayuga Indian Nation of NY v Gould,* 2008, NY Slip Op 52478

Indians" could purchase untaxed cigarettes on "qualified reservations" (N.Y. Tax Law § 471 (1)). Because there was no active policy in place for making the nation enforce the distinction between "qualified Indians" and other customers, the question of who constituted a qualified Indian was left unexamined. The lawyers instead focused on the definition of "qualified reservation," and whether the Lake View stores could be categorized as such.

The definition of this term for the purposes of N.Y. Tax Law § 471 (1)) is given in a preceding statute: a "qualified reservation" consists of "lands held by an Indian nation or tribe that is located within the reservation of that nation or tribe in the state," (N.Y. Tax Law § 470 (16) (a)). So the question at trial was whether the Lake View Trading properties were located within a reservation. The CIN's legal team argued that:

> The convenience store properties are covered by subsection (a) because they are "[l]ands held by an Indian nation or tribe" since the Nation possesses title and they are located within the Nation's aboriginal reservation, which has never been extinguished or disestablished by the Federal government — the only entity with the power to divest property of its reservation status. Thus, the Nation argues that the term "reservation" in subsection (a) refers to property recognized as such by the federal government. (*Cayuga v Gould I* (2008): 636-37).

The counties' legal representation, on the other hand, argued that this reference to reservation couched within the definition of *qualified reservation* did not apply to the

acres in question. They argued that this reference to reservation instead "encompasses only reservations that had previously been recognized by the State Department of Taxation and Finance," (*Cayuga v Gould I* (2008): 637). They cited a 1982 tax exemption regulation that listed the Indian reservations within New York State's boundaries, and there was no mention of one belonging to the CIN. Therefore, they argued, that the term "reservation" did not apply to the 64,000-acre zone that the CIN claimed as its reservation. And therefore property owned by the CIN within those borders did not comprise a *qualified reservation* for the purposes of foregoing the collection of state and local sales tax on cigarettes.

Although the trial court judge decided in the counties' favor in 2008, the case was appealed, and in 2010 an appellate judge reinvestigated the meaning of "reservation" in light of the CIN's recently dismissed land claim ("*Cayuga v Gould II"* 2010[49]). Counter to the arguments of the counties' lawyers, the judge perceived a subtle distinction: the Second Circuit *Cayuga v Pataki XV* verdict may have determined that the CIN could not be given land or monetary compensation for the illegal loss of its reservation, but this did not mean that the Federal Government had formally disestablished the reservation. In the opinion section, the judge discussed how the land claim's dismissal "simply does not establish that the convenience stores are not located on a reservation recognized by the United States government," (*Cayuga Nation v Gould II* (2010): 642-43). He ruled that the Lake View stores should be classified as *qualified reservation* according to the 1939 cigarette tax laws that were

[49] *Cayuga Indian Nation of NY v Gould,* 14 N.Y.3d 614 (2010)

still in place. Therefore the counties were ordered to return the seized computers and unstamped cigarettes to the two Lake View stores.

The local and county government officials did not appeal the case further. Instead, they began to focus on lobbying the State Legislature to revert to the former list-based definition, and for other policies that would force Lake View to charge sales tax. The Legislature appeared to respond to their concerns: in 2011 it passed a law that required cigarette wholesalers to collect sales and excise taxes up front. This meant that when a retailer purchased an order of cigarette cartons from a wholesaler, they had to already be stamped (i.e. bearing the small sticker that indicates taxes have been paid). In response, most of the federally recognized Indian tribes and nations that are situated within New York State began to produce their own brands, which eliminated the juncture where the state would collect taxes. This created a division between "name brand" cigarettes, which are the popular non-tribal brands most people are familiar with, and "native brand" cigarettes, which are manufactured by individual Indians or nation-owned companies on reservation land. Most tribal retailers in New York State now only sell native brands, which means the state still receives no revenue.

In 2011, the CIN bought a former scrap metal processing plant that sits within its contested reservation in Seneca Falls and converted it to a cigarette manufacturing plant. Since then, the nation has been producing a full range of cigarettes and selling them at its two gas stations, as well as other native brand tobacco products. Considering that the CIN can control the cost of these cigarettes, the discrepancy between a Cayuga

brand cigarette bought at Lake View and a name brand cigarette sold elsewhere, is significant: in 2013 during my fieldwork, Cayuga cigarettes could be bought for as little as $2.00 a pack, while a pack of Marlboro Reds would go for close to $10.00 elsewhere.

The Leaky Vessel

In the *Cayuga v Gould II* appellate court case, the CIN's legal team successfully argued that the definition of "qualified reservation" was based on the Federal Government's somewhat amorphous definition of Indian reservation. But even after the CIN won the case, many county officials kept looking for ways to fight the jurisdictional distinctiveness of the CIN's Lake View properties.

The Seneca County Board of Supervisors (BOS) is comprised of elected supervisors from each town in the county. This BOS holds a general meeting each month where it votes on county legislation, but as any county politician will tell you, it is at the committee level that things get done. In addition to the monthly executive meeting, these politicians sit on sub-committees that meet monthly or bi-weekly to draft plans, budgets and legislation for the various tasks that the county administers. Within the Seneca County BOS, for example, there are committees dedicated to public works, public health services, environmental affairs, and government operations, to name a few. There is also a committee dedicated to Indian Affairs, which was created during the land claim era and continues to develop the strategies to combat the CIN's tax refusals and other acts. During my fieldwork, this was a surprisingly cohesive committee. Seneca County has strong a Republican skew but certain towns—including

Seneca Falls—often vote for Democrats. Most committees are made up of a mix of representatives from different parties. As a result, issues such as road maintenance and government operations costs can prove very divisive, and unanimous support of motions is rare. In contrast, the Indian Affairs Committee is much less contentious. Self-proclaimed "card-carrying Democrats" and life-long Republicans sit together on this committee and few votes, if any, break down along party lines.

In 2013, the chairman of the Seneca County BOS was Jeff Rasic, a contractor from the town of Waterloo that borders Seneca Falls. Rasic also chaired the Indian Affairs Committee—"the only committee I ever wanted to join because what they're doing is just so damn unfair." He took an interest in my research and allowed me to interview him several times. During our first meeting, Rasic and I sat in his home office facing his computer. Over the years he had compiled an electronic database of court decisions, newspaper articles, correspondence with state and federal officials, and many other documents that related to the CIN's tax refusals (most of which turned out to be publicly available, although his curation certainly helped me navigate this information more easily). During the hour we spent in his office, he gave me his account of how the CIN was affecting the community, pausing to bring up different documents onto the computer screen to illustrate his points.

According to Rasic, the Lake View Trading stores were still "illegal in spirit" because the *Cayuga v Pataki XV* 2005 Second Circuit decision meant that the Lake View stores "weren't *really* a reservation."

> I understand out west where those reservations have been there as long as the towns. Even longer. They're the real thing, where it's their territory. But this feels fake to me. There's been towns and villages here for hundreds of years. They can't come in now and claim those stores are a reservation.

This real-fake distinction had a dual character. He believed that the CIN had only recently decided to claim this land as reservation territory[50], and that it was "all about the money." For Rasic, the fact that the nation gained access to a revenue stream through the qualified reservation status of Lake View Trading meant that the nation was *only* pursuing this reservation for money's sake, negating the authentic connection to the land that would make it a "real reservation." Secondly, Rasic argued that the fact that Seneca County and Seneca Falls had grown up in this space before the CIN returned to reassert its reservation should disqualify the possibility of a Cayuga reservation in this space. In this model, the county and municipality had the right to a higher order of political authority because of their alleged chronologically prior position. The recognition of tribal territorial sovereignty, however partial, over any part of this space would mean a direct diminishment of state and local sovereignty.

With this perceived injustice in mind, Rasic wanted to eradicate Lake View's ability to operate as a qualified reservation. Toward that goal, he and other county officials were constantly trying to persuade state legislators to amend the definition of

[50] This belief was of course not actually true. The CIN had been trying to claim this land as reservation in some form consistently for centuries (Whiteley 2000).

qualified reservation in N.Y. Tax Law § 471 (1) so that it would not cover the CIN's property[51]. Among other strategies, this entailed sending letters to state legislators with detailed accounts of how much money the county and state were "losing" as a result of Lake View's tax-free operations. He believed that any purchase at Lake View equated to a direct loss of rightful tax revenue to New York State and Seneca County. "If the state legislators simply saw the numbers in front of them, they'd understand how big the problem is," he told me. "Then they'd find a way to change the law," referring to the potential amendment to N.Y. Tax Law § 471 (1). Unfortunately for Rasic, calculating these figures was not a straightforward project. The same legal constraints that made it impossible to shut down the Lake View stores for not collecting taxes also made it nearly impossible to procure data on how much gasoline and how many cigarettes were sold on those premises. The judge for the 2010 *Cayuga v Gould II* appeals case declared that it was illegal for the towns or counties that claimed jurisdiction over CIN-owned land to seize any of the nation's property or to halt its operations in order to find evidence of untaxed sales. Just as there was no way to compel the stores to collect/remit taxes, there was also no way to gain direct access to their sales data.

The County Manager, Rich Ringwood, who was in charge of organizing the county's finances, explained to me during a meeting in his office how he had attempted to circumvent this obstacle. One morning a few months earlier, he had

[51] Although tribal reservation classifications are almost always a federal rather than state matter, "qualified reservation" is a highly specific New York State classification that only applies to the ability to forego collecting state and local cigarette taxes.

parked his car across the street from the Seneca Falls Lake View store and counted how many people bought gasoline at the pump over the course of eight hours. He estimated how many gallons the average car would need for a full tank, multiplied the total number of people by that amount, and thereby arrived at an estimation of gallons of gasoline and diesel fuel sold on a regular day. He performed similar calculations to determine how much tax revenue was lost on cigarettes: he estimated how many packs were being sold, then multiplied that number by $4.35 (the amount of state excise tax). He explained to me that he had entered these numbers into a spreadsheet, which he then sent to the regional state senator. Ringwood emailed me a copy of the spreadsheet after our meeting. At the bottom was a box labeled "Total Estimated Lost Taxes—Annually." Inside this box was the staggering figure of $7,312,950.00[52]. "This qualified reservation nonsense means that we're hemorrhaging money hand over fist," he explained. Like Rasic, Ringwood invoked a model of New York State sovereignty that required perfectly even and uniform distribution within this space. Any tribal sovereignty that took on economic dimensions proved to be an untenable rip in this otherwise seamless fabric of the "local community."

Rasic and Ringwood invoked a model of total, uniform fiscal sovereignty over all of the state's (and by extension the county's) territory. They both depicted Lake View Trading as a gap in that otherwise even coverage, through which revenue was escaping. This envisions CIN and Seneca County as two bounded political bodies. Rasic's and Ringwood's insistence that tribal and state sovereign bodies are total,

[52] I cannot speak to the accuracy of this figure; I include it only to show his methods for calculation and the scope of the fiscal loss he imagined.

impervious institutions makes any form of Cayuga sovereignty in Seneca County and Seneca Falls seem like a harmful incursion of an external body, which directly equated to *loss* for the state, county and town.

The Level Playing Field

The Seneca County government was not the only powerful regional organization that took a position on the Lake View Trading stores tax refusals. The Chamber of Commerce that has branches in most counties and cities in the USA, is a network of businesses that serves to "facilitate interaction between our membership, government, the general public and those looking to do business in our community," (Fingerlakesgateway.com 2016). It has taken on a largely free market ideology and works to ensure that there are as few hindrances as possible for local businesses. Like other regional chambers of commerce, the Seneca County branch offers channels for businesses to purchase health insurance, lobbies politicians for regionally-specific business friendly policies, and conducts events like ribbon-cutting ceremonies to celebrate local businesses. In Seneca County, "the Chamber" has become the main organization representing the specific needs of the business owners who compete directly with the Lake View stores.

Like the Seneca County BOS, the Chamber accomplishes most of its work at the level of the sub-committee. The Economic Development Committee's role is specifically to "advocate for business-friendly policies on a state and local basis" (Fingerlakesgateway.com 2014). Like all other committees, its meetings take place in

the Chamber's headquarters, which occupy one half of a small shopping plaza on the outskirts of Waterloo, not far from the county government offices. Over pizza and soda delivered from a nearby restaurant, the business owners elected to this committee meet bi-weekly to discuss strategies for future economic development in the county. Although these meetings are not technically open to the public, they are open for the most part to anyone who wants to watch. During my fieldwork, Bob Selvin, the chairman of this committee who was also the chairman of the Chamber overall (one of its few paid positions), let me sit in on several of these meetings.

The members of the Seneca County Chamber Committee of Economic Development often discussed how the CIN's tax refusals were damaging the local economy. The Chamber's concept of "damage" differed from that of the BOS: it was not about the loss of revenue to state and local governments, but the loss of private revenue for local businesses that was caused by the nation's "unfair competition." Like that of the BOS Indian Affairs Committee, the Chamber Economic Development Committee had a specific strategy to counter this damage, which entailed regularly sending delegates to Albany to lobby the State Legislature. While the BOS focused on getting the State Legislature to amend N.Y. Tax Law § 471 (1) and change the definition of *qualified reservation*, (thereby forcing the CIN to collect sales tax like all other businesses,) the Chamber committee tried to get the Legislature to cut the taxes levied on cigarettes for all business owners in the state. This would eliminate or reduce the general price difference between tribal and non-tribal cigarettes.

In one meeting, committee members discussed an information packet about the damage caused by the CIN's sales tax refusals that they were planning to bring on an upcoming trip to Albany. One document featured images of individual slides from a PowerPoint presentation entitled "Stop the Unfair Competition." The presentation argued that New York State taxes were responsible for the loss of business across the whole state. Entitled "Up in Smoke," the final slide concluded that:

- NYS has raised cigarette excise taxes a whopping 691% over the last 10 years.
- Convenience stores have suffered an average drop in cigarette sales of 25-35%, with stores in close proximity to Indian businesses suffering losses up to 45%.
- Higher taxes are not effective smoking deterrent when tribal stores are nearby.
- NYS needs to cut taxes.[53]

This presentation argued that in locations that bordered reservations, the high state excise tax prompted potential customers to buy their cigarettes from tribal retailers. High state excise taxes on cigarettes, it argued, neither deterred smoking nor amassed revenue for the state (considering the business lost to tribal retailers), therefore they were not worth the harm they were doing to individual business owners. By eliminating state excise tax, customers would not face such a stark price difference

[53] I did not see what sources were used to compile this slide, but I have heard several of these statistics elsewhere, often in publications by the New York Association of Convenience Stores (NYACS). See NYACS 2010.

between native and brand cigarettes. This would bring more fair competition to the local cigarette market.

In the Chamber's model, the group of people who would benefit from lower state cigarette taxes extends beyond retailers. As Selvin explained to me in a follow up meeting:

> As chairman of the Seneca County Chamber of Commerce, my loyalty is to this county. And Seneca County's economy depends on these businesses. They bring jobs. They bring investment. I try to get the best conditions for them so that they can add to the local economy. Right now, that includes making sure that local gas stations don't have to charge any more for a pack of cigarettes than Lake View Trading does.

In the discourses of the county government representatives, the group that needs protection from the CIN's fiscal disobedience is "the people of Seneca County." In Selvin's discourse, "the local economy" served a similar role. Both are defined by identifiable geographic territories with specific borders that are meant to contain "a people" or "an economy." Janet Roitman discusses how Cameroonian politicians have used price regulations to delineate the spatial unit of the nation-state by constituting "that which is to be governed," (2010: 3). Although her example refers to a government's attempt to regulate certain prices, the Seneca County Chamber of Commerce's free market-based criticism of the CIN's "unfair competition" also equates the zone where goods share a comparable price with a political community. In the county politicians' model, the theoretical "just price" (Roitman 2010; Guyer 2004)

of a cigarette incorporates local and state taxes into the sticker price. The Chamber of Commerce members, in contrast, propose a model of a just price that does not arise out of common subjectivity to the county's fiscal authority, but instead arises out of "fair competition." But, like the models expressed by the BOS officials, this model espouses the view that all members of the community in question (political or economic) must be subject to the same pressures, rules and regulations.

Anthropologist Rudy Colloredo-Mansfeld notes that proponents of modern capitalism view competition that "rewards individualism, elevating that actor who dispenses with cultural constraints or social bonds to achieve economic advantage" as *fair* competition, while they view competition that arises from structural/political "position" as *unfair* (2002: 114). Healthy competition amongst different businesses would mean that a pack of cigarettes might be a few cents more at one convenience store than they were at another because an individual business owner has found a way to cut costs. But within that space, all prices should be subject to the same pressures, including the standard set of county and state taxes. Selvin was trying to get New York State to lower or completely eliminate the excise taxes that made cigarettes so expensive in the state. In his model, the CIN's ability to forego charging these taxes gave it a "position-based" form of competitive advantage. By characterizing the CIN's unique tax practices as arising from an unfair advantage rather than a distinct sovereign authority, the Chamber members rendered the CIN as an illegitimate economic player in this landscape.

Selvin and other chamber members wanted a less regulated economy in New York State, where taxes and regulations are relatively high. Many of the Seneca County officials who advocated a change in the definition of qualified reservation also believed that the state should not collect such high taxes to begin with. Both strategies called for a uniform application of fiscal policy across state, county and local territory. Both framed the CIN's claims to sovereign territory within the confines of its 1794 reservation area as an illegitimate effort to remove territory from the political and economic community of Seneca County. Members of both the Seneca County BOS and Seneca County Chamber of Commerce argued that all businesses operating within the borders of Seneca Falls and Seneca County should be forced to "play by the rules," either by remitting state and local taxes or by competing "on a level playing field." When the BOS and Chamber officials invoked Seneca County, Seneca Falls and the *local community,* they conjured a spatially delineated zone within which the people and businesses were all subject to the same political and economic rules. This framework renders a tribal nation claiming territorial sovereignty over its property, even if only for purposes related to collecting sales tax, as an illegitimate, invading body.

A Good Job and a Dollar in my Pocket

The Seneca County BOS and Chamber of Commerce both wanted to change the tax policies that created the difference between the price of cigarettes at the CIN's stores and those sold at nearby facilities. For the BOS, this entailed altering the

definition of qualified reservation in old state cigarette tax laws. For the Chamber of Commerce, this entailed eliminating the state taxes that made non-native cigarettes so expensive. Through these two strategies, both institutions upheld a model of uniform fiscal regulation (or lack thereof) within the bounded space of Seneca County or "the local economy." Many residents of Seneca Falls, however, did not agree. They actively defended and supported the existence of a jurisdictional boundary surrounding the Lake View stores. Most of the few Cayuga people living in Seneca Falls worked at Lake View, and therefore fell into this category. There were also many non-natives who supported this jurisdictional boundary. The best place to meet such people was the store itself. Therefore I applied to work at the Seneca Falls branch of Lake View Trading. I was called for an interview and, after passing a drug test, began a 3-month maternity cover stint as a cashier[54].

Lake View Trading II was open from 6 AM to 10 PM every day. For most of the day the working team consisted of the manager doing paper work in the office, an assistant manager overseeing the store operations, two cashiers behind the counter, and two pump workers out front. The morning and night shifts carried specific tasks

[54] The ethics of how I gathered data while working for the nation warrant explanation. Once I received the job offer, I informed my boss that I was researching local/tribal relations. She told me that I was the only candidate willing to work on a temporary basis, and she cared only that I pass a drug test and that I would show up to work on time. I did not use my position to learn about private tribal issues. For the Cayuga people who were my colleagues and bosses at Lake View, Cayuga politics overlapped with family matters. These issues did not interest me on an academic level. I never set out to write a dissertation about the internal politics of the CIN—my focus was always on the interface between the nation and the surrounding municipalities and counties. The relevant information that I gathered as an employee of the nation was always public: e.g. observations about how customers interacted with staff, employee narratives about why they chose to work for the nation, notes about how customers factored taxes and prices into their selection of cigarette brand.

regarding opening and closing the store, but for most of the day a cashier's job was to man the register, sell cigarettes and convenience items to customers, and restock the cigarette cartons and individual packs from the stock room when they got low. The shifts were irregular and the work required being on your feet for long hours, hectic mid-day and evening rushes, dealing with customers who were sometimes aggressive or inappropriate, and many other trying tasks. In these respects, it presented many of the same difficulties as most other service sector jobs available to Seneca Falls residents without a college degree. But there were ways in which working for the CIN was different than working for other local employers.

One night after the late shift I drove one of my colleagues who was having car trouble home from work. Daniel was from Seneca Falls and he had worked "pretty much everywhere in town that doesn't ask for a degree." Most other places paid minimum wage or, in the case of waiting tables, significantly less with the expectation that tips would bring up the hourly rate. Starting wages for cashiers at Lake View, on the other hand, were a dollar above minimum wage, which was one reason my fellow cashiers often listed about why they liked working there. Another common reason was that we were allowed to smoke indoors during our breaks, which was preferable to having to go outside in the sub-freezing temperatures of what turned out to be a remarkably cold winter. And because it was such a busy store, Lake View hired a larger number of cashiers and pump workers than most gas stations, which meant that there was always someone to talk to. Another colleague, Elsa, liked the social atmosphere. "You still have to work hard, but there are always people here. Customers, other people working. That's a lot better than when it's just you, like it

was at Nice-n-Easy," she told me, referring to the only non-tribal gas station in the land claim area where she had previously worked. And because the CIN owned several companies in the immediate area, (including a cattle farm, a fruit stand, a bingo hall and another gas station across the lake), there were opportunities to move within the larger corporate structure. One of my colleagues compared it to working at Burger King, where she held a second job. "They [Burger King management] keep saying you can become a manager or even an owner one day, but that doesn't really happen. Here [at Lake View] I could do security one day. Or work in the bingo hall. There are some good opportunities." Yet another colleague explained that he liked that they gave him the chance to leave during the summer, when he ran a dock maintenance business. "They always let you come back in the fall. There's always demand."

In addition to these favorable working conditions, there were other benefits available to long-term employees that no other company could have offered. At the time, the CIN was buying significant amounts of property within the 64,000-acre territory of its 1794 reservation (discussed more in the next chapter). Because most members of the CIN were still based on the Cattaraugus Seneca reservation 100 miles to the west, and because of certain internal political matters (discussed in Chapter Four), not many Cayuga people lived in Seneca Falls. This meant that the CIN had a large inventory of housing, which was available to long-term employees for comparatively low rent. About half of my colleagues at Lake View were Cayuga (or Seneca with Cayuga ties), and half were non-native. Predictably, all the Cayugas lived on nation-owned property (although they still paid rent), but some of the non-natives

rented houses from the CIN too. Some of my colleagues described the opportunity to live in this housing as a way of accessing the American Dream. “It’s a whole house. I love having my own, whole house,” my non-native assistant manager explained, and showed me pictures of her daughter playing in the yard. When she and other colleagues discussed what they liked about working for Lake View, they usually depicted Great Swamp Enterprises as a company that simply chose to create a slightly better working environment. The CIN’s sovereignty did not feature in these descriptions. Unpacking some of these policies that the management had implemented to retain reliable staff, however, shows that Lake View’s qualified reservation status accounted to a large extent for those more amenable working conditions.

The employees’ understanding of the reservation status of the Lake View Trading facilities was varied. Cayuga employees were intimately aware of the legal debates over their nation’s sovereignty and the reservation status of the land, though they did not offer a consistent reading of what precisely that sovereignty entailed. There were internal divides about how best to enact Cayuga sovereignty, and, as a result, this was not always a comfortable topic of conversation. The non-natives, on the other hand, often simply did not know or care about the debates over Lake View’s reservation status. On a regular basis, customers asked if Lake View was a reservation (usually out of curiosity, as far as I could tell). Some workers had better answers than others, but most did not have a very comprehensive reply to offer. During a conversation with a co-worker in the smoke-filled breakroom, she asked me in a blasé manner “Is what we’re doing illegal? A customer asked me that and I just laughed.” I once asked another co-worker about the employee practice of cashing our paychecks

at the store. She had a second job at Walmart, and I asked if she was able to cash her checks there. "Nope. Walmart doesn't let you do that. But we're *da nation*," she said, putting up her hands and widening her eyes in mock severity. These employees knew that there was something controversial surrounding their place of work. They talked about comments they had to field from local friends and family who were not happy about their choice to work for the CIN. But insofar as they thought or cared about Cayuga sovereignty, they usually saw it as the phenomenon that allowed their employer to offer a range of perks that made their lives easier. While most of my co-workers did not care about the reservation status of Lake View on its face value, that status created the working and living conditions that had become very important to them indeed[55].

This was similar to how Lake View Trading's customers understood the concepts of Cayuga sovereignty and a qualified reservation. There were many regulars who liked to chat with cashiers during the less busy times of the day. Occasionally we had customers who clearly took issue with the CIN. I learned to recognize microscopic aggressions, such as tossing cash down on the counter instead of passing it hand-to-hand. Others were less subtle. One man stormed in and demanded to talk to "the big chief," because he was angry that the potholes in the driveway had got so big. "He's

[55] In the interest of balance, it is important to note the instances I witnessed when employees' lack of understanding of tribal sovereignty worked against them. One non-native local woman worked at the CIN's cigarette factory, where she hurt herself. She did not learn that Great Swamp Enterprises did not participate in New York State workmen's compensation or that she would not be able to sue the management until after the accident, which made her feel bitter towards the nation.

got so much damn money. When's he gonna fix it?" The man grudgingly bought a pack of double berry cigarillos, but first he made his displeasure known.

Despite stories like this, most customers were grateful for the low price of Lake View Trading cigarettes and gasoline, and did not resent the store at all. Even when customers were disappointed that we did not sell name brand cigarettes, they were easily ameliorated by our low prices and our advice about which of the native brands and flavors they should buy that would most accurately replicate what they were looking for. When I told one man we did not sell Marlboros, he let out a sigh but then commented "I understand. Those bastards don't need any more money." He left with two packs of Seneca silvers, and came back a week later for more.

Some customers even appeared to relish the act of buying unstamped cigarettes at Lake View. Soon after I began to work there, we began to sell e-cigarettes. About a week after we first put them on the shelves, a woman hurried in and asked for this type of cigarette, having heard from a friend that we were now selling them. "I didn't see them advertised out front, but I know most places don't let you advertise those e-cigarettes because they say it makes kids smoke." Another woman in line let out a friendly laugh and said "Not here. They don't play by the rules here. That's why we support them!" The woman in search of an e-cigarette nodded in circumspection. "I know what you mean. I love my country. I just don't love my government."

Espousing this sentiment most clearly of all, one of my favorite regulars, who always came during the slowest part of the day between 9 and 10 PM, came in right after we raised some of our prices. Many of the customers had complained: some of

them always came in with exact change and were missing the 25 or 35 cents for the new prices. But this man saw that our prices had gone up and it made him smile. "You're still a hell of a lot cheaper than anywhere else. All the state does is take take take. But I always leave here with a dollar in my pocket. You guys take good care of your customers." An elected county representative might have argued that the county or the state would have taken care of this customer with revenue from excise taxes, if the nation had paid them. And a member of the Chamber might argue that the invisible hand of the market would have created the conditions for better jobs and private amenities for all who wanted them, if the CIN did not have such an unfair advantage. For many Lake View customers, however, the tobacco companies and New York State formed an unholy alliance that simply charged the customer too much. By keeping prices low and "looking out for the little guy," they saw the CIN as taking on a more protective role than either the government or big corporations. In this way, most of Lake View's customers came to see the nation's stores as a valuable and important feature of the local economic landscape. Ironically, it was the jurisdictional boundary surrounding the Lake View properties, enabling the stores to charge no sales or excise tax, that caused customers to integrate these stores into their everyday lives and into their understandings of the local community.

The Contingent and Relational Border

Without diminishing the impressive loyalty of Lake View's employees and customer base, most of the non-Cayuga people who worked and/or bought their

cigarettes at the store supported the existence of a jurisdictional border around the property only insofar as it provided them with cheap cigarettes and stable employment. In an inversion of Cattelino's (2008) description of the importance of a revenue stream for tribal sovereignty, customers saw having "an extra dollar in their pocket" as a deeply meaningful benefit in their lives that exceeded the monetary value of those savings. In this context, few people who frequented or worked at Lake View knew about or cared to know about the specific legal arguments surrounding Cayuga sovereignty. The non-Cayuga staff generally had very limited understanding about the definition of *qualified reservation* and other sovereignty-based legal arguments that allowed Lake View to operate tax-free. The Cayuga members may have been more familiar with these legal concepts, but they demonstrated no interest in discussing them with me. When I asked various Cayuga staff members why the stores were allowed to sell untaxed items, they would simply say "it's sovereign territory." Once when I pressed my Cayuga manager for more clarification on the issue, she shrugged and told me "You'd have to ask the lawyers." Although she may have said this in order to end the conversation, I chose to interpret it as advice, and I soon followed her suggestion.

One cold December night, the manager on duty brought a cake to the counter. "It's a Christmas gift from Jacob Ellis, the lawyer," she said before offering us slices. In this way, I learned that the nation was still involved with the firm that had represented it during the *Cayuga v Gould* trials. I looked up Ellis's email address and reached out to him to discuss some of the issues surrounding tribal cigarette taxes, qualified reservations and other aspects of Cayuga sovereignty. Although he would

never have responded to such a request normally, because of my Lake View Trading connection he invited me for an interview at his office in Syracuse, about an hour's drive away[56].

When I arrived at our pre-determined hour, Ellis ushered me into the conference room, making jokes that followed on from our prior email exchange about how any conversation about the CIN's legal issues would far outlast our allotted time. He was, literally, a colorful character wearing green trousers and a florescent pink tie, who paced around the room while he talked and made dramatic gestures for emphasis. Based on his description of the types of lawyers that have worked with the CIN, I understood that this flair would have served him well as a trial lawyer, as opposed to other lawyers "who stay behind the scenes," planning out the nation's legal strategies relating to taxation and other issues. Although I had a list of questions that I could ask if necessary, I rightfully assumed that Ellis would provide a narrative about the CIN's recent legal history without much prompting. He asked how I wanted to proceed, and I asked the question I came to rely on in such interviews: "How did you get involved with the CIN?" Although the answer to this question always began with a personal story about the lawyer-in-question's career path, as usual, this soon led to a discussion of specific legal matters.

[56] Although most of the data that I gathered through my job at Lake View was based on public observations, the position did grant me one type of access to more private information than I would otherwise have encountered: the nation's lawyers and corporate officers that I was able to meet in one-on-one meetings all told me that they would not have granted me an interview if I had not worked in this capacity at Lake View. At no point did they share with me privileged information, but they kindly gave me more detailed and subjective opinions and accounts of the relevant issues than I would have heard otherwise.

Ellis began with the end of the land claim era. He asked me how familiar I was with the doctrine of laches, which had formed the backbone of New York State's successful appeal of the 2001 District Court decision that had upheld the nation's claim. As invoked by New York State's legal team, the laches defense essentially deemed that the CIN had waited for an unreasonable period of time to press its case for trespass (the duration of which was the metric that the jury used to determine financial damages). Many legal experts argue that the laches argument should have been dismissed because there were many impediments that had kept the CIN from making its land claim before 1980 (see footnote 25, page 31). Ellis, however, did not dwell on the unfairness of this use of laches. Instead, he aped how the state must have interpreted the CIN's lawsuit after two centuries. "It's been what…200 years? Where have you been?" he asked rhetorically. Then he went on to describe how that decision prompted the CIN to change its strategy for building a reservation. "The proper method," he explained, was to prepare a Land-Into-Trust petition. This entails tribal nations purchasing land and having the Federal Government convert the title to trust land. I will describe this tool in more detail in later chapters. For now, I highlight this portion of our conversation to demonstrate a recurrent theme in his narrative: the CIN has consistently "played by the rules," in the sense that the nation has always exercised its sovereignty through legal—if sometimes unpopular—means. Whenever the Federal Government has deemed those means to be illegal, then the nation has changed tack. "We follow the law, but we also exercise our rights under the law." Litigation became a tool for defining sovereignty in practical terms. This narrative

framed Cayuga sovereignty as a moving target that was contingent on what could successfully be defended in court.

This method of manifesting Cayuga sovereignty through litigation is not a sidebar to what Cayuga sovereignty really is, but in fact has come to be a crucial instrument in defining the possibilities of that sovereignty. Elan Fausto, another lawyer who worked for the CIN out of Washington DC (where many tribal nations hire legal teams to work on federal cases and lobby federal legislators,) also agreed to meet me because of my ties to Lake View. Responding to the same question about how he came to work with the CIN, Fausto explained that the idea of an Indian legal specialist was relatively new.

> 40-60 years ago, you could count Indian legal specialists on two hands. If you didn't have two nickels to rub together, you didn't need a lawyer. The land claims changed that, beginning in the 50s. They started to acquire some land, and that gave them a base for economic development. Then bingo really got going in the 70s and 80s, and the states weren't happy. Congress said "we can't stop it but we can regulate it," and that led to IGRA. Casinos plus money means lawyers. So that's why there are so many of us today.

As both Ellis and Fausto described it, enacting tribal sovereignty—specifically Cayuga sovereignty—was a cat-and-mouse game with federal, state and local regulators. At one point, Fausto put this rather bluntly: "Part of my job is to work as a translator. Clients want to understand what the law means…they don't like to hear that they can't do it, unless it is followed in the same breath as here's how you can do it." Fausto's

background was in tax law, and this comment was not specifically about the CIN; this was his description of his role as a lawyer for all of his clients. But because of the intimate role of litigation, lawsuits and lawyers in the modern practice of enacting tribal sovereignty, this cat-and-mouse aspect of law is a central aspect of how the CIN is able to express and manifest its sovereignty today.

The Lake View Trading's tax-free operations also embody and reflect this contingent model of Cayuga sovereignty. Fausto described how the CIN's legal team had decided to invoke the qualified reservation argument for the *Cayuga v Gould* cigarette tax case.

> Yes, Lake View is a qualified reservation, and there isn't a good way around its present definition, which is a simple term of art in NYS tax law. But there are other conditions in which the state could have stepped in. There's a balancing test. A state lawyer could argue that a tribe is trying to make money out of a loop hole and the state needs money for roads, so maybe the state wins. Or a nation could argue that it employs a significant number of people, so the nation wins. It's subjective. It's always a balancing act.

Elan Fausto was not saying that the Lake View Trading property was not in fact a qualified reservation. Rather, he was arguing that at its root the case was not really about a definition. Instead, the courts weigh the costs and benefits of their decisions, and how one sees potential costs and benefits is open to argument. If the qualified reservation framework had not been successful, the CIN would have tried another

strategy to enact some form of sovereignty over this territory and to gain a revenue stream.

Indeed, as far as Fausto was concerned, claiming that the Lake View Trading properties were qualified reservation and could therefore sell cigarettes and gasoline without charging customers taxes was only one of several approaches the nation could have taken. He mentioned a program that the Oneida Indian Nation (OIN), which he had also served as legal counsel, had proposed to New York State. The OIN reservation is 100 miles to the east of Cayuga Lake. Oneida tribal retailers have sold gasoline and cigarettes untaxed for years, beginning in the 1970s when state tobacco taxes began to rise. The program Fausto mentioned was a *tax parity agreement* with the state, according to which the OIN would place a charge on its cigarettes and gasoline that was close to the amount of state excise tax. As Fausto explained, "In theory the state finds it attractive. It forces cigarette prices up and makes the disparity less." He described how this idea had followed decades of acrimonious relations between the OIN, nearby counties (Madison and Oneida), and New York State, much like those currently characterizing relations between Seneca and Cayuga counties, the state, and the CIN[57]. After years of conflict, he described how the options had boiled down to "keep fighting or find a way to split the baby." He explained that he was continually disappointed with how the county governments in areas where tribal

[57] In some respects, relations between state, county, local and Oneida governments are still acrimonious. However, the OIN's Turning Stone casino is now a major employer in the depressed region. Officials on both side now recognize the importance of this institution for the regional economy, although there are still pockets of local resistance to the nation's sovereign status and the reservation status of its land.

reservations were based seemed unwilling to compromise. In his opinion, both the OIN and the CIN had always been willing to compromise. These tribal nations had no interest in—or at least no way of attaining—an all-or-nothing type of sovereignty. "They're not trying to take everything. It's that the counties can't seem to share anything."

The tax parity agreement between NYS and the OIN never went through, although it is still under consideration. But the economic rationale behind it guided some of the pricing schemes of the Lake View Trading stores. The CIN's CFO was a non-native woman (her own term of self-identification) named Diane Raelish who had previously worked for the OIN, and still maintained professional contacts with that nation[58]. In her office in the CIN's corporate headquarters, she explained to me how the corporate team came up with the prices of Lake View's gasoline, which she described as based on "the Oneida model." Every day Raelish would send an employee across the county to look at the prices of the gas stations nearby, and lowered that number by a small but substantial amount. "Enough savings to attract a customer. Enough disparity, but not enough that you're rubbing it into the noses of your competitors. Usually 6 or 7 cents cheaper per gallon." I asked why she and the rest of the corporate team did not choose to *rub it in*, so to speak. She responded with a sports metaphor. "In a football game, if you're up 30 to 0, back the hell off. Don't jack it up to 75 to 0." I asked why the disparity between the price of a pack of

[58] Many of the corporate employees of the CIN had prior professional experience with the OIN, whose financial success served as inspiration to certain CIN officials. Other members of the CIN, however, did not want to pursue this type of large scale, casino-based economic development. The ensuing disagreement over this issue forms a substantial part of the discussion in chapter 4.

cigarettes was so much higher, and she argued that it was because of choices New York State had made. “They charge such ridiculous excise taxes,” (she was a smoker herself—“a Marlboro woman through and through”). “The State didn’t want the tribal retailers to be able to buy unstamped cigarettes, so they started collecting the taxes further upstream. They really shot themselves in the foot. That’s on them, not us.”

In this discourse, the OIN and the CIN were not trying to suck up all available revenue, as most county BOS and Chamber of Commerce officials depicted them as doing. Instead, they wanted some version of sovereignty on their territory that would manifest as an advantage in the market, and by extension grant them a reliable revenue stream. But Raelish did not believe that this advantage necessarily meant that the Lake View stores wanted to eliminate all competition. As Raelish saw it, both sides could embrace the level playing field of fair competition, which would incorporate the sovereign status of the CIN’s property. She compared the relationship between the CIN and Seneca County and New York State to a hypothetical relationship between two friendly nation-states. “I consider them to be a different nation, but it doesn’t have to be adversarial. It’s not Iraq. It’s not a North-South division. There is absolutely a way to coexist in a beneficial way.”

Audra Simpson’s examination of Mohawk “nested sovereignty” that functions “within and apart from settler governance,” (2014: 11) parallels Raelish’s discussion of the possibility of coexistence between the CIN and other political entities in Seneca County. Jessica Cattelino (2008) writes about a similar relationship between the Seminoles and the state of Florida. However, by framing Seminole sovereignty as

"interdependent" rather than "nested" in the larger settler-state matrix, Cattelino focuses on the ways in which the Seminole-FLA relationship can be mutually beneficial. Cattelino presents her analysis as a rebuttal to the common accusation that Seminole sovereignty (and that of other tribal nations) is "all about the money." She carefully demonstrates that money is not exclusively the "abstracting and deculturalizing force" that it is often depicted to be (2008: 3), and that its *fungibility* has allowed the Seminole Nation to produce and reproduce things of high cultural and political value. She argues that the Seminoles' gaming revenue stream should not be depicted as a loophole that has been falsely invoked in the name of sovereignty, but instead as the very thing that engenders Seminole sovereignty in the modern world. In the modern US, being "institutionally and economically enmeshed with others" (2008: 161) is an inherent part of tribal sovereignty, in contrast to the autonomous model of sovereignty that state and county officials claimed the CIN was pursuing.

As the CIN's lawyers described, the nation was fighting for a type of sovereignty that would grant it an advantage in certain limited local markets. For the CIN's representatives who managed the nation's businesses, this type of sovereignty was inextricably linked to surrounding non-Cayuga people and polities. This mode of sovereignty is interdependent, and, as I have shown in my discussions with the CIN's lawyers, it is also adaptable. These relational and contingent aspects of Cayuga sovereignty mean that there is a jurisdictional boundary around the qualified reservation properties of the Lake View Trading stores, but that boundary is not impermeable. In this model, the CIN functions both as a distinct polity and also as part of the local economy and the local community, illustrating the tensions between ideals

of sovereignty-as-autonomy and how tribal sovereignty (indeed all sovereignty) works in practice (Murphy 1996; Agnew 2005; Cattelino 2008; Simpson 2014).

In contrast, the Seneca County officials and Chamber of Commerce members depicted the jurisdictional boundary surrounding the Lake View stores as an instrument with which the CIN attempted to render itself completely distinct from the greater region and the people who lived there. They were unable (or unwilling) to envision a semi-sovereign tribally owned property within Seneca Fall's borders that could function as part of the local economy without being subject to the local taxing jurisdiction. This refusal to imagine such a possibility reproduces Bruyneel's discursive dichotomy of American Indian belonging in the larger national body politic that allows only citizen-insider and hostile outsider. These two options allow no space for tribal sovereignty in practice: a tribal nation is either subsumed into the American state as a collection of American citizens, subject to all of the same rules and regulations as everyone else; or the nation must act as a fully sovereign political entity that is not part of the American state—something which is impossible for *domestic dependent* tribal nations to do.

The conviction that Cayuga sovereignty must entail a full rejection of political and economic belonging in the larger community or else it does not count flattens all sovereign claims into a model of jurisdictional authority that evenly blankets the entire space of a polity. However, no modern government exercises this sort of absolute sovereignty. While the CIN has been forced to practice a particularly relational and contingent form of sovereignty, all sovereignties—including those of New York State

and the US—are in fact relational and contingent. Lake View Trading's continued tax-free sales not only demonstrate the persistence of Cayuga sovereignty in a space where (in the minds of the store's critics) it should not exist; the failure of the local and county governments and the county Chamber of Commerce to successfully lobby the State Legislature to curb these tax-free sales also reveals how state and local sovereignty are themselves not the consistent and even phenomena they are supposed to be.

Conclusion

In this chapter, I have examined the different ways in which the various Cayuga and non-Cayuga residents and officials of my fieldsite have marshalled the untaxed gasoline and cigarettes sold at Lake View Trading in Seneca Falls into different narratives that defend, reproduce and also challenge the boundaries understood to surround and contain the "local community." These cigarettes and gasoline can be sold untaxed because of a rather uncommon type of jurisdictional boundary around some of the CIN's land that has recently been implemented and successfully defended in court. But although this jurisdictional boundary has a highly specific legal definition and application, various stakeholders in Seneca Falls interact and imagine this boundary in different ways.

As Seneca County officials lobby to change the definition of *qualified reservation* so as to exclude the CIN's land, they invoke the jurisdictional borders of the county as the proper boundaries of the local community. When the members of the

Chamber of Commerce talk about the "level playing field" they invoke a spatialized model of the local economy with boundaries of its own. By refusing to acknowledge the validity of Cayuga sovereignty over this space, the members of both organizations come to conceive of Lake View Trading as an interloper demanding exceptional treatment and transgressing the proper boundaries of the community. These two strategies for opposing Lake View's tax-free sales invoke a bounded group that rightfully occupies this space, and demand that the CIN join that group. This strict inside/outside dichotomy is itself a fundamental instrument in the centuries-old project of incorporating Indians into the national American body politic (Bruyneel 2007).

On the other hand, the CIN's customers and employees acknowledge Cayuga sovereignty, and believe that it helps the CIN provide them with better jobs and allows them to save money that they can then spend elsewhere. They argue that the existence of this jurisdictional border makes the Lake View Trading stores a valuable part of the local economic community. The lawyers and corporate officers who have helped design the particular formation of the border around Lake View Trading also argue that this boundary provides the nation with a revenue stream, without necessarily removing the nation's territory from the wider political and economic community. This model in which the CIN exists as both a distinct sovereign entity and simultaneously as a part of the "local community," complicates the inside/outside dichotomy that has always constrained dominant American understandings of American Indians' place in the national body politic.

CHAPTER 2

TRUST LAND

Introduction

During the winter of 2012, I received a notification from the UCE mailing list about an upcoming event: a free bus tour (which the UCE was advertising but had not organized) that would be "an opportunity for awareness of the impact the Cayuga tribe is having specifically in Seneca County where they have purchased over 1,000 acres of land that they are not paying taxes on." I signed up for a spot on the tour, and two weeks later drove to the designated meeting spot outside of the Seneca County office building.

In the parking lot, I spotted a crowd of about 25 people gathered around a parked bus, and I walked over to join them. The bits and pieces of conversation that I overheard indicated that this group was a mix of town and county residents, regional journalists, and aides of local politicians, among others. Many of them seemed to know each other and were catching up on news of business, family and friends. Soon after I arrived, a man broke away from the crowd and began to speak as the others shivered and rubbed their hands together in the final cold snap of the year. He introduced himself as Tom Braeburg, although the other passengers seemed to already know him on a first-name basis. He gave a small speech thanking the anonymous donor who had paid for the bus and setting the scene for what we would witness once

the bus departed: “We’re going to see firsthand what kind of damage they’re doing, and planning to do, to our towns and counties.”

Over the following hour, the bus snaked along the county and town roads of Seneca Falls, where the CIN had bought over 1,000 acres in the preceding four years. Braeburg stood at the front and talked as the passengers looked out of their windows to view the scenes that he was narrating. The bus slowed down whenever we passed a CIN-owned property, and Braeburg would relate to us the publicly available information about who had sold the parcel to the nation, how much they had paid, and how big its current tax bill was. The CIN’s property tax bill was a contentious issue: the nation was at this point refusing to pay the tax bills on most of the properties that it owned in Seneca Falls based on the doctrine of tribal sovereign immunity, which I will discuss further in chapter 3. When Braeburg listed these numbers on the bus tour, many of the passengers shook their head in disgust.

When the bus turned into a cul-de-sac of upscale, modern homes, Braeburg explained that almost all of the properties there were now owned by the CIN. A man sitting toward the front pointed out his own home amidst the others. “You see? I’m surrounded,” he said angrily. Braeburg used his story to demonstrate the damage that the CIN could wreak on the community. “This is what they do,” he explained from the front of the bus. “They buy up one property at a time and eventually they’ll own the whole town. And just like that, there’ll be a reservation here before you know it.”

After 30+ years of litigation over the land claim, Lake View’s untaxed sales, and other issues, whatever channels of communication that had ever been open

between municipal and tribal officials had long ceased to exist. The lawyers for the town and nation would communicate in court if and when legal issues arose; but there was no direct interaction amongst CIN, Seneca County and Seneca Falls government officials. Because of this, apart from the CIN representatives themselves, no one in Seneca Falls—not even Braeburg—could speak to the exact motivations behind the nation's recent purchases of all of this property. And yet many believed that the CIN was making these purchases as a reservation-building strategy. Nearly seven years before, in 2005, the CIN had petitioned the federal Bureau of Indian Affairs (BIA) to take the property that it owned in Seneca and Cayuga counties (the two Lake View Trading properties) into trust. This is called a Land-Into-Trust (LIT) conveyance, which entails the Federal Government taking nation-owned private property into trust and removing it from state and local jurisdiction (although the land remains subject to a mix of federal and tribal law[59]). In 2009 the BIA rejected the CIN's LIT petition due

[59] This process was authorized in 1934 by the Indian Reorganization Act (Public Law 78-383 (25 U.S.C. ch 14, subch. V § 461 et seq)). This act was passed by Congress in response to a recognition by the Federal Government that the previous 50 years of Indian policy had effectively entailed a system for the "legalized misappropriation of the Indian estate," and had significantly curtailed the abilities of many Indian nations and individuals to prosper (78 Cong. Rec. 11727-11728, 1934). These earlier policies have been characterized as the "allotment era," referring to the policies stemming from the 1887 Dawes Act (Public Law 49-119 (24 Stat. 388)) that were designed to sub-divide Indian reservations into individual parcels and "allot" them to individual Indians. The Federal Government Department of Land Management then claimed and sold the "surplus" parcels, thereby reducing Indian lands across the country by close to 90 percent over the course of fifty years. In 1934, the Roosevelt administration developed this act in attempt to reverse this approach to Indian nations, and implement policies that promoted self-determination. It instituted ways for Indian nations willing to develop and ratify constitutions of their own to claim back some of their land. This primarily included the LIT method, through which Indian nations and tribes could buy land privately and petition the Department of the Interior's Bureau of Indian Affairs (BIA) to hold it in trust for them. Since then, LIT processes have accounted for the transferal of about 8% of the land that Indian nations lost in the era of allotment.

to insufficient documentation, but the rejection, which was publicly available, stated that the nation could reapply at any time. Even after the BIA's decision, the CIN continued to buy property in Seneca Falls and nearby towns, leading Thomas Braeburg and many other local residents to suspect that the nation was preparing to submit another LIT application.

On the bus, after Braeburg expressed his belief that the CIN was building a reservation "one acre at a time," an older woman piped up from behind me: "And then, if we're still here, who knows what will happen to our taxes!"

"Exactly," Braeburg responded, "They're attacking our tax base. That is precisely how they'll break us."

By claiming that the CIN was "attacking" the tax base, it may appear that Braeburg was expressing financial concerns about the loss of revenue that would result from a diminished tax base. The financial implications of CIN-held trust land in this space, however, were not so straightforward, as I will explain below. As Braeburg narrated this tour (and in our other conversations), he equated the territorial unit of the Seneca Falls tax base with a socially bounded unit of the Seneca Falls community. This discourse framed the possibility of Cayuga sovereign territory within the boundaries of the tax base as the real threat, rather than any loss of public revenue. Such sovereign tribal territory would comprise a hostile incursion into the local community, reproducing the insider/outsider dichotomy that characterized many town residents' understanding of Cayuga political belonging in Seneca Falls.

LIT Petitions: Trust land as Economic Possibility

It proved relatively difficult for me to learn firsthand about how the various leaders and members of the CIN imagined the possibility of Cayuga trust land. Even though I worked at Lake View Trading in Seneca Falls and I interacted with Cayuga people nearly every day for at least a portion of my fieldwork, the specific details about what sort of land tenure the nation was pursuing was not a common topic of conversation. Amongst my Cayuga co-workers, not everyone knew or cared to know about the exact legal strategies that comprised the nation's long-term, multi-faceted fight for recognition of sovereign land. Moreover, there was an atmosphere within the workplace that did not easily allow for conversations about these matters. At one point I asked my manager, who had been in Seneca Falls longer than many of the other Cayuga people living there, about trust land. She hesitated before answering, and said: "If you read our handbook, it says that we really shouldn't talk about our politics." I never had the chance to read the employee handbook—the store paper copy got lost somewhere in the back office, but I interpreted her words as an expression of her own personal or professional discomfort with talking about politics on the job, especially to an outsider like me. I never ended up talking about the nation's pursuit of trust land in a more formal atmosphere with either her or the other Cayuga tribal members who worked at Lake View.

I did, however, get the chance to talk about trust land with some of the non-Cayuga corporate officers of Great Swamp Enterprises, the parent company of all the CIN's businesses. With tribal nations, the distinction between business and politics is

often more blurred than it is for other governments. As Cattelino demonstrates, choices about business development have profound impacts on fundamental aspects of tribal sovereignty (2008). The CIN, with its recent efforts to buy land and develop businesses in the name of sovereignty, exemplified this blur between tribal businesses and national politics. The CIN is such a small nation and is so new to the task of developing its own economic strategies that this line is perhaps even more blurred than with most other nations. Therefore the people in positions to be making decisions about business development could also speak with some authority about the CIN's political strategies for attaining sovereign land. As noted in the previous chapter, Diane Raelish, the non-Native Great Swamp Enterprises CFO, had worked for several years for the Oneida Indian Nation (OIN) before coming to work for the CIN. "When I worked for the Oneidas, employees had nothing to do with politics," she told me. "But here I'm up to my teeth with it."

Raelish had been hired by Cliff Athill, the CEO of Great Swamp Enterprises and the nation's FR, because of her lengthy experience with the Oneida Nation. With a background at British-American Bingo, the Oneida Nation had hired her to help develop their gaming facilities in the early 1990s when the facilities were still small, "pretty much just a shack where they played Bingo." Over the following ten years, the OIN had built Turning Stone, a highly lucrative casino. When she moved with her husband to Seneca County, she sought work with the CIN and was hired in part because of her familiarity with what she called "the Oneida model."

Raelish believed that gaming was one of the most dependable tribal revenue streams available. Next to the Lake View Trading in Cayuga County, there was a small one-room bingo hall. A decade before, when the Lake View facilities were just opening, there had been a bingo hall attached to the Seneca Falls branch as well. But after the *Cayuga v Pataki XV* Second Circuit ruling in 2005, the two bingo halls had closed[60] (the one located in Cayuga County had only just reopened when I began my fieldwork in 2013[61]). In the past, the CIN had made some provisional plans to build a large-scale "Vegas style" casino somewhere in the land claim area, but several impediments had blocked this plan[62]. Additionally, some members of the nation objected to building such a casino. Raelish understood that some Cayugas had serious objections to gaming and this model of development in general (which gets to some of the political divisions within the CIN that I will discuss in more detail later in this chapter, as well as in Chapter Four); and she understood that it was not her place to

[60] The Union Springs gambling facility had been the subject of its own set of federal lawsuits initiated by the Village of Union Springs when it first opened in 2003 (*Cayuga Indian Nation v Village of Union Springs* 293 F. Supp. 2d 183 (2003) ("*Cayuga v Union Springs I*"), *Cayuga Indian Nation v Village of Union Springs* 317 F.Supp.2d 128 (2004) ("*Cayuga v Union Springs II*"). At the center of these lawsuits was the question of whether the Union Springs property could hold a gambling facility that broke municipal codes because it was "Indian Country." The presiding judge in *Cayuga v Union Springs II* sided with the CIN, reasoning that "as Indian County, the Property, and any activities thereon, may not be regulated by defendants," (*Cayuga v Union Springs II*: 287). However, after the *Cayuga v Pataki XV* ruling in 2005, the nation shut the doors to the bingo hall.

[61] In 2013, the CIN reopened the facility in part in angry response to a 2013 deal between New York State and the Oneida Nation that granted an "exclusivity zone" to the OIN that would disallow any other tribal gaming within a 10-county area, including Cayuga County and the Village of Union Springs; see Weaver 2013. During my fieldwork, the Village of Union Springs was trying once more to curb the CIN's gambling activities, but this time it did so by demanding the nation obtain a local license. The CIN never obtained that license, but an uneasy peace has persisted between the village and the gambling facility to this day.

[62] These impediments included the 2005 dismissal of the land claim, the BIA's 2009 rejection of the trust land petition, and the 2013 state-OIN exclusivity zone agreement (although the Oneida Nation later stated that if the CIN were to open a casino, it would not object; see Cleaver 2013).

make explicitly political decisions for the nation. "But I'm just saying, based on my experience at Oneida, it's pretty amazing to have a generation of young natives who don't have to grow up poor."

According to Raelish, the best way for the CIN to attain the "Oneida model" of economic development entailed a LIT conveyance. When it first opened, the OIN-owned Turning Stone casino was not located on federal trust land. But after the *City of Sherrill* Supreme Court decision of 2005 stated that LIT conveyances were the "proper mechanism" for attaining sovereign land for tribal nations, the OIN began the process of conveying all of the Turning Stone properties into trust land[63]. In the post-*City of Sherill* era, attaining trust land had emerged as an essential part of the OIN's strategy for casino-based tribal economic development (and its accompanying model of tribal sovereignty). Accordingly, several of the CIN's leaders (and others in positions to make important economic decisions for the nation such as Raelish) believed that the CIN could only hope to practice a model of development similar to the Oneidas' by gaining federal trust land.

Attacking the Tax Base

By 2012, when Braeburg narrated the bus tour of the CIN's properties, the nation owned over 1,000 acres in Seneca County. At this point, the legal controversies surrounding Lake View's untaxed sales were more or less settled—at least in the

[63] During my fieldwork, the BIA had approved the OIN's application, but lawsuits initiated by the counties, the local branch of the UCE and affiliated groups were stalling the process.

minds of most townspeople, albeit not in the minds of the county supervisors, Chamber of Commerce members, or diehard anti-treaty activists. Particular interest groups tried to battle Lake View's untaxed sales, but for the most part local residents either frequented the store or seemed to accept that the CIN had won the legal battle to keep its stores operating without charging taxes. In contrast, in recent years many town and county residents strongly objected to the CIN's attempts at the time to gain trust land through an LIT conveyance. This issue was much more controversial for most local residents than Lake View's untaxed sales.

After meeting him on the bus tour, Braeburg proved to be one of my most important interlocutors. He took an interest in my project, and throughout my fieldwork we met regularly in the Main Street Sandwich Shop, when he would keep tabs on the information I was gathering and help me make new connections. The common theme of our conversations was that all of the various levels of local, county, state and federal government were being too lenient with the CIN. Even worse in his mind was the fact that most of the local residents appeared to have given up. As he explained, back in 2009 the people of Seneca Falls were really "riled up" about the CIN's LIT application, but now they didn't seem to care, even though the nation continued to buy more and more land. As a result, Braeburg was constantly releasing statements to the press and other media to get people to "wake up." Braeburg often talked about his deep belief in the power of the press (his father had been a long-term regional journalist nicknamed "Scoop"). Along with two other men, he had formed the Citizens Advisory Group, whose members attended the BOS meetings and sent their own statements to the press about how the county government was dealing with issues

related to the CIN. Intended "to keep the county government on its toes" and also to keep the public informed, this strategy occasionally backfired, and Braeburg was regularly chastised by county representatives for making unauthorized statements. At one point he was granted access to closed executive meetings, but when he reported on the issue inaccurately (according to certain county politicians), he lost those privileges. By the 2012 bus tour, he had become angry that the public was not more concerned about the CIN's pursuit of trust land, angry that the county and state politicians were not doing enough to prevent it from happening, and of course angry at the CIN itself.

As much as his rhetoric on the bus tour riled the passengers, there were only 25 of them (plus an additional 25 on the following day). There were far more people shopping at Lake View Trading that day, as was evident from the full parking lot when we drove past. During our first one-on-one interview, Braeburg described how apathetic most townspeople had become. "It reminds me of this time when I was mayor here a while back. A man waved me over on the street. I thought it was to say I was doing a good job, but all he said was 'can you help me get that beehive down?' People just see what's in front of them."

During that interview, he went on to explain in more detail the negative financial impact that a successful Cayuga LIT conveyance within Seneca Falls would have on the tax base.

> If the town or school district gets its budget passed, we all as property owners have to contribute to fund that budget. Let's say the budget is $1000. There are 100 houses in the tax base and each is worth $10,000.

> We all pay $1 per thousand, so we each pay $10 to meet the budget. But if there are only 99, we each pay more. So our share of that budget goes up whenever our tax base is reduced. That's what will happen if the CIN gets trust land. If you knock out 10 properties from this town, our shares of the bills will get higher.

In this model, a property owner is responsible for a share of municipal expenses that is proportional to his/her share of the town's private wealth (specifically its real estate). As the dollar value of the tax base shrinks (e.g. when the nation's land is taken into federal trust), the value of each remaining property comes to stand for a larger share of the town's wealth, and therefore each owner's share of the responsibility for municipal finance increases. With fewer properties comprising the tax base, each property owner's portion of municipal financial responsibility would increase[64]. In this model, the municipality itself would not necessarily have to lower its spending (although that would be a possibility if town residents voted for a lower budget,) but individual property owners (and by extension their tenants) would pay higher taxes for the same standard of public services. Braeburg never mentioned the potential benefits, such as jobs that the CIN could create on trust land. In his view, tribally owned land and businesses that are removed from the local taxing jurisdiction would only diminish the economy and community, even if they brought business and investment to the region.

[64] Renters would presumably also be implicated in this tax increase through higher rent, although Braeburg never mentioned it.

Braeburg's anxiety over a diminished tax base was not simply about the potential financial loss, but the loss of community integrity. On the bus tour, Braeburg passed out a series of documents as he talked. One was a map of the Town of Seneca Falls entitled "Acres Owned by the CIN" (FIGURE 2). In this map, the CIN-owned properties are filled in with a bright red, while all other properties are light green or beige. The geographer Monmonier highlights this as a specific coloration technique that map-makers use to alarm the viewer (1996: 77-78). Indeed, I later met the surveyor who made this map for Seneca County. When I asked him about his color choice, he told me that he chose the red "so people can see what they're [the CIN] doing to us as clearly as possible."

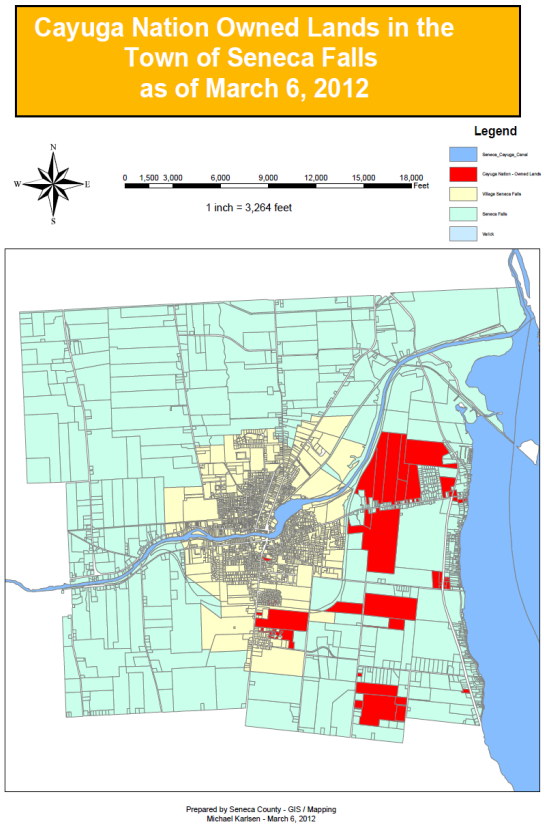

FIGURE 2, Cayuga Nation Owned Lands in the Town of Seneca Falls, prepared by Seneca-County GIS/Mapping Michael Karlsen 3/6/12

Braeburg further emphasized the fragmenting of the tax base when he passed around a book entitled "Going to Pieces." This 2005 self-published book is part journalism, part memoir, part call to arms. The authors, Wilman and Biehl, are two women from Idaho who strongly believe that recent increases in American Indian tribal land ownership present a problem for the interests of all Americans. They travelled across the country, visiting small towns near reservations, interviewing local residents along the way. They stopped in Seneca Falls and dedicated a chapter of their book to the specific problems that the CIN's pursuit of sovereign land posed for the people of the town: "Loss to municipalities of state and local sales tax revenue.…Loss to taxpaying businesses and loss of incentive for new tax paying businesses to start up…Loss to municipalities and school districts of property tax revenue…" (Willman and Biehl 2005: 205). The cover of this book depicts a jigsaw puzzle with some pieces separated from the others (FIGURE 3), suggesting that Indian reservations are breaking up the singular spatial unit of the USA.

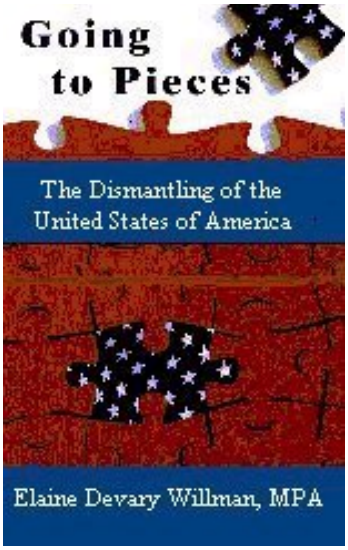

Figure 3, Cover of Willman & Biehl 2005 'Going to Pieces'

Braeburg drew special attention to this image. "This is exactly what they're trying to do to us here in Seneca Falls," he exclaimed, pointing to the cover, before passing the book around the bus.

Braeburg's talk and the documents he distributed on the bus tour rendered the tax base as a singular entity comprised of many properties fused together. This depiction opposed the naturally stable state of this entity with the CIN's efforts to disrupt that stability. This is a common effect of discourses about "crisis"—a term that Braeburg and others used on a regular basis. As Roitman demonstrates in her discussion of crisis narratives, "evoking crisis entails reference to a norm because it requires a comparative state for judgment: crisis compared to what?" (2013: 19). When Braeburg articulates the idea that the tax base is currently in crisis because large chunks of it are no longer contributing to common coffers, this conjures an ideal model in which the tax base acts as a functional, singular unit. In using this image of the singular tax base, he invoked the territorial domain of the tax base as a singular political and social unit. In such a view, the CIN becomes an outside force, invading and eroding the community of Seneca Falls.

Of course, the tax base is not *actually* a coherent community, nor has it ever been. Most homeowners are certainly not eager to participate in the property tax base (i.e. to pay those taxes). Indeed, many people whose properties fell within this tax base explicitly resented the fact that they were obligated to pay annual property taxes. This resentment surfaced acutely every few years when the town assessed the properties in its tax base. During my fieldwork, the Seneca Falls Town Assessor, Celia Ghedini,

explained how assessment works. Every few years, the Assessor performs a "reval," where they examine each building in a certain zone, identify its features and attributes from a standard list (e.g. square footage, building material,) then compare it with the sale price of two or three other recently sold properties of a similar type. Taped to the wall of her desk was a cartoon describing what she called "the assessor's code." In the picture were two houses with correlating titles. On the left was "the way you want your appraiser to see your house" (referring to the appraisal process, which entails using far more subjective methods to determine the private resale value of your property[65]), and on the right was "the way you want your assessor to see your house." In the drawing on the left, the house was a veritable mansion. On the right, the drawing depicted a ramshackle hut.

> This happens to me a hundred times a day when I do revals. I get phone call after phone call, people calling to say their house isn't worth what I said it was worth. My house is in terrible shape, they'll say. Really? With a new pool? It looked pretty nice to me. They just don't want to pay.

It is not at all surprising that many property owners of Seneca Falls fight their tax liability. It is, however, noteworthy that in the moments when Braeburg highlighted the damage that the CIN was posing to the Seneca Falls tax base, he ignored this rather commonplace resistance to property ownership's status as a proxy for community fiscal obligations. Only by eliding this commonplace resistance was Braeburg able to

[65] The assessment process differs from the appraisal process, which provides a projected value for private resale. Assessing and appraising a property use different metrics, which will be explained more in chapter 3.

depict a coherent community of local citizens linked together through co-ownership of the municipal tax base, whose unity would be threatened by any incursion of Cayuga trust land.

Trust Land vs. Restricted Fee

Braeburg was not the only local resident to try to rally the larger community to fight against the CIN's pursuit of trust land. Paul Shilling had been a town supervisor on the Seneca County BOS (representing his home town of Ovid, located in the southern part of the county) and the chairman of the Indian Affairs committee from 2005-2009. This coincided with what he called the "LIT era," which lasted from the CIN's initial LIT petition in 2005 to the BIA's rejection in 2009. Even after he ceased to sit on the BOS, Shilling continued his mission as a "consultant to Seneca County on Indian Affairs," as his business card read. During my fieldwork he was a fixture at county BOS meetings and other public events where these matters were discussed, where he would often use Q & A sessions to inform local residents what course of action they should take. In addition to this political position, he was a Cornell graduate, a former dean of Ithaca College, and former professor of education at Syracuse University. His approach to these Cayuga issues was academic to say the least, and he welcomed me into his home several times to help me with a curated search through his well-organized personal archives.

Shilling did not agree with the concept of Indian reservations. Sitting in his living room during one of our meetings, he told me that he wanted American Indians,

including Cayuga tribal members, to be able to own their land "just as I own this place," and gestured around the room for emphasis. In *the Birth of the Reservation* (1995), Biolsi studies how policies of "empropertiment" were designed to bring about "subjection" for American Indians. Shilling neatly expressed the discourse that Biolsi critiques when he explained that by owning land in individual titles, it would "make them bonafide citizens of the US." He cited the Dawes Act, a late 19th century Congressional act which decollectivized reservations and effectively removed vast amounts of land from tribal nations, as a problematic but ultimately *better* solution to the problems of Indian land tenure than the reservation system. "I would go so far as paying individual Indians to do away with reservations." However, Shilling conceded that the issue was complicated. "Those reservations were established, and we have to respect the law." He understood that the CIN had lost its land illegally and that its leaders wanted some sovereign land and a revenue stream, but he thought that an LIT conveyance was not the answer. The only participants in an LIT procedure are the tribal nation and the Federal Government, which is supposed to take into account how the local counties and municipalities would be impacted, but does not grant them "a seat at the table." An out of court settlement, by contrast, could involve a variety of schemes between the nation and other political entities involved. For a brief time in 2007 when he chaired the Committee of Indian Affairs, representatives of the county, state and nation all considered such a settlement.

In his living room, Shilling described to me the details of the settlement that had been on the table back in 2007, as he thumbed through his box of files to procure various official and unofficial documents that laid out its terms. The particulars of the

proposed settlement included buying land from willing sellers somewhere in the Catskills where the nation could build a casino pending state approval. “This is infinitely preferable to having a casino here,” Shilling explained. “Look at the towns around casinos. Addicts. Prostitutes. They aren’t very wholesome places.” The statistics about the economic benefits and risks of having a casino in a municipality are highly loaded: proponents of both tribal and state-regulated gaming can provide lists of the economic opportunities it presents, while others show all of the problems and expenses it entails. Shilling expressed a moral and aesthetic aversion to living so close to a casino, and yet he understood that casinos presented the most accessible and lucrative opportunity for tribal economic development. Moreover, from what he understood, several Catskill communities, where tourism had long been the biggest—if not sole—industry, actively wanted a casino because of the jobs that would come with it. Allowing the CIN to build a casino nearly 200 miles away neatly addressed his concerns about proximity to gaming facilities.

In addition to the Catskills casino, the settlement proposal also stipulated that the nation could buy up to 10,000 acres in Seneca and Cayuga counties to place into restricted fee, which is different than federal trust land in that it is the nation and not the federal government that ultimately holds the title to the property. In this arrangement, the percentage of the acreage in any one municipality that the CIN could purchase would be limited. Moreover, the CIN would have to participate in a revenue-sharing agreement in which it would distribute a certain percentage of its revenue each year to local governments. The amount received by those governments would be proportional to how much restricted fee land the nation possessed within the borders

of each of those municipalities. Each of these municipalities would receive a comparable—or perhaps greater—amount of revenue than they would have lost in property taxes. Additionally, the proposal stated that if the CIN wanted to conduct any gaming operations on their properties in Seneca or Cayuga counties, it would need county approval. The nation would also comply with state building and fire codes on these acres.

Perhaps most importantly of all, the CIN would waive its sovereign immunity with respect to all of the terms of the agreement. In effect, the doctrine of tribal sovereign immunity often means that state and local laws do not apply to tribal nations. Even if a nation is legally obligated to do something because it is operating in a space that falls under state or local jurisdiction, it can—and many nations regularly do—invoke sovereign immunity to prevent those laws from being enforced.

Under the proposed settlement, the CIN would have had to pay each municipality an amount comparable to foregone property taxes, comply with certain state and county regulations, and waive its sovereign immunity for certain purposes. In contrast, with an LIT conveyance, the county would effectively lose any ability to regulate activities on trust land. Shilling tried to emphasize the most important differences between these two possible options in a memo he sent to the other supervisors in June 2007[66], right before the BOS voted on whether to accept the settlement or not.

[66] "Remarks of Native American Affairs Committee Chairman (6/26/07)"

> I do not think that the citizens of our counties fully understand the serious consequences that will result if this settlement agreement is not approved…In supporting this agreement I see myself and this Board as representing all of the taxpayers of this county, now and in the future, because they will be forever paying the increasing costs of land placed in trust and taken off the tax rolls. I also see myself and this Board preventing unregulated[67] gambling in our county, which would be the sure result of land being taken in trust.

In comparison with an LIT conveyance, the arrangement described in the CIN's proposed settlement had many of the characteristics that so many local anti-sovereignty activists had demanded. In many ways, this restricted fee land would have resembled private property. It would have provided Seneca and Cayuga counties with a dollar amount comparable to foregone tax revenue, and allowed for the enforcement of some state and local laws and regulations. It would have allowed the political and economic communities of Seneca and Cayuga County to persist with remarkably few on-the-ground changes. In contrast, Shilling believed that an LIT conveyance would have reduced the County's authority over those acres to a harmful extent. "The idea that they can come here, to a town, a county where there's a working, living community, and just buy up land, put it into federal trust, and we no longer get any taxes from it or have any control over it. It's preposterous!"

[67] Under IGRA, Indian casinos are not "unregulated." The Federal Government in fact regulates them quite heavily. The main issue for Shilling, however, is that the County itself would have no role in regulating them.

I later had a phone interview with Richard Van Leeuwen, the mediator who had been hired by the Federal Government to help Seneca and Cayuga counties and the CIN develop the settlement. He spoke forlornly about how much progress the two sides had made during the process.

> It really reminded me of this textbook parable that mediators learn. Two daughters have their parents coming for Christmas, and when they're preparing the meal they fight over an orange…It turns out one wants to squeeze the orange for juice, the other wants the peel for orange scent in a cake. You both need an orange, but let's figure out why, let's figure out the interest behind your needs.

The "western 'native category'" (Verdery 2003: 15) of property consists of what the 19th country legal scholar Henry Maine called a "bundle of rights." In the mediator's description of this proposed settlement, the nation and the counties wanted to retain different rights to the land in question. Both the county and the nation wanted something from these acres. By instituting a county/local/tribal revenue-sharing system that mirrored property taxation, and by enacting CIN sovereign jurisdiction over the land for other purposes, Van Leeuwen believed that the orange had effectively been split.

This settlement that Shilling and Van Leeuwen wanted the Seneca County BOS to accept ostensibly put forward the possibility of overlapping Cayuga and Seneca Falls jurisdictions. But in some regards it still reproduced Bruyneel's spatial dichotomy in which tribal land exists either as "part of" the domestic territory and is

therefore not sovereign, or is sovereign and therefore sits outside it. The settlement kept what Shilling interpreted as the "unregulated" manifestations of tribal sovereignty (i.e. a casino) outside of the locality, while the agreed-upon terms of the settlement (including waiving sovereign immunity for certain purposes) would have effectively rendered the land subject to most local laws. For Shilling, this restricted fee settlement would have made the idea of Cayuga sovereign territory acceptable. But the recognition of Cayuga sovereign territory that was not subject to local negotiation, such as an LIT conveyance, was untenable.

Unlike Shilling who strongly advocated finding a compromise with the CIN, for Braeburg and most other local anti-trial sovereignty activists, the idea of a settlement of any kind had been unacceptable. For them, the settlement did not articulate Bruyneel's dichotomy clearly enough: if the land was to fall within the borders of New York State and Seneca County, then it had to be fully subject to those two jurisdictions. At a UCE meeting that I attended years later in 2014, the organization's members spoke about how they apparently had forced the Seneca County BOS not to settle. During the days of negotiation back in 2007, someone had secreted a copy of the settlement terms from a private negotiation meeting and brought it to the UCE. "We made photocopies," the chairman explained. "We showed them to everyone. We sent them to all the newspaper writers. Everyone found out. And they got mad so the BOS turned it down. We showed them, didn't we?" Of course, by the end of that meeting, the members were decrying the fact that the CIN was once more petitioning the BIA for trust land. By adhering to a rigid inside/outside view of tribal

political belonging, these activists had made it much more difficult for the parties to reach a mutually acceptable arrangement.

Acceptable Modes of CIN Land Ownership

One afternoon shortly after I began having semi-regular meetings with Braeburg, he called to tell me there was a Cayuga man that he wanted me to meet. "I'll pick you up at 7:45 tomorrow morning," he told me, and gave me no further details.

The following morning Braeburg arrived at the house where I was renting an apartment, whose owner was a poker buddy of his. He regaled me with stories of games lost and won while we drove out of Seneca Falls and into the neighboring town of Waterloo. Less than ten minutes later we pulled up in front of The Green Apple, a small diner on the town's Main Street. We walked inside and found a booth.

In the few minutes that passed before the other party arrived, Braeburg tried to explain who would be meeting us. "He reached out to me and told me that the nation's Federal Representative Cliff Athill isn't really allowed to be making all the nation's decisions by himself. He said a lot of them want to come here and be good neighbors. They don't want trust land at all!" Soon afterwards, a man walked in wearing khakis and a pressed button-up work shirt. He introduced himself to me as Tim Darcy, and after we placed our respective breakfast orders, I sat back and listened to the two men discuss their views on a potential path forward for tribal/local relationships.

Darcy lived an hour away in the city of Ithaca. He said he was one of many Cayuga people who wanted to see Cliff Athill ousted from his position, and he had contacted Braeburg because he might be interested in "helping to overthrow the tyrant." Over breakfast, Darcy illustrated in more detail how Cayuga leadership was supposed to work, and how Athill was transgressing those norms.

He began by describing how people come to serve on the traditional Cayuga leadership council[68]. According to Darcy, clan mothers nominate men as representatives to sit on the council, even though they do not sit on the council themselves. Additionally, they have the power to remove council members. Darcy explained that the clan mothers initially nominated Athill as a council member and the rest of the council accepted him, even granting him the position of FR[69]. Soon afterwards, however, he began to make decisions that other tribal members had not agreed to. Darcy said that the clan mothers tried to remove Athill from the council several years after he joined. Despite the clan mothers' withdrawal of their support, however, he would not step down. Because the BIA still recognized him as a member of the CIN's leadership council and the FR—which meant he effectively controlled

[68] While the CIN has a "traditional" leadership structure, there were many conditions in place during the 19th and 20th centuries that meant that the CIN collectively forgot much of its traditional governing practices (e.g. Indian removal, forced attendance at boarding schools, and other violent policies that deliberately broke the thread of continual institutional knowledge between generations). Darcy told me that he was only now learning about many of the rules of traditional Cayuga governance. One of the main sources that he cited was the book "And Grandma Said: Iroquois Teachings as Passed Down through the Oral Tradition" by Tom Porter (Porter 2008).

[69] I never learned the details about how Athill had become FR to begin with (or rather, I never pressed on the issue when I had the chance, always assuming I could learn more at a later date). I was told that the previous FR, who was more popular and had largely led the nation through the tumultuous land claim years, died in 2004. According to Darcy, a leadership vacuum ensued and Athill was apparently the most expedient choice.

the nation's federal funding—the tribal members who wanted to see Athill step down had little leverage.

Darcy explained that the men who considered themselves the true members of the Cayuga council (according to traditional law, not federal recognition,) took on the title of the "Unity Council" in order to distinguish themselves as a distinct leadership group. The Unity Council and its supporters had submitted a series of petitions to the BIA to remove Cliff Athill from the position of FR. In 2011 the Eastern Regional Director of the BIA decided to uphold the Unity Council's request and remove Athill from the federal position. But Athill and some of his supporters immediately appealed the decision, which was still pending at the time of this breakfast meeting. In the meantime, Cliff Athill remained in control of the nation's purse.

Darcy told us that he and others had decided that they needed to act on their own. "You write for the press," he told Braeburg that morning at the Green Apple. "We could work together. We also don't want his trust land application to go through. We want something that is mutually beneficial."

Darcy was not himself a member of the Unity Council, but he was an educated, articulate man and the council members chose him as their spokesman in these initial diplomatic efforts with the people of Seneca and Cayuga counties. He had a rather unique background, having been raised as a practicing Mormon by two parents who worked for the BIA in Virginia. He referred to himself as a firm believer in the power of private enterprise. He had a management position at a pallet recycling company owned by another Cayuga man who had been an active part of the nation's land claim

but afterwards had decided to develop his own business—and offer jobs to other Cayuga people—on privately owned, non-tribal land. This informed the type of development that he wanted to see on the CIN's land. "Not just gaming and cigarettes," said Darcy, who, as a Mormon, had religious objections to both of those products. "Real industry!"

Darcy acknowledged that there was occasional disagreements within the members of the Unity Council over how the CIN should develop its property. For example, some council members wanted to focus on bringing back traditional agriculture and a ceremonial long house[70] while others wanted to prioritize economic expansion. But Darcy believed that those disagreements were minor and could be solved by sticking to the traditional political process of consensus decision-making—which, he argued, Athill had thoroughly neglected.

To Braeburg, who had grown up in Seneca Falls when it was still a vibrant economic community with manufacturing and managerial jobs for everyone who wanted to work (or so he said), Darcy's reference to industry was magnetic. "When I worked at Farelli Pumps, they always said that industry would come back. We've got water. We have so much to offer!" he exclaimed. Darcy, who was remarkably soft-spoken, silently smiled and nodded his head.

Darcy talked about how the nation would "contribute" to the town and county if Athill was removed. "We would have a covenant," he said in his quiet voice.

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[70] On the Seneca reservations, where many of the enrolled members of the CIN had been living for over a century, the Cayugas did not have their own long house.

Braeburg spoke over him in excitement: "You'd pay property taxes!" Darcy simply reiterated that "We would have a covenant."

Afterwards, Braeburg drove me home. In the car, he kept talking about the prospects that Darcy was offering.

> Did you hear him? They want to build something here. Not a casino. Private industry. You heard what he said about a covenant: they would pay their property taxes. That land would stay in the tax base. They're not trying to take anything away from us.

In Braeburg's framework, by removing land from the local tax base, the CIN would be removing land and money from the community. As usual in our discussions, we barely touched upon the financial implications of a diminished tax base. His main concern was the removal of land from the tax base in itself. This reinforced the simplistic binary that Bruyneel identifies as a crucial component in how most Americans view Indians: to have a legitimate place in the political landscape of Seneca Falls and the larger American nation-state, the CIN and its land should be subject to all of the same rules (tax and otherwise) as everyone else. Braeburg believed that by refusing those terms, the nation was acting as a hostile outsider making incursions into the bounded unit of Seneca Falls. And because (in Braeburg's interpretation) Darcy and the Unity Council seemed to be agreeing that the CIN's land was part of the Seneca Falls tax base, he believed the nation and its members might finally agree to act as the good local citizens he had long been asking them to be.

Braeburg may have interpreted Darcy's pledge to engage in a covenant with the town in this way, but making a payment as part of a covenant is not the same thing as paying a property tax. Over the following year, just as I had regular meetings with Braeburg at the Seneca Falls Deli, I had regular meetings with Darcy at a bakery in Ithaca near his place of work. When I asked him about what he meant by a "covenant," he talked about the resonance of this term for Cayuga people and other members of the Haudenosaunee Confederacy. He referred specifically to the "silver covenant chain," a term Haudenosaunee members have used to describe the historic diplomatic alliance that their nations developed with the Dutch and English early on in their encounters[71]. This alliance, although it evolved over time, involved sovereign-to-sovereign forms of exchange rather than the subject-to-government payments (Miller 2009; Parmenter 1997; Venables 2008). By calling the hypothetical post-Athill fiscal arrangement between the CIN and the surrounding towns and counties a "covenant," Darcy sought to engage local governments in a centuries-old, diplomacy-based government-to-government relationship. This is a far cry from a model in which tribally owned property remains in the local tax base. But Braeburg gave no weight to—or perhaps did not fully understand—this distinction. "They can call it a covenant. I don't care what they call it. As long as the property stays on our rolls."

[71] In the context of its modern historiography, the Silver Covenant Chain does not refer to one particular treaty or marker of an alliance, but a series of more than 400 performed agreements and associated materials that marked specific and general aspects of the evolving alliances between the Dutch and then English colonial powers and the Haudenosaunee between 1614 and 1842 (Venables 2008).

This lack of overlap between Braeburg's and Darcy's articulations of a covenant mirrored another misunderstanding between them over the significance of trust land. When I asked Darcy why he did not want the CIN to submit another LIT application, he clarified that he did not object to trust land *per se*, but did not want it to be administered by Cliff Athill. He saw the merits of federal trust land, as well as other forms of land tenure that would potentially create a revenue stream for the nation as well as a space for "Cayuga cultural development." His ideas were as diverse as purchasing a mango farm in Mexico, creating a 501(C)(3) to manage some land held privately by the tribal corporation, and of course an LIT conveyance. "We need land for our rebirth," he explained to me. "Our main concern is the health of our nation. We need to heal. But wherever and however we do that, without Cliff Athill I believe we can be good neighbors."

In our later meetings, Braeburg repeated Darcy's pledge to be "good neighbors," which he often mixed into phrases about how Darcy wanted to "play by the rules." As with several of the terms that these two men discussed, there was not an exact overlap in the meaning they ascribed to the word "neighbor." On the one hand, *neighborliness* can emphasize the lack of boundaries between parties, as Jimenez (2013) demonstrates when he examines how Spanish Occupy activists called upon each other and the state as *neighbors.* On the other hand, Shever (2010) examines how one of Shell's corporate social responsibility campaigns helped it transform from a paternalistic provider into a "caring neighbor" with few obligations to local people, demonstrating how invoking *neighborliness* can instead emphasize the strength of

boundaries between parties. Zizek et al. identify the tensions between these invocations of commonality and difference:

> Is the neighbor understood as an extension of the category of the self, the familial, and the friend, that is, as someone *like* me whom I am obliged to give preferential treatment to; or does it imply the incursion of the other into my circle of responsibility, extending to the stranger, even the enemy? (2006: 6-7)

From Braeburg's point of view, Athill had become the inveterate bad neighbor, espousing Zizek's idea of the neighbor-as-other who rejected the local community by removing the nation's property from the local tax base. Braeburg contrasted this to Darcy's pledge that, without Athill, the CIN would be a good neighbor. He interpreted this pledge of good neighborliness to mean that the nation would integrate into the local community by paying property taxes. This was a neat articulation of Bruyneel's dichotomy between the acceptable figure of the domesticated, non-sovereign Indian and the unacceptable foreign, sovereign tribal nation.

Zizek's either/or framework of the good and bad neighbor helpfully echoes the dominant inside/outside framework of tribal sovereignty. But it does not help unpack tribal sovereignty as something that resists this binary. When Darcy spoke of being a good neighbor, he was calling for a "nation-to-nation" relationship mediated through a covenant. In this case, a good neighbor is an Other, but one with whom it is possible to have a productive relationship who presents an alliance instead of a threat. For Darcy, building this sort of mutually beneficial alliance is an important part of what it means

to be sovereign. His model of an alliance defied Braeburg's and Shilling's strict either/or construction to point to a potential "third space of sovereignty" (Bruyneel 2007).

Conclusion

In their discussions of the threats posed by Cayuga trust land, Braeburg and Shilling both relied heavily on the unit of the tax base. In this discourse, the imperiled tax base unifies the people who live in Seneca Falls into a singular spatial community. The image of this unified group in turn serves to frame the possibility of federal trust land as an incursion or theft. In this discourse, the tax base plays an important role in reproducing Bruyneel's dichotomy of tribal nations as either part of, or outside of, the American body politic. This dichotomy presents an impossible space for tribal sovereignty: it is either entirely subsumed by the dominant political state and therefore canceled, or it presents the untenable situation of a fully sovereign nation existing within the boundaries of the USA. Even Shilling's advocacy for a restricted fee-based settlement reproduced this dichotomy to an extent. In his description, the rejected settlement had offered the CIN the chance to own land in Seneca County where its tribal sovereign authority would be effectively sublimated under local authority, and a space outside of the locality where Cayuga sovereign authority could be manifested. He could conceive of no possibility for Cayuga territorial sovereignty to co-exist along with local authority in this space.

And yet when representatives of the two CIN factions spoke about what Cayuga trust land in this space would look like, they both situated Cayuga sovereign territory within the surrounding political and economic communities. The "Oneida model" that the Athill faction sought relied on the proximity of non-tribal businesses and customers to tribal trust land in order to create a revenue stream. Alternatively, according to Darcy, the Unity Council's proposed model of sovereign land was based on bringing more "respectable" business and development to the region and employing many local people. Despite the differences in their models of a Cayuga reservation, both envisioned a mode of tribal sovereignty that was neither fully inside nor outside of the local, state or national polity, extending beyond the limited (or even non-existent) options that local officials presented.

CHAPTER 3

PROPERTY TAXES

Introduction

A few weeks before I moved to Seneca Falls in 2013, I drove there to look at some apartments to rent. It had proved difficult to find a suitable place. In contrast to the college town of Ithaca, few landlords used online platforms like Craigslist. Out of the properties that were listed, some were entire houses with three or four bedrooms, which I certainly did not need; and the bulk of the available rental apartments listed at that time of year were efficiency condos outside the town center, which would have made fieldwork somewhat difficult. Just as I was beginning to worry, a tiny upstairs apartment conversion in an owner-occupied house in the town center appeared on Craigslist. I communicated with the poster, who was living in Florida and had uploaded the listing as a favor to her elderly parents. She remotely arranged for me to check out the unit, and two days later I made the hour-long drive to Seneca Falls.

When I arrived, the poster's mother, Sophia, introduced herself as "a lifer." The house had previously belonged to her own parents, and she had even been born in what was now the living room of the main, downstairs section. She took me upstairs to a beautifully appointed one-bedroom apartment. She pointed out some of its unique features that she had designed. As a young unmarried woman, she had actually

converted the apartment herself. “One thing you’ll come to learn about Seneca Falls women,” she said with a smile. “We’re an independent bunch[72].”

When Sophia asked me why I was moving there, I briefly explained my research. “I’m studying the relationship between the Cayugas and Seneca Falls,” I said in the shorthand I had practiced for just this type of encounter. Her cheery demeanor immediately turned serious. “Well, I don’t know about a lot of what they do, but when they don’t pay property taxes, it really gets to me.” She was referring to the CIN’s practice of refusing to pay its local property tax bill. Between 2008 and 2013 when Sophia and I had this conversation, the CIN had purchased over 1,000 acres on the open market in and around Seneca Falls, which sits at the northwest edge of the historic federally recognized 64,000-acre Cayuga reservation. The CIN had refused to pay taxes on most of these properties, despite the fact that it was legally obligated to do so. The nation had successfully been able to avoid tax foreclosure by invoking the doctrine of tribal sovereign immunity, which protects tribal nations from lawsuits unless either Congress or the nation itself waives that immunity.

[72] Sophia was referencing Seneca Falls’ role in the American Women’s Rights movement. In 1848, local resident Elizabeth Cady Stanton and several visiting Quakers hosted the Seneca Falls Convention, the first American women’s rights convention. These conventions later spread across upstate New York, the Northeast and the whole country, where participants discussed the various social, political and economic rights that they wanted to pursue collectively. The convention had been held in a Methodist chapel next door to Sophia’s house, barely a stone’s throw from the upstairs kitchen window. Today the renovated chapel is a National Historic Site with a large visitor center. Many years had passed between the building’s use as the site of the Seneca Falls Convention and its present status as a National Historic Site. I came to learn that at various points it had been a movie theatre, an apartment complex, and even a laundromat before the National Park Service bought it in 1982 to restore the Wellesley Chapel where such an important historical event occurred. In any case, since the 70s, this aspect of Seneca Falls’ history had emerged as an important theme for civic pride and tourism campaigns. It is a common theme in discussions of what makes the town special.

In casual conversations and more formal interviews, Sophia and other town residents often brought up the issue of the CIN's unpaid property tax bill. Even those who weren't particularly worried about the Lake View Trading stores' untaxed sales or the CIN's efforts to gain trust land were often critical about the nation's unpaid property tax bills. "In a town like this, you just have to pay your tax bill," Sophia emphasized. "You can't get free education, good roads and all those government services if you don't pay for them."

By the time that I came to look at Sophia's apartment (which I ended up renting) in the late summer of 2013, these property tax refusals had emerged as the most prominent and talked about aspect of Cayuga fiscal disobedience. Later on during my fieldwork, Jeff Rasic, the chairman of the Seneca County BOS and its Indian Affairs sub-committee, explained to me that the CIN was "attacking us on three fronts." He listed them in reverse order of importance as: the untaxed sales at Lake View Trading, the potential LIT conveyance, and—highest on the list—the nation's refusal to pay local property taxes. He considered all three of these acts to be unfair, but the property tax refusals were in his view the most egregious. Even as the CIN refused to pay property taxes, it received the local services that those taxes theoretically would have paid for: water and sewer, road maintenance, policing, education. "They get all that without paying their fair share. It's disgusting," he told me.

When local residents such as my landlady or politicians like Jeff Rasic object to the fact that the CIN receives government services without paying any property

taxes, they may appear to be invoking a transactional framework: taxes as the price for social services. I argue, however, that there is an important symbolic dimension to residents' calls for the CIN to pay these taxes. To get at this, it is useful to consider the distinction several economic anthropologists have drawn between the categories of transactional exchange and payment (Polanyi 1977; Strathern 1984; Guyer 2004; Maurer 2007). In a transactional exchange, a good or service is exchanged for what people think is an equivalent monetary value. A perceived equivalence between the money, goods and services, however, is not what motivates or defines the terms of a *payment*. The economist Karl Polanyi wrote that money given in exchange is for "the acquisition of...desired goods" (1977: 194) whereas money given in payment is for "the discharge of an obligation by handing over quantified amounts," (105). In this chapter, I use this distinction to show that in Seneca Falls, local property tax payments came to stand for the obligations that members of the local community have to each other. When the nation's representatives refused to pay those taxes, they were not only refusing to hand over a certain amount of money, but were also—far more significantly—refusing the obligations of local citizenship.

Property Tax Refusals

In New York State, individual residents pay income taxes to the Federal and State governments. Sales taxes go to the State and the County. Property taxes go to towns, school districts, and other special districts that comprise the different bodies of local government (including those that oversee services related to fire prevention,

water and sewer, mosquito control and other municipal functions). Therefore property taxes comprise the most local system of taxation in New York State.

In this state, a property's tax bill reflects its *assessed* value, which a town assessor arrives at through a series of calculations that pertain to "objective" criteria such as size and location (as opposed to a property's *appraised* value, which is calculated by a private professional for the sake of re-sale value, according to "subjective" criteria[73] (Tax.ny.gov 2014)). Different categories of land are assessed at different rates (residential, industrial, agricultural, for example), and different categories of property owner can receive property tax reductions or exemptions (non-profits, religious institutions, veterans and senior citizens, for example). Each year, the total taxable value of all properties within a jurisdiction is compiled into its tax base. Once the local governing bodies determine their annual budgets, they divide that amount by the dollar value of the tax base, while taking account of other non-tax-related sources of revenue, such as state aid and host-benefit agreements with local corporations. This formula determines the balance that a property owner owes to each taxing authority at the end of the year.

After the end of each year's tax collecting period, county governments act as banks for their constituent municipal governments. They cover the portions of the local property tax levy that have not been paid. Afterwards, the county notifies the

[73] A local Seneca Falls realtor explained this difference as follows: "There's a list of improvements that an assessor checks off. How many buildings? What's the square footage? Is there a pool? Those are hard facts. But when you appraise a property, you can claim that a shed is a really charming guest house and up the value."

owners of the delinquent properties about their outstanding balance. This commences a three-year process that can ultimately end in tax foreclosure—when the county seizes and then sells at auction the properties whose tax bills have still not been paid.

The CIN first bought property in Seneca Falls and Union Springs when it opened the two Lake View Trading branches in 2003. Any property taken into federal trust has to have its local tax bill in order, therefore the CIN consistently paid its annual property tax bill on the properties that formed part of its initial LIT petition (the two Lake View Trading properties). After the BIA rejected the petition in 2009, however, the CIN accelerated the rate of its property purchases in Seneca Falls with the aid of a federal HUD grant. Although the CIN had paid its annual property tax bill for the first five years that it owned property in the land claim area, the nation refused to pay the bill on its newly acquired properties after the LIT petition was rejected. Treating the nation's property like any other, the county took on the CIN's tax debts and commenced the three-year process that could end in foreclosure. After the three years were up in 2012, Seneca County moved to foreclose on five of the CIN's properties. In response, the nation submitted a motion for preliminary injunctive relief in a federal court against the county's foreclosure proceedings, calling upon the common-law doctrine of tribal sovereign immunity from suit. The case came before a judge in the United States District Court for the Northern District of New York in 2012 ("*Cayuga v Seneca County"* 2012[74]).

[74] *Cayuga Indian Nation of New York v. Seneca County, New York*, 890 F.Supp.2d 240 (W.D.N.Y. 2012)

The main debate in the District Court decision pertained to whether or not the doctrine of tribal sovereign immunity applied in this situation. The defendant (Seneca County) argued that various cases including *City of Sherrill* held that an Indian nation cannot revive its ancient sovereign authority over reservation land by purchasing it after years of inaction, and therefore the CIN owed municipal property taxes. The judge agreed with this point, but cited a later case that had emerged out of the aftermath of *City of Sherill* to arrive at a different conclusion. In the wake of the 2005 *City of Sherrill* decision, which held that the OIN had no territorial sovereignty over the land it had recently acquired and therefore owed property taxes, Madison and Oneida counties moved to foreclose on the OIN's delinquent properties in 2010. The Oneidas responded by seeking injunctive relief in a federal District Court on the grounds of the doctrine of tribal sovereign immunity, arguing that the remedy of foreclosure was unavailable to the counties. The District Court held that the idea that the counties can tax but not foreclose was "inconsistent and contradictory," but it still decided with the Oneidas ("*Oneida Nation v County"* 2010[75]). The *Cayuga v Seneca County* decision issued in 2012 cited the *Oneida Nation v County* case as precedent, using it to demonstrate "the difference between two distinct doctrines: tribal sovereign authority over reservation lands and tribal sovereign immunity from suit," (*Oneida Nation v County:* 149). This meant that the OIN, and by extension the CIN, did not have the sovereign authority over its land to withdraw it from the municipal tax base,

[75] *Oneida Indian Nation v Oneida County* 605 F.3d 149

but it was protected by its sovereign immunity from being compelled to pay property taxes.

The Concerned Taxpayers

My fieldwork began a year after the *Cayuga v Seneca County* 2012 District Court case decided that the CIN could exercise sovereign immunity against a foreclosure suit. Seneca County was appealing the decision, but in the meantime the CIN's property tax bill was still going unpaid and by that point it had accrued to $1.2 million. Local newspapers published reports and articles on the nation's back taxes and the law suit; Thomas Braeburg and other activists wrote letters to the editor, went on radio shows, and posted to community blogs about the issue[76]. As a result, the CIN's unpaid property tax bill was common knowledge in Seneca Falls, and it continued to incense many of the town's residents.

In interviews, town and county politicians recounted instances when local residents, referring to themselves as "concerned taxpayers," had accosted them on the street and insisted that they "do something to make the Cayugas pay." In New York State municipalities, the local governing body that receives the largest share of

[76] Anyone can access information about which properties have delinquent tax bills in several ways. When a property owner first lets a property tax bill go unpaid, that property is listed on a public register. Tom Braeburg of the bus tour informed me that "he had a guy" in the county real property office, who would inform him each time the nation bought a property and each time the deadline for the payment of its tax bill passed. This information is all publicly available, but it would require researching each property within the jurisdiction by lot number in order to determine its current ownership and tax status. Having someone notify you when a purchase has been made and a tax bill goes unpaid would make this a much easier task.

property tax revenue is the school district[77]. Accordingly, administrators of the school district received the highest number of these complaints. I interviewed Barry Lamont, the superintendent of the Seneca Falls school district, in his office at the back of the local elementary school. He described numerous encounters—mostly on social media—when people demanded that Cayuga children be barred from the school. "They'd leave messages on our page saying the Cayugas haven't paid so we shouldn't let their children walk through our doors. Before we made it a closed page, we had to watch for these comments, which pretty ugly, every single day."

Lamont knew that there was no way to act on these sentiments. Among other statutes, he explained that a 1973 federal statute guaranteed every town resident "FAPE: Free Appropriate Public Education." Although the funding for education was tied to local property tax revenue, no one's access to public schooling was contingent on those payments. "The thing is, public education isn't tied to property tax payments like a water or gas bill. It's not a question of whether someone paid for the service or not. You can't just shut it off." In Lamont's telling, when people demanded that he bar Cayuga children from the school, they were mistakenly characterizing property tax as part of a transaction: money for public education. He argued that this is logically incorrect. There is no equivalence between the value of government-provided education and a property tax payment. "No one pays the exact amount of their

[77] The town government has access to other funds for the majority of its budget. The town has a "host agreement" with Seneca Meadows Industries (SMI), the largest landfill company in the Northeast. Considering the undesirability of having such a large landfill located within the municipality, SMI is contracted to give the town government a fixed percentage of its revenue each year, which covers much of the Town's annual budget. On the other hand, property taxes made up half of the school district's operating costs.

children's education. Some people pay more, some people pay less. It's not an exact science."

Although Lamont understood that the Cayuga children could not and should not be barred from the Seneca Falls schools, he did relate to the concerned taxpayers' sense of injustice. "I get where they're coming from. They're thinking 'I have to pay so why don't they?'" In this statement, Lamont identified a distinction that economic anthropologists have made between the categories of exchange and payments (Polanyi 1977, Strathern 1984, Guyer 2004, Maurer 2007). Bill Maurer applies this distinction to taxes, arguing that anthropologists have long been inclined to either "ignore them, or subsume them into the category of exchange," (*unpublished*: 2). He makes a call for resituating taxes as a form of payment rather than exchange. Seen through the lens of Maurer's argument, Superintendent Lamont was trying to frame the importance of taxes in terms of their affiliated obligations, instead of their quantifiable dollar value. According to Lamont, the main problem with the CIN's tax refusals was not that the nation had refused to hand over the proper amount of money spent by the school district on Cayuga children, rather, it was that the CIN refused to recognize any obligation to pay at all. This refusal constituted the core of the controversy.

Indeed, the CIN's property tax refusals had no bearing whatsoever on how much funding the Seneca Falls School District actually received. In Seneca Falls, funding for local amenities such as road maintenance, mosquito control, and schools is not contingent on all of its property owners making their tax payments. If a local government body in Seneca County does not receive all of its property tax revenue,

the county covers the balance. Therefore the Seneca Falls local government bodies received all of the funds to cover the missed property taxes of the CIN and all other parties who did not pay. The County Manager informed me that the county was able to do so by tapping into its reserves which were mostly amassed from sales taxes generated at the outlet clothing store and large-scale gas station/truck stop located at an exit off the interstate that bisected the county. At the time, the reserves were high: high enough that the county could cover the annual unpaid property taxes of the CIN (and the owners of other delinquent properties) and still be very much in the black. So, although covering delinquent property tax bills ate into the county's financial surplus, it had no impact on the county's ability to meet its expenses, and no county property owner had to pay more as a result.

In fact, the county received funding from the state expressly to offset the CIN's unpaid bills, which further mitigated any potential financial fallout for Seneca County. For three years after the CIN first refused to pay its property tax bill (2009-2012), the county had used its reserves to cover the budgetary gaps of its towns and school districts, including but not limited to those caused by the CIN's tax refusals. In April 2013, the Seneca County BOS Indian Affairs Committee travelled to the state capitol in Albany. There they learned that the State Legislature was providing the counties of Madison and Oneida, where the OIN similarly did not pay local property taxes (despite the *City of Sherrill* ruling that declared that the OIN owed them), with funds equal to the OIN's missed tax payments. The Seneca and Cayuga county governments then began to lobby the state Legislature for a similar payment. In early 2014, the

Legislature confirmed that it would factor a one-time payment of $1.8 million[78] into its budget to cover the losses that Cayuga and Seneca County had sustained as a result of the CIN's tax refusals. Therefore the financial burden of the nation's tax refusals had moved from the School District to the County to the State, with no immediate effect on the available funds for the School District or on local property tax rates.

I had heard a brief description of this payment in the BOS meeting that followed the delegates' trip to Albany, and I wanted to learn more about it. Soon afterwards I met with Trevor O'Hanlin, the County Treasurer, and I asked him for more details. In doing so, I made what appeared to be a sizable mistake. "I've heard that the state Legislature has agreed to pay the CIN's taxes," I began, but O'Hanlin immediately stopped me. "Get your terms right. The state is not paying their taxes. That would make a lot of people really angry. The state is going to give the county some funds to offset the money to alleviate the fiscal stress." While this transfer of cash would replenish the dent made in the Seneca County coffers by the CIN's property tax refusals[79], O'Hanlin insisted that the state was not paying the nation's taxes. Equivalent funds were being transferred, but, he argued, that was not the same thing as paying the nation's taxes. Even if the school district received the exact amount of money that was listed on the CIN's property tax bill, that still did not entail the CIN discharging its local fiscal obligations. In the minds of these local officials and concerned taxpayers, in order to dismiss the CIN's outstanding tax debts, the

[78] Any similar payment in the future would require new legislation.

[79] In fact Seneca and Cayuga counties agreed to divide the money so that Seneca County received slightly more than the CIN's cumulative unpaid property tax bill.

money had to come directly from the CIN because of the obligations that all local taxpayers had to their community and each other.

When these local officials and residents articulated their objections to the CIN's tax refusals in terms of rejected obligations, the question arose of what specific obligations the CIN was seen to be rejecting. Sophia provided an answer of sorts when she told me why she paid her property taxes: "We don't just pay taxes because if you don't, the government will take your house," she told me. "We pay because it's our duty as citizens of this town." In this explanation, she invoked an order of local citizenship in which everyone who lived in town had obligations to each other. This was not a legal concept of citizenship, but one based on the idea that Seneca Falls was a moral community whose members gave their fair share to the common pool of resources that they used. In this model, every property owner (and, by extension, every renter who indirectly paid the property's tax bill) is obligated to pay a *fair* amount to administer common resources based on standard calculations. The fairness of that amount reflects a common subjectivity to the same fiscal obligations—what Rawlings described as "Fairness as process…fairness as 'we are all tax payers,'" (Rawlings 2003: 279, 283).

Aleinikoff describes the model of "citizenship-as-membership," which, he argues, allows most Americans (as individuals and institutions) to conceive of people who live within the USA in binary terms of belonging citizen and non-belonging alien (2002: 8). On the surface, the notion of local citizenship that the concerned taxpayers of Seneca Falls invoke when they speak of their mutual obligations to one another is

not exclusive, but rather totally inclusive of all who live within this bounded space. However, as Aleinikoff argues, this model of legitimate political belonging is premised on a binary that equates living in this space with membership in a particular political community (that of "local citizens") and delegitimizes any other claim to belonging in that space. On the level of discourse, the proper way to belong as a member-citizen is singular and undifferentiated. As a member, there is a standard set of resources to which you have access, and a standard set of obligations that you have to meet.

In the moments when certain residents of Seneca Falls identify and express themselves as "concerned taxpayers," they invoke a coherent moral political community where everyone understands and adheres to the legitimate terms of membership. Of course, this model of a community of citizens who always recognize their obligations to one another is not representative of lived practices in Seneca Falls (nor any municipality, for that matter). In fact, people often refuse to pay their taxes. Once a year the county holds an auction of all the tax foreclosed properties, whose owners may have died without a will, but more often simply stopped paying. Many people contest the amount on their property tax bill. Others decry the fact that they have to pay property taxes at all. It often seems that people pay their taxes more out of fear of foreclosure than some sense of moral obligation to one another. Even so, the idea of a community of local citizens who pay their taxes because they recognize their mutual obligations to one another is a powerful one. By invoking this idea, concerned taxpayers were able to portray the CIN as a bad neighbor that failed to recognize its fundamental obligations as a member of the community. By characterizing the CIN's

refusal to pay property taxes as a refusal to meet its social obligations, this discourse interpolated the CIN as a badly behaving citizen rejecting the responsibilities of membership.

Payments in Lieu of Taxation

In the previous section I discussed how discourses about the CIN's property tax refusals were framed in terms of the obligations of local citizenship. *Concerned taxpayers* claimed that as local citizens, individual property owners should pay property taxes because of moral-political obligations, rather than simply the municipality's need to pay its bills. They extended this model to the CIN, applying the same codes of membership to the nation as any other individual resident. The CIN, however, was not an individual person that owned some parcels of residential property. In addition to its existence as a sovereign nation (which status the concerned taxpayers and most local officials refused to acknowledge), the face of the CIN was the Great Swamp Corporation and its subsidiary businesses such as the Lake View Trading stores[80]. Therefore, in addition to the metrics that determine good citizenship for individual residents, many people also tried to subject the CIN to the measurements that determined good corporate citizenship. Both hinged on the types of fiscal payments that were supposed to accompany property ownership in Seneca Falls,

[80] For more on the muddiness of the distinction between tribal nations and tribal corporations, see Cattelino's examination of "the blurry boundaries" that Americans tend to perceive "between indigenous corporate and national forms," (Cattelino 2011: S137).

although individual and corporate property ownership demanded different types of payment.

In New York State, assessments for residential and commercial property take account of different factors. With commercial property, assessors not only take account of more objective criteria such as square footage and the type and number of improvements, but also the property's profitability. On a discursive level, corporations —especially controversial ones—usually justify their presence in a town with the idea that they "contribute" to the local economy and community. While people may criticize individual homeowners for not paying "their fair share," they criticize corporations for not "contributing" in the correct way. In this section, I want to draw attention to how local corporations that are subjected to these sorts of accusations usually try to prove that they are in fact net contributors who deserve political membership and access to resources in the community. In these debates about proper fiscal contributions, the proper role of the corporate citizen rises to the surface. Therefore I examine some of these debates to show how all corporations in Seneca Falls were measured according to a scale of good and bad citizenship. In doing so, I illustrate another way in which the only terms of belonging in Seneca Falls that were extended to the CIN were those of local citizenship.

At the opposite end of Seneca Falls from Lake View Trading sits a large tract of land with several round masses jutting up above the otherwise flat skyline. These masses—each the size of a small mountain—are visible from the road that leads from the town center to the thruway. More noteworthy than their visibility, however, is their

smell. Depending on the time of year and the weather, any passing driver would notice the sharp aroma of garbage because these hills comprise the largest landfill in the American Northeast.

There has been a landfill at this site since the late 1960s, when new federal and state environmental regulations meant that small-scale municipal dumps became increasingly non-viable and regional landfills began to take their place. In the 1980s, SMI, an international waste management conglomerate, opened the present facility, and today garbage is brought in from as far south as New York City and as far north as Vermont. The fact that the largest landfill in New York State was located in Seneca Falls is quite controversial amongst town residents. For many, the landfill is so egregious because it is an "ugly eye sore" right at one of the main thoroughfares that welcome people to the town. Moreover, although SMI follows all state and federal regulations and has received commendation for its green practices, many town residents believe that these giant deposits of refuse contaminate the air and water supply. During my fieldwork, a handful of the corporation's most outspoken critics formed a concerned citizens group (simply called "Concerned Citizens of Seneca County" (CCSC)) to fight the alleged environmental and aesthetic problems caused by the landfill.

When I began my fieldwork, SMI had recently applied to the town for permission to build a railspur, which would allow it to import garbage on train cars via the tracks that already went through its property. To do so, it would need permission from a variety of state, federal, county and town entities. Whether this permit should

be granted had become a common topic for discussion at local government meetings and in less official venues around town. CCSC and other unaffiliated critics of the landfill made concerted efforts to force the town government to refuse the permit for the landfill's railspur. During my fieldwork, there were small signs in many front yards in northern Seneca County proclaiming that the owner wanted to "Stop the Trash Train." There was also a large commercial semi-trailer permanently parked in front of the Pizza Hut near the landfill, which stated this slogan in 10-foot lettering.

SMI took many steps to ameliorate the negative effects that its landfill might have on the town and its people. SMI gave the town of Seneca Falls a fixed percentage of its profits each year[81]. Additionally, several years before my fieldwork, a joint team of SMI and local representatives had come up with a host-benefit arrangement that ensured the town of Waterloo—whose center is closer to the landfill site although SMI's property falls entirely within Seneca Falls' jurisdiction—received a cash payment of $250,000 each year. The corporation had also instated a property value protection program, which offered compensation for anyone who claimed that their property had sold for a smaller amount than it should have because of proximity to the landfill site[82]. Additionally, the company instituted a special fund for community development projects and hired a community relations officer to administer it. He attended nearly every public event in the town (he and I quickly came to recognize

[81] I never learned the exact percentage, but a recent editorial in a regional newspaper cites the total amount of SMI's annual payments to Seneca Falls over the course of the last 18 years as $47 million (Black & Benjamin 2018).

[82] A PR professional for the firm told me that no one had ever needed to use this program, but the landfill management put it in place "to show we're on their side…to show we want to be a good neighbor."

each other by face before we formally introduced ourselves) and made it easy and efficient to submit applications for donations and other small-scale funds. My landlady spoke fondly about how SMI provided the uniforms for her grandson's little league team and did other helpful acts. "I know they're stinking up the place. But they help our library. They give money to our school. They're a pretty good neighbor."

While the anti-landfill activists express their concerns and try to rally support, one of their common accusations is that SMI does not pay the same amount of property taxes that other property owners have to pay. Indeed, SMI does not pay many of the property taxes to which most other property owners are subject. This is the result of a specific state-sponsored economic development program that NYS has used for decades. In the 1970s, the state created Industrial Development Agencies (IDAs) in each of its counties. These agencies are public benefit corporations, which are affiliated and partially funded by county government entities but in other ways operate as independent corporations. They consolidate the available state and county funding mechanisms and offer incentive packages to corporations looking either to move into or away from the county where the IDA is based. One of the benefits IDAs are authorized to offer is a Payment-In-Lieu-Of-Taxation (PILOT) scheme, in which case certain property and other taxes (although not all[83]) can be foregone if a corporation makes other fiscal payments or investments in public infrastructure instead.

[83] Through a Payment-In-Lieu-Of-Tax (PILOT) scheme, an IDA can reduce a corporation's adjustable property tax liability, but not the standard flat payments it owes to the special districts that provide direct services such as mosquito or fire control.

On its website, the Seneca County IDA highlights the incentives that it had extended to SMI as part of its success story.

> The Seneca County IDA recognizes the annual direct impact that SMI contributes to the local economy, including jobs, sales tax on goods purchased from local vendors, payments-in-lieu-of-taxes made to various taxing jurisdictions and other community-minded investments. As such, the IDA has supported the long-term retention of these jobs and benefits through the issuance of Industrial Development Solid Waste Disposal Bonds, which are a primary financing mechanism in the State of New York. (SCIDA.com)

The IDA allowed SMI (and several other corporations that employed a large number of county residents) to forego certain local property taxes in order to encourage the corporation to invest in Seneca Falls. Some argued that because of these tax exemptions, the corporation was not paying its fair share. Those defending the landfill, however, used a framework of *contribution* to argue that the landfill's share had already been paid.

The chairman of the Seneca County IDA, George Harned, worked very hard to convince the people of his county that SMI and some of the more unpopular corporations that moved to or remained in Seneca County (namely, but not limited to, SMI) were contributing to the local economy. One afternoon I interviewed him in his office, which was in the county government building although the IDA was not directly subject to county authority. We spoke for an hour about the economic

challenges faced by rural places like Seneca County. During our conversation I happened to mention a previous communications internship I had held. In response, he proposed that I try my hand at writing a blurb for the local newspaper that would summarize some of the more positive aspects of the IDA and the type of development it could produce. Together we brainstormed to arrive at the right content and format, and a week later I sent him the following paragraphs:

> When the Seneca County Industrial Development Agency (SCIDA) works to bring a company to Seneca County, everybody benefits. To attract a company to the county, SCIDA works with site selectors, business owners and CEOs to develop a package of incentives that ensures that the company will invest in a long-term relationship with Seneca County. A SCIDA-backed project prioritizes the kind of jobs and growth that will be here for generations.
>
> …
>
> Some companies aided by SCIDA pay limited property tax through Payment-In-Lieu-Of-Taxes (PILOT) schemes**.** Companies use these savings to create more jobs and more salaries that in turn contribute to the county's tax base. In fact, SCIDA-aided projects produce the majority of the county's revenue that funds our municipal services. In this way, these projects contribute to the whole community of people who live and work in Seneca County.

Although the blurb never ran (which I hope was a result of logistics rather than my unsatisfactory writing,) Harned commended how the piece got to the heart of the matter: "You show that if someone compares the present dip in tax funds with the future benefits that these incentive packages bring about, people really should see it as a positive outcome." His job, and the job he offered to me, was to persuade the local public that IDA-backed projects (including the controversial SMI) contributed more to the community than they would have done simply by paying property taxes.

The attempts of the IDA chairman and SMI corporate management to frame the landfill's donations as contributions that could offset any harm it brought about for the community seriously bothered several Seneca Falls residents. During my fieldwork, Sam Komalski was one of the Seneca Falls town supervisors on the Seneca County BOS (which meant that he served on the county government, not the town council). He was more vocal in his anti-landfill beliefs than any other local politician. He constantly brought up what he referred to as the "trash heap" in the bimonthly county BOS meetings, and also regularly sat in the audience at town meetings and make rallying speeches about an anti-landfill petition that was in circulation, and called upon town politicians to change the zoning codes that could stop the landfill from expanding. He told me about these efforts during our first meeting, when we were ostensibly supposed to talk about the Cayuga tax issues but ended up spending much more time on the issue of SMI. In contrast to Sophia's belief that SMI's contributions comprised a sufficient payment for access to local resources, Komalski insisted that the risks and dangers could never be offset by financial payments. Indeed, he tried to make local organizations stop accepting donations from SMI, which he

characterized as "mafia money." "They present it like charity, but they're really buying influence," he told me. Another time he compared SMI with a drug dealer. "When they give us such a big part of our operating budget each year, it's like crack. They're turning our town into a bunch of addicts. They know we won't be able to make it without them."

Sophia, Sam Komalski and George Harned all expressed different opinions about SMI. While they may have disagreed in their conclusions, they shared a common idea of what it means for a corporation to be a "good neighbor." Such a neighbor belonged to and contributed to the community. In this way the figure of the good neighbor served as a vernacular for a good local citizen. This mode of neighborly citizenship does not reflect a transaction-based framework where a property-owning corporation pays a certain amount to gain access to local markets and resources. Instead it reflects a related but different framework in which an organization must simply *contribute* to the community. If its net contribution in the form of job creation, infrastructural development or other forms of fiscal payments outweighs the harm it does, then the organization is a good neighbor; but if the harm outweighs the benefits, then it is a bad neighbor (and bad citizen). This balancing act was often reflected in the language people chose to characterize the various donations that SMI made. By calling these payments "contributions," the landfill is seen to be giving more to the nearby towns and communities than what is strictly required. Komalski and the concerned citizens, however, refused to refer to these donations as "contributions," labeling them instead as "crack money" and "protection payments" that were forcing townspeople to put up with more than they should.

This form of accounting did not apply only to corporations. Other property-owning organizations were subject to this calculation of risk and benefit as well. There were online debates on the local anonymous forum where people discussed whether local churches or other non-profits should be exempt from property taxes. "Why the hell did the town just give $10,000 to Trinity for a new roof? What has that church ever done for any of us who aren't parishioners?" one poster wrote. A response read: "Soup kitchens. Attracting tourists. An open space that anyone can use. Do I have to continue?" There were similar debates about whether the federally owned, property tax-exempt Women's Rights National Historic Site ultimately contributed to or detracted from the community and its wealth. In Seneca Falls, the representatives of these corporations and organizations were always aware of these debates[84]. Their spokespeople regularly acknowledged that they had fiscal obligations to townspeople and other local organizations, even if they did not pay a standard rate of property tax.

All of these organizations engaged with the debate about whether they ultimately contributed to or subtracted from the overall value of the town in order to defend their right to belong in that space. Residents held conflicting opinions about whether each organization met those expectations; in response, the more controversial local organizations attempted to demonstrate their value through PR campaigns and other measures. But more than actually being a net contributor, the most fundamental part of

[84] The National Park System (whose land falls under federal jurisdiction and is therefore exempt from local property taxes around the country) is in fact so aware of debates such as this one that it regularly publishes studies of how parks contribute to the local economies where they are based. A study that came out in 2011 stated that the Women's Rights park contributed $1,315,000 in jobs and $1,574,000 in "value added" to the community (Stynes :35).

corporate belonging in this space was that the organization acknowledge its requirement to engage in this debate to begin with; that it recognized that its belonging was contingent on how it contributed (or was seen to contribute) to the lives of the other citizens of the town. Corporations may not meet other people's standards of being a good local citizen, but even the ways in which they grapple with that negative reputation are entirely circumscribed by a framework of citizenship.

To return to the matter of the CIN's property tax refusals, the CIN and Great Swamp Enterprises may or may not have been net contributors, depending on how one chooses to measure the value of their property and other tax refusals in contrast to their capacity for job creation and visitor attraction. But in either case, the people representing the nation's corporation did not engage in public debates about how much they contributed in order to offset this perceived imbalance. Unlike SMI, Great Swamp Enterprises did not defend its property tax refusals by claiming to contribute in other ways. It did not engage with the framework of local corporate citizenship to prove its right to belong in this space. This gets to the heart of the stalemate that had come to exist between many town residents and officials, and the CIN: regardless of whether the CIN's businesses did or did not bring value to the town, the CIN was not defending its right to operate in this space as a citizen of the local community, but rather as its own sovereign nation.

Refusing Property Tax, Refusing State Sovereignty

When Seneca Falls town residents voiced their condemnation of the CIN's property tax refusals, they invoked a community where every property owner—individual resident, corporation, or other organization—contributed something as an expression of their obligations to the community. In most cases the contribution took the form of property taxes. In other cases, it took the form of payments made in lieu of taxation or other investments in the public good. In this discourse, everyone pays their obligated amount as a function of their citizenship/membership in the community. Of course, this model is not an accurate representation of how local taxes actually work in Seneca Falls. The constant debates about how much and in what form an individual or corporation should pay demonstrate that taxes are not an uncontroversial responsibility. And yet even as organizations and individuals wrangled over the particular terms of their fiscal obligations, their struggles were undergirded by the idea that such fiscal obligations (as a class, if not an amount) were fundamentally inescapable. Unwilling to situate the CIN outside of this framework of local citizenship, many townspeople and officials insisted that these obligations were just as inescapable for the nation and its businesses as they were for other residents.

The CIN and its legal team, on the other hand, did not accept these terms for operating a business in Seneca Falls. When I moved to Seneca Falls in the Autumn of September 2013, the CIN had not paid its full property tax bill during the previous five years. In the conversations I had with people who belonged to or worked for the CIN about the nation's property tax refusals, they agreed with county and town officials about the fact that paying property taxes was an important component of local

citizenship. They did not agree, however, that this mode of political belonging applied to the CIN and its members.

Although I saw Cliff Athill, the CIN's FR and the CEO of Great Swamp Enterprises, almost every day while I worked at Lake View Trading, I never had the chance to speak with him explicitly about the nation's property tax refusals. However, I talked to others about his personal involvement in the CIN's property tax refusals, and I heard several second-hand explanations of why he had taken the courses of action that he did. During one of our interviews, Diane Raelish, the CFO of Great Swamp Enterprises, spoke at length about conversations she had had with Athill about the issue of local property taxes.

When we spoke in her office, Raelish recapped some of the conversations she had had with Athill about the issue of local property taxes. "He says they should be paying us the property taxes plus interest for the last few hundred years," she summarized, leaving it unclear if her usage of "us" was meant to indicate that she was speaking from Athill's point of view, or if it was an expression of her own intimate relationship to the nation. "He says that, if anything, they owe us." According to Raelish's account, Athill believed that the land in question was Cayuga territory and therefore should not be subject to local tax codes. Indeed, according to her, Athill believed local, county and state governments should be paying the nation taxes on the contested property. Audra Simpson applies the term "refusal" to the processes in which the Mohawks of Kahnawà:ke "refused the authority of the state at almost every turn and in so doing re-instantiated a different political authority," (2014:17). In

Simpson's terms, Athill's insistence that the CIN not pay local property taxes can be viewed as an explicit refusal of local and state[85] sovereignty over Cayuga land and an explicit refusal to participate as local citizens within that space.

While Athill may have insisted that the CIN not pay property taxes because the property in question is Cayuga sovereign territory, this was in fact not the legal reason that allowed the nation to forego these payments for so long. When Seneca County came to foreclose on the CIN's acres for delinquent property tax payments and the CIN counter-sued (prompting the 2012 *CIN vs Seneca County* court case), the nation's legal team argued that the doctrine of tribal sovereign immunity prevented the county from foreclosing on their land, regardless of whether or not the land was eligible for property taxation. The presiding judge discussed the different implications of these two articulations of immunity in some detail.

> Plaintiff maintains that in this action it is not claiming that the property is "immune from taxation"….The Nation does not claim the parcels at issue here are immune from taxation...Instead, Plaintiff contends that while the County may impose taxes, it has no right to collect them…[a]s a federally-recognized Indian nation, [it] possess[es] tribal sovereign immunity [from suit]. Which bars administrative and judicial

[85] These fiscal refusals do not apply to federal taxation: there are no federal property taxes for the nation to refuse, and the nation collects and remits the federal excise taxes on the cigarettes sold in its shop. This is because, unlike state jurisdiction, tribal reservations are still subject to federal jurisdiction. Therefore federal authorities could easily come to the store and halt sales if these taxes were not collected.

> proceedings against the [Indian] Nation, even if the taxes are properly owed (*Cayuga v Seneca County* 2012: 3).

By citing the nation's immunity from suit rather than any immunity from taxation, this decision does not technically assert Cayuga territorial sovereignty. But if we approach Cayuga sovereignty in a *de facto* rather than *de jure* context, the doctrine of tribal sovereign immunity emerges from this verdict as a way for the CIN to refuse the demands of standard membership in the Seneca Falls political community (Agnew 2005: 437). By invoking the doctrine of tribal sovereign immunity, the CIN avoids paying property taxes and, in doing so, rejects the proposed terms of belonging that are based in membership in local citizenship.

When Diane Raelish conveyed to me her earlier conversations with Athill about property taxes, she summarized his insistence that the CIN not pay and even his proposal that the town and county pay taxes to the nation. She understood the political significance he attributed to the act of refusing to pay property taxes and, by extension, the territorial sovereignty of the settler state over Cayuga land. However, she personally disagreed with his position on this matter.

> I always tell Cliff that not paying property taxes is a mistake. We have arguments about it. Joking arguments, but arguments. I'll say pay the property taxes...Was the land illegally taken? Yes. Was there a treaty that was broken? Yes. But do you want the fire department to show up for your customers? Do you want them to plow the roads and let your customers in? No one gets a free ride.

Raelish was "a great believer in tribal sovereignty," and was strongly committed to the idea that "this was Cayuga territory, first and foremost." But she thought that it would be a good strategy for the CIN to pay the contested property taxes. For her, the idea that the CIN pay its local property tax bill was not necessarily tantamount to political subjectivity. In an inverse of Maurer's call for economic anthropologists to frame taxes as a form of payment, she explicitly framed property taxes as a transactional fee for certain public services. By conceiving of these taxes as a price/fee, Raelish argued that they could be stripped of their role in political subjugation.

Moreover, Raelish argued that paying these taxes might potentially make for a smoother relationship between the nation's businesses and the local authorities that were trying non-stop to obstruct them. "If you pay the property taxes, you might find that everything's a little easier. The village won't sue you the second you open a new business or do something else they don't like. You'd certainly save a lot on legal fees." Raelish calculated that the CIN had spent more money and foregone more revenue as a result of these tax refusals than if it had simply paid the taxes in question. While the local taxing authorities might have interpreted the nation's tax payments as a demonstration of Cayuga compliance and acknowledgment of its obligations to the community, the CIN's explanatory model for transferring cash to the local governments might have been totally different (e.g. to make everything "a little easier"). Like Redding's example in which colonized South Africans saw themselves as effectively buying their autonomy with taxes, Raelish argued that paying property taxes might actually strengthen the CIN's sovereignty instead of undermining it.

Raelish and Athill disagreed about the exact implications of paying local property taxes, but both of their opinions were grounded in a rejection of the notion that the CIN and its members belonged in Seneca Falls only insofar as they behaved according to the proper codes (fiscal and otherwise) of local citizenship. Instead of local citizenship, Cayuga sovereignty was the legitimizing force that allowed the CIN to reside and operate on this land. For many residents of Seneca Falls, the binary that demands political participation as either an American **or** an Indian was unable to accommodate the idea of the CIN owning land and operating businesses within the town's borders as anything other than a member-citizen. Of all of the CIN's ongoing acts of "fiscal disobedience," the refusal to pay property taxes stood as perhaps the most explicit rejection of this model, and prompted the most backlash as a result.

Conclusion

When residents of Seneca Falls and Seneca County criticized the CIN for refusing to pay its property tax bill, their discourse indicated that more than money was at stake. Following the trail of local fiscal redistribution further reveals how this is not a primarily financial matter: despite the arguments of concerned taxpayers, public spending did not go down as a result of the CIN's tax refusals, nor did any private individual have to pay more property tax as a result. By highlighting how these concerns were not strictly financial, property taxes emerge as a performed obligation for the proper mode of local political belonging.

In this chapter, I examined two different versions of this framework: the obligation to "pay your fair share" as a private resident, and the obligation to "contribute" as a locally based corporation or organization. By examining both of these discourses, I showed that local citizenship is, theoretically, meant to emerge out of the recognition of and participation in those fiscal obligations. To describe this particular invocation of citizenship, I use Aleinikoff's notion of "citizenship-as-membership." In its voracious inclusivity of everyone who lives within its territorial jurisdiction, it eliminates the possibility of belonging in this space through any other mode. Many local residents sought to apply this model of belonging to the CIN as it bought more and more land in Seneca Falls. But the CIN, which claims to belong in this space due to its unique sovereign relationship to the land, rejected those terms.

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Under Athill's leadership, the CIN explicitly rejected the terms of local citizenship that the concerned taxpayers of Seneca Falls, as well as most county and town politicians, offered. During my fieldwork, however, some members of the CIN who were not sanctioned by Athill began to build connections with many of these same local politicians. In the previous chapter, I discussed a breakfast meeting between Tom Braeburg, the CIN's fiercest critic, and Tim Darcy, a Cayuga man who had emerged as the spokesperson of the Unity Council—the leadership group whose members wanted Athill ousted from his position. While Athill explicitly rejected the role for the nation of local citizen with obligations to pay its fair share and/or "contribute," I witnessed several occasions when Darcy tried to communicate to

various town residents how the CIN under the Unity Council's leadership would consider making payments that followed this model.

For several months after I first met Tim Darcy in the Green Apple Diner, we regularly met over coffee or in his office in Ithaca. During these conversations he often told me about his vision for the nation. He never went into great detail about the specific economic projects he had in mind, and instead emphasized what the Cayuga presence under the leadership of the Unity Council would look like on a broader scale. "The main thing we want to communicate to the people here in this town and this county is that we could work together. We could play by the rules and contribute."

Although he was unwelcome at the Athill-managed Great Swamp premises and did not have a prominent platform in Seneca Falls from which to speak, Darcy had been trying for several years to spread the message that the Unity Council wanted to "play by the rules and contribute." He was a highly skilled communicator and demonstrated an astute understanding of how most town politicians and residents interpreted Athill's choice to refuse to pay property taxes. Most of the few local concerned taxpayers and local politicians who had the chance to interact with him came to hope that if the Unity Council ever gained control of the CIN's properties and businesses in Seneca Falls, the nation would accept the state and local order of citizenship-membership and all the obligations that it entailed. For the first part of my fieldwork, this was a hypothetical hope for the few town residents that had met Darcy or other members of the Unity Council; it had little relation to the real world. But later

on during my fieldwork, certain events brought the question of whether the CIN would ever accept the terms of local citizenship right onto the center stage of local politics.

CHAPTER 4

COUP

Introduction

April 29th 2014 was supposed to be my last day working as a cashier at Lake View Trading. The woman whose maternity leave I was covering had returned, and management was making new full-time hires for the upcoming summer season. I was supposed to work the afternoon shift, beginning at 2PM and ending when the store closed at 10. However, I received a phone call that morning that brought my time at Lake View to a close before I even started my final shift. "There's been a change in leadership and the store is closed for the rest of the day," my manager told me, cutting off the conversation before I could ask any further questions. I touched base with some of my colleagues, who had no new information. I drove out to the store to see what was happening first-hand. A throng of people I did not recognize were congregating outside of Lake View's front doors, including some police. Apart from witnessing the chaos of the scene, I could not attain any clarification from my short trip. Throughout the following months, I pieced together a rough version of what had happened based on accounts published in the local media, legal documents, and interviews with people who had been directly or indirectly involved.

As I mentioned in chapter 2, the Unity Council had petitioned the BIA to remove Cliff Athill from the position of Federal Representative in 2011. The BIA normally has a policy of "non-intervention" in internal tribal politics, but if a tribal nation's ability to govern is threatened by an internal leadership conflict, and if the

nation requests BIA assistance, the BIA will intervene to rule on who comprises the tribal nation's leadership[86]. This process requires tribal members to submit various types of evidence to show how traditional and modern tribal law supports one leadership candidate over another. When the Unity Council petitioned the BIA in 2011 to remove Athill from the positions of council member and FR, the BIA agreed to intervene based on the Unity Council's description of Athill's transgressions of traditional Cayuga law. It decided in favor of the Unity Council, i.e. to no longer recognize Cliff Athill as a member of the Cayuga council or as FR. Immediately afterwards, however, Athill appealed the decision to the Internal Board of Indian Appeals (IBIA), which is "an appellate review body that exercises the delegated authority of the Secretary of the Interior to issue final decisions for the Department of the Interior in appeals involving Indian matters," (US Department of the Interior 2018). Finally, in January 2014, the IBIA decided that the BIA did not have cause to intervene in the nation's internal affairs, reversing the BIA's decision to stop recognizing Athill as FR and council member. Afterwards, the BIA issued a statement saying that it recognized the Cayuga council as it was comprised immediately after the land claim in 2006, which included Athill, two of his current supporters, and three men who now sat on the Unity Council. By that point, the six of them would no longer meet together. I heard accusations from both sides that invitations to council meetings were sent out, but "the other side" never would attend. This meant that there were

[86] In theory, tribal nations do not need to be recognized or mediated by the BIA or other federal institutions. Indeed, there are many *unrecognized* nations in the US today. However, federal recognition allows nations to enact tribal sovereignty in a practical and legal capacity, so most tribal nations have chosen to pursue it.

effectively two different councils that met to discuss tribal politics—but only Athill's group was able to access the significant revenue stream coming from the federal grants (e.g. HUD and healthcare, among others) that he managed as FR.

Considering the fact that the CIN had not been able to practice economic or political sovereignty for centuries (for the historic reasons described in the introduction, e.g. having no land base or substantial revenue stream of its own, and living as tenants on Seneca territory), the CIN did not have a codified or transparent system of tribal law, compared to other nations that modernized much earlier, and therefore dealt with the federal government for much longer. This has created a de facto situation in which Athill and other Cayuga representatives could effectively maintain their positions of power with or without the support of the nation. This is not to say that all Cayuga people wanted Athill removed from his positions. Indeed, Athill's team compiled documentation demonstrating he had majority support within the nation. Regardless of the merits of whether he should or should not have been able to serve in these leadership positions according to Cayuga law, he was able to in part because of the CIN's diminished capacity for oversight and governance.

As I have already demonstrated, the Unity Council members did not willingly accept this situation. Shortly after the IBIA ruling, the Unity Council and its supporters decided to take matters into their own hands. Three months later, on April 29th, several supporters of the Unity Council arrived at the Seneca Falls branch of Lake View Trading. They entered the building soon after 6 AM when the store opened

and ordered the staff to go home, before barricading the doors[87]. Around the same time, a different group of Unity Council supporters went to the Union Springs branch of Lake View Trading and attempted a similar maneuver, but it was unsuccessful. By the end of the morning, the Unity Council supporters had possession of the Seneca Falls branch while Athill maintained control of the Union Springs branch.

From this point on, members of the nation, regional journalists, and the town residents who watched these events unfold at Lake View and in their newspapers, came to talk about this division in terms the two different leadership "*factions*." In academic American Indian Studies and also tribal politics, "faction" is a very loaded term. Fowler describes how anthropologists as early as the 1930s used this term to describe the groupings that emerged in response to pressures to modernize (Fowler 2004). "Acculturation theory" led many anthropologists to discern a "progressive" and a "traditional" faction in several tribes, whose infighting arose in reaction to BIA-led modernization policies (Linton 1940; French 1948; Fenton 1957). During the 1960s, understandings of "factionalism" morphed from this specific traditional/progressive dichotomy into a broader processualist framework meant to account for conflict in communitarian-minded societies (Siegel & Beals 1960). By the 1980s, academic anthropologists were abandoning these studies of factionalism in favor of studying

[87] Some accounts depict the Unity Council as using no force, while others depict them as quite forceful. One account (given to me by a non-Unity Council supporter) indicated that this takeover consisted of the Unity Council supporters "attaching chains from their trucks to the gas station doors and just gunning it." Another account from another non-Unity Council supporter suggested that the day's events were accomplished through subterfuge, with a long-term employee willingly letting the Unity Council supporters in. Unity Council supporters, on the other hand, have depicted the events as "entirely peaceful, at least on our end." With this lack of clarity, I try to use the least loaded language to describe what happened that morning.

dominance and resistance to account for political and social change (Voget 1980; Fowler 1982; Biolsi 1992) however, the idea that vying leadership groups reflect the breakdown of American Indian social fabric has persisted and migrated into mainstream understandings of American Indians. This was evident in Seneca Falls, where local politicians and journalists talked disparagingly about the different "factions." In these circumstances, the term invoked the idea that American Indian tribes are inherently fragile polities that cannot adapt to a world where individuals act out of self-interest, and are prone to political dysfunction (as though there were no factions within mainstream American politics). As it is commonly used, the term demands no accounting for the specific federal policies that have historically and in the present-day actively entrenched internal divisions within nations—it simply presents these divisions as the natural consequence of American Indian political underdevelopment.

At many points during my research, "faction" was used as an outright derogatory term, and I hesitate to use the term without qualification. When I use this term, I do so as a category of practice rather than a category of analysis (Bourdieu 1972). The term arose in my fieldwork as both a self-identification amongst various Cayuga tribal members, and as a derogatory term from non-Cayugas belittling tribal politics. I aim to refer to "factions" in this dissertation only in the contexts where it was the salient term that my interlocutors used.

Returning to the events of April 29th and their aftermath, the local media's coverage framed these events as resulting from the division between one Cayuga

faction that supported the Unity Council as the proper set of Cayuga leaders, and one that supported Cliff Athill as FR, council member and CEO of Great Swamp Enterprises (by the time I left the field, this faction had not yet attained a singular name. It was often referred to as "the Athill group" by its critics—Cayuga and non-Cayuga alike). It might sound as though this was an internal issue for the CIN to deal with. But in reflection of Indian nations' *domestic dependent* status, contentious issues of tribal leadership often require input from federal, state or even county governments. The CIN leadership conflict was no different. Even if state, county and local governments had no official role in internal CIN political decision-making, several non-tribal bodies of government became embroiled in this issue. Among other forms of involvement, the diminished nature of Cayuga territorial sovereignty meant that the CIN's properties were still under county and town jurisdiction for all criminal matters[88]. Therefore county and town police forces were called upon to keep the peace at the Lake View stores. In this way, the "leadership crisis[89]" quickly became a matter of importance for the municipal and county—not just tribal—governments.

[88] The properties' *qualified reservation* status only applied for the limited purposes of cigarette taxation—not, for example, any type of criminal jurisdiction.

[89] I borrow this term from local newspapers. In this context, the "Cayuga leadership crisis" refers to the specific events that began on April 29th 2014 and lasted for several months and even years as the different contending Cayuga leadership factions struggled over the make-up of their council. There are several reasons, however, for which this term is problematic. Firstly, as Roitman demonstrates, framing something as a "crisis" implies an alternative state of normalcy. The Unity Council supporters argued that Cliff Athill had been usurping more and more power within the nation for years, and this "crisis" was the next logical step in their longer-term attempts to reclaim the nation's government. *Crisis* in this sense discursively casts as normal the prior period of upheaval. Moreover, even within the framework of referring to these specific moments of violence as points of *crisis*, earlier events along these lines had already occurred. For example, one Cayuga man had driven a truck into the Great Swamp Enterprises headquarters two years before. The hostile division between the Unity Council supporters and the Athill group had reached a boiling point several times before April 29th 2014. The only difference was that none of these prior events had ever resulted in Athill being ousted from

Trespass and Rightful Possession

Non-Cayuga people were drawn into the leadership crisis from the very beginning. On that eventful April morning, the Unity Council supporters called the Seneca Falls police department and warned them of their plans. When a team of officers showed up, the scope of their jurisdiction was unclear. For the most part, county and state laws apply on these CIN-owned acres because they are not recognized as reservation for most purposes (other than the highly specific "qualified reservation" which is a state category that only applies to cigarette taxation). Town police therefore had the authority to enforce local criminal laws about trespassing, and to eject the trespasser. However, because the two parties in this incident were both claiming to be acting under the authority of legitimate CIN leadership, the local policemen were confused about who was actually trespassing. Therefore they retreated to a parking lot across the road and watched to make sure the tension did not escalate to outright violence, or move past the CIN's property line.

Over the following few weeks, the question of who could rightfully be ejected from the Lake View properties received much attention. On the day the Unity Council faction initially took over the Seneca Falls premises, the Athill group asked Seneca and Cayuga counties for injunctions to prevent the Unity Council from taking control

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nation-owned properties, and therefore none of these events had involved local police to such an extent. The temporality expressed by labeling April 29 as the beginning of a "leadership crisis" does not reflect a Cayuga understanding of these events, but instead the understanding of the citizens and residents of the surrounding municipalities.

of nation-owned property. The orders were temporarily granted, but the Unity Council supporters refused to leave the Seneca County premises (they never successfully took control of the Cayuga County facilities), and the local police did not enforce the injunction. Three weeks later, the temporary orders came to an end, and Athill sought continuations. The Unity Council immediately counter-sued, and soon afterwards the validity of these county injunctions ended up in court.

In May and June of 2014, Seneca and Cayuga counties held separate hearings over whether county police could act on the Athill group's restraining order against the Unity Council. The lawyers for the two different sides stood and made their cases in front of large audiences, filled with dozens of Cayuga people wearing different clothing to indicate which side they were on (supporters of the Unity Council wore traditional dress, while Athill and his supporters wore red and white tee shirts with the words "Unity Council" crossed out on the front). Their arguments centered around the question of whether or not this matter fell under the counties' jurisdictions. This was not a debate about the territorial dimensions of Cayuga jurisdiction, i.e. whether a county court could make a ruling over acts that occurred on Cayuga territory. Indeed, no one questioned the fact that for any purpose of criminal law, this property would have been treated as county territory. Instead, the jurisdictional issue at the core of these cases was whether a county judge could decide to uphold or deny a restraining order against one Cayuga faction without making a decision about who was the legitimate Cayuga leader. Athill's lawyers argued that a county judge could make a decision to uphold "the status quo" without making a decision about who was the CIN's leader; the Unity Council's lawyer argued that any decision about which

Cayuga people should be ejected from this property required the county judge to make a decision about the CIN's leadership. The presiding judges in both hearings agreed with the Unity Council's lawyer: they could not examine the merits of this case without making a decision about Cayuga leadership, and therefore the case was not in their purview. In effect, this meant that the restraining order against the Unity Council was nullified. After the county courts issued their decisions, both factions retreated to their respective Lake View Trading premises. The legal battle over Cayuga leadership moved once more to the IBIA, whose officials had previously declined to make a binding decision regarding the proper formation of the nation's government.

During the summer following the take-over of the Seneca Falls gas station, there were several somewhat violent altercations between supporters of both leadership factions as they attempted to re/gain control over nation-owned facilities[90]. Although the local police were not legally able to eject one group or the other from any CIN-owned property, they had to go to the Lake View premises to de-escalate tension several times. Many townspeople saw the fact that local police were called to the CIN-owned properties following "the crisis" as unfair. Town councilmen complained of being accosted in the street by constituents demanding answers to angry and sarcastic questions about "why a sovereign nation needs our protection." One day towards the end of the summer, I had lunch with Tom Braeburg, the long-term anti-Cayuga sovereignty activist. As was often the case when the two of us met

[90] I want to avoid exoticizing these altercations. For many local residents, this "Indian on Indian fighting" was an object of derision. But considering what was at stake (i.e. the nation's source of revenue, which as Cattelino demonstrates, can effectively be seen as the primary means of exercising tribal sovereignty, 2008), these altercations were by no means exotic, and indeed quite typical of all interactions when so much money is at stake.

up in public restaurants and cafes, other customers came up to our table and spoke to Braeburg about the CIN. On that afternoon a few months after the take-over of the Seneca Falls branch of Lake View Trading, a woman came over and interrupted our conversation. "Who's supposed to be paying for their police visits? If they won't pay, why can't we just let them destroy each other?" Framed as commentary on how unfair it was for the county to have to spend public resources on policing the property of the tax-refusing CIN, these comments also articulate the sentiment that Indians in general, and the CIN in particular, are inherently violent. Much like how people in dominant American society frame "black on black crime" as something deriving from the violent nature of people of African descent rather than political oppression and chronic disinvestment (Vargas 2015), this discourse about letting the two factions destroy each other ignores and justifies the violent structures of settler colonialism that have created the conditions for modern day inter-tribal factions.

When confronted with comments from the electorate like those mentioned above, politicians and officials were increasingly reluctant to spend public funds on policing the CIN's property, although they were legally obligated to do so because the properties fall under local and county jurisdiction for these purposes. In this climate, both CIN factions began to actively court the support of the local and county governments, which could in theory provide some assurances in the face of so many unknowns: Would county courts enforce any new restraining orders on Cayuga land? Would county or town governments submit statements of support to the BIA for one side or the other? If push came to shove (either figuratively or literally), which side would local police forces eject from CIN-owned property? As local politicians were

facing more and more heat from their citizenry to stop dedicating resources to the "Indian issues," the two factions both embarked on PR campaigns throughout the region. As a result, CIN and local government representatives met in an official capacity for the first time in a very long while[91].

The Covenant: Contribution and Reciprocity

The Seneca Falls town board holds a public meeting on the first Tuesday of every month at 7:00 P.M. At these meetings, appointed officials give reports on their departments, and elected councilmen discuss specific issues of local concern. These discussions often result in the adoption of new resolutions, which may include a municipal donation to a particular organization, a new sound ordinance, or a change in the companies that receive contracts for town business. Members of the public can also speak at these meetings. If they follow the proper protocol and get approval from the town clerk, they will get a short slot to present, which will be noted on the agenda that is published on-line ahead of time. A few weeks after the Seneca and Cayuga county judges decided that they could not uphold injunctions against the Unity Council on CIN-owned property, the Seneca Falls government published the agenda for its upcoming town council meeting. In between a petition from a local homeowner

[91] Prior to these interactions in 2014, the CIN had not officially met with local officials since it sent representatives (i.e. Athill and a few others) to public hearings about the nation's LIT petition in 2009, which were mediated by the BIA. From the accounts I heard, there was no direct interaction between the "two sides" at those hearings. Prior to that, representatives from the local and tribal government were both present in court at different points during the 25-year land claim trial, but again, there was little chance for direct conversation.

who wanted to enforce a sound ordinance against a neighborhood bar and a petition to seek town funding for an upcoming festival, was the following agenda item: "an Introduction to the Unity Council." At that point, I had not attended a town council meeting for several months, but this one promised to be interesting, so I arrived early on the following Tuesday.

The monthly town board meetings took place in the old gymnasium of what had once been a Catholic school. Although it had been years since the school closed down and was converted into a municipal space, the accoutrements of a high school gym were everywhere. The electronic score card was dark, but the pendants, bleachers and team decals on the wooden floor evoked the presence of basketball players and track runners as if they had just left for the day. A low curtain was drawn across half of the space in a not entirely successful attempt to make the room feel less empty.

The town board had moved to this space relatively recently. Three years before, the village of Seneca Falls had dissolved[92]. Prior to this dissolution, the village offered certain municipal services, including a village police unit and sidewalk snow clearing among others, to the residents living within its 4.6 square miles. The Town of Seneca Falls, on the other hand, was 24 square miles, and offered far fewer services. Because the town offered fewer services and it—the town, not the village—received an annual gratuity payment from the SMI landfill, residents of the village had a

[92] "Dissolution" is a process in which the constituents of a municipality vote for that municipality to cease to exist as a jurisdictional unit. In recent years, the New York State government has actively encouraged village governments to dissolve because of its supposed financial savings (Department of State 2017).

property tax rate that was approximately 600% higher than that paid by town property owners. Village residents held a contentious referendum in 2011 that resulted in the village's dissolution. Afterwards, the town government had to absorb the village's bureaucracy, which meant that it had to find a bigger space. Over the course of the following three years, the town board members had been debating whether to build a new town hall or to buy an already existing building. In the meantime, the town rented the gym and other office facilities from the St. Peter's Catholic Church, whose own need for space was dwindling.

On the night of June 3rd 2014, the old gymnasium was set up as usual. Twenty white fold-up chairs were laid out in rows, behind which stood a camera, broadcasting the meeting onto a public access network. Directly across from these chairs was a long collapsible table, where the five town councilmen sat. This was flanked by another two tables, where the town officers sat behind movable plaques that stated their department and/or title: "police chief," "dog control," "highway commission." A podium stood to the side so that the representatives and the public could all see and hear whomever was speaking.

Most of the people in the audience (there were 12 of us, a fairly typical turnout) were dressed casually, but four men in the front row (including Tim Darcy, whom I had come to know relatively well from our regular meetings, and other members of the Unity Council that I recognized from local press coverage) wore ribbon shirts. These are collared, often floral-patterned shirts with ribbons sewn across the chest and back. Many men wear such garments at Haudenosaunee festivals or

commemoration days. Additionally, the Cayuga men at this presentation each wore a *gastowan*, a Haudenosaunee traditional headdress that denotes one's position in the nation. This was noticeable dress at a Seneca Falls town board meeting.

At 7:00 sharp, the Town Supervisor rose, followed by everyone else in the room—including the members of the Unity Council. We recited the pledge of allegiance (the Unity Council members participated, as far as I could tell) and sat back down in our seats. After voting to accept the minutes of the previous week's meeting and standard reports from each department, the Supervisor, reading from the agenda he held in his hand, announced that the Unity Council would speak. Darcy stood up and walked to the podium.

Although he was not himself a member of the Unity Council, Tim Darcy had become its go-to spokesman in the months leading up to the take-over incident and in its immediate aftermath. He was an extremely articulate and a charismatic speaker. His soft voice demanded the attention of anyone listening. He began by explaining the traditional Cayuga political system to his audience. He described the phenomenon of the Haudenosaunee long house[93] and said that building a long house on the nation's traditional land was one of the Unity Council's main goals—and something that distinguished this group from Athill, who had more materialistic concerns. In Darcy's words, a Haudenosaunee long house has both administrative and ceremonial purposes,

[93] Long houses were part of the historic Haudenosaunee religio-political system and are still used today by the different nations. It is not within the purview of this dissertation to discuss the function of these buildings, but their significance is important background. Anthropologists have been writing about these structures since at least Lewis Henry Morgan in the mid 19th century (1904). For a more Haudenosaunee-centered description, see the official Haudenosaunee Confederacy's post on longhouses (Haudenosauneeconfederacy.com 2017)

but he spent most of the time describing the administrative capacities of a longhouse system, making analogies with the political system of the Seneca Falls town council. He cited Cayuga law to explain how the system is supposed to work when the Cayuga people want to remove a clan representative[94]. "It's meant to be peaceful, like the transition between presidents in the White House. There are supposed to be checks and balances." The main instrument for maintaining this order is consensus decision-making. "When we are of one mind in the long house, it gets recorded as law. Consensus is what creates Cayuga law." This model of political decision-making was central to his message to the Seneca Falls town council and the audience of local residents. In his explanation of the Haudenosaunee practice of consensus, people act as autonomous agents but as long as their goal is to work together, they will arrive at a mutually beneficial solution. "Like different constituents of the same place, you have to remember that you have a common goal. If that's forgotten, there's no way to move forward."

In Darcy's description, the CIN could relocate to Seneca Falls, its people could live and work in the area, and the town could continue to function as always. "We are not the same, but we share a common claim to this land. If we work together, we can protect and develop it in the best ways for everyone." This focus on environmental

[94] Even more than other Haudenosaunee nations, the Cayuga Nation has been so decentralized and so far removed from its traditional homeland that Cayuga law is a particularly difficult phenomenon to pin down. In a colonial framework, Cayuga people trying to cite their traditional laws often have to prove that something is a codified law, even if Cayuga law has never been explicitly codified. Darcy relied on Tom Porter's 2008 *And Grandma Said…: Iroquois Teachings as passed down through oral traditions* as one such citable source for Haudenosaunee law in general, with specific attention to Cayuga law.

stewardship was a common theme throughout Darcy's speech as well as the speeches of the two subsequent Cayuga speakers. Mark Dickerson, a Cayuga seatwarmer (a place holder for a Chief's title) who also sits on the Haudenosaunee Environmental Task Force, described how the Unity Council wanted the nation to be the "caretaker of the land," but not only for the nation's own interests: his universalizing discourse about the environment framed all the people in the room and all of their political communities as inhabitants of the same space. "Now all of us have claims on this land, and it's up to us to keep it in balance."

By describing the Cayuga traditional consensus-based political system, and by invoking local land as the mutual responsibility of all its present inhabitants, the Unity Council members emphasized the cultural importance of balance. Darcy applied this model of political and environmental balance to relations between the town and nation.

> We understand that the environment has changed: there are still animals, but there are power lines, sewers…Every day we partake in utilizing these infrastructures…We try to maintain balance with fish, with trees; we want that balance with you. We do not want to be just takers, but contributors.

In Darcy's depiction, balance and reciprocity marks the Cayuga people's relationship to their homeland. In his presentation, he extended this model of reciprocity with the environment to include other people, specifically the inhabitants of Seneca Falls.

Under the Unity Council, the CIN would "contribute" to local governments as part of a "give and take."

This model took on explicitly fiscal dimensions when Darcy went on to describe in more detail how the CIN would "contribute" if the Unity Council were to gain control of the nation's revenue stream. He talked about guaranteeing payments to the town government through a "covenant." He referred specifically to the "silver covenant chain," emphasizing the sovereign government-to-government nature of the relationship he envisioned. The theme of interdependent relations between two equal sovereigns was a particularly resonant theme for the Unity Council at that specific moment. That year (2013) they were celebrating the 400-year anniversary of the historically important Two Row wampum belt, which representatives of the Haudenosaunee Confederacy "signed" (it is often referred to as a treaty) with representatives of the Dutch government[95]. This belt depicts two purple lines against a white background. Jemison et al. (2000) offer the following explanation of that historic wampum belt: the two parallel lines represent how the European and Haudenosaunee peoples should "move together side-by-side on the River of Life," but "avoid overlapping or interfering with one another," (2000: 22)[96]. In celebration of the belt's 400-year anniversary in 2013, various members of the modern-day

[95] This date has been contested by certain academic historians, but for the purposes of my argument this debate is not relevant. Haudenosaunee activists use oral history rather than relying on the colonial calendar to date this important wampum belt (Bonaparte 2013).

[96] I have focused on the modern interpretation of the Two Row wampum. This is not to say that this wampum belt was always interpreted as such, or that the Haudenosaunee-European relations were ever definitively like the relations depicted on this belt. Other contemporary wampum belts exchanged between these parties represented a different relationship of "linked—not separate—parties," (Miller 2009: 50).

Haudenosaunee Confederacy[97], including the traditionalist Cayuga Unity Council, had campaigned to spread awareness about the ongoing relevance of Indian treaties. This had culminated in an organized paddle down the Hudson River in the summer of 2013, which garnered national attention and was still on the minds of many Unity Council members and supporters. Darcy marshalled this history in his explanation of what a covenant might look like. "As a sovereign government, we would make contributions to your government in a mark of appreciation for what you spent on us. We would be like two boats traveling on the same river."

Once, during a prior conversation with Darcy, I had referred to this sort of agreement as a "compact." He corrected me and insisted on the importance of calling it a "covenant." Compacts are the term for the Indian Gaming Regulatory Act (IGRA)-mandated contractual agreement that a tribal nation must make with a state if it wants to open a casino. As "negotiated agreement[s] between two political entities that resolves questions of overlapping jurisdictional responsibilities" (Witmer 2006:110), compacts lay out the exact percentages of casino income that tribes owe to state governments. While state and tribal governments negotiate the terms of such compacts, the Federal Government oversees these agreements, and they are not considered valid until the Secretary of the Interior enters them into the Federal Registry. As Cattelino (2008) demonstrates, tribal gaming can serve as a way of

[97] Today, the "Haudenosaunee Confederacy" does not refer to all culturally Haudenosaunee nations, but those who have a chief sitting on the Grand Council. Several different nations have been removed from the Confederacy, often in the context of casino development. The Grand Council is largely administered out of the largest Haudenosaunee reservation in Canada (Grand River Reservation), although the highest spiritual authority, the *Tadodaho*, is based in Onondaga territory near Syracuse, NY.

exercising and strengthening tribal sovereignty. The compacts which legally must accompany gaming therefore can be seen as an aspect of modern tribal sovereignty. Many American Indian Studies scholars, however, have argued that the federal regulation IGRA requires comprise instead an abrogation of treaty rights and tribal autonomy (Anders et al. 1998; Casey 1994; Spilde 1998; Wilkins & Lomawaima 2001; Foley 2005; Ackee et al. 2015). Indeed, one of my colleagues at Lake View, who was Seneca but in a relationship with a Cayuga woman[98], espoused this view when he told me his views on casino-based development. We were speaking about how Athill and various other CIN members had vague plans to one day build a large-scale casino like Turning Stone near Seneca Falls, if the nation ever gained federal trust land. "One thing I don't understand about the Cayuga nation is that they talk so much about sovereignty, but then they want a casino. They'd have the feds everywhere and they'd have to give the state 25% of their money[99]."

Like my Lake View colleague, Darcy argued that casinos and compacts were not the best avenue for pursuing Cayuga self-determination. "With a compact, a state and a tribal nation are two children. We are the ugly step-child that the Federal Government doesn't want to take care of, and the state is the golden child[100]." In

[98] Because of the CIN's centuries-long base on the Seneca reservations, there are many such Seneca-Cayuga relationships.

[99] Considering that the Seneca nation had two large-scale casinos in operation at the time of my fieldwork, this young Seneca man was familiar with the terms of how compacts work. He never offered his views on whether the Seneca nation should keep its gambling facilities, although he was critical of the CIN's pursuit of a casino.

[100] There are many reasons that various tribal nations and individuals want to avoid casinos, and I am not interpreting this explanation as the totality of Darcy's objection to a potential Cayuga casino. He was also a strict Mormon who had religious reasons for objecting to gambling; moreover there were probably many personal reasons he had for wanting to thwart Athill's plans for a particular casino-

contrast, the covenant he described would stem from a relationship "between two sovereigns, government-to-government." It therefore does not necessitate such a paternalistic relationship. With such a covenant, unlike a compact, no higher authority would be needed to supervise the economic transactions and other interactions between the local/county and tribal governments. As he envisioned it, in such interactions the CIN would be acting as its own final authority[101].

If payments to local governments that Darcy envisioned were not part of a compact, they were certainly not tax payments either. Bill Johnson, the youngest member of the Unity Council, spoke after Darcy at the June 3rd Town meeting. He talked about the "relative unity" that he wanted with the town, a unity to be facilitated by the CIN's "contributions to the system." A month after the town hall meeting, I spoke to him in his new office at the Seneca Falls Lake View Trading facility and asked him what he had meant by "contribution." "We've come back to our territory…it's not an open field, vast wilderness. It's a town with infrastructure, services that you pay for. Someone has got to pay something for those services," he explained, before adding: "Taxes are what subjects pay to their government. There is a big hesitancy to call it taxes." He did not necessarily associate making a fiscal payment to the municipal government with reduced Cayuga sovereignty. As long as it was conceptualized as a willing contribution from a sovereign nation, a payment

based model of Cayuga economic development. All anthropologists must grapple with how closely an interlocutor's speech reflects their "true" beliefs and motivations.

[101] This degree of autonomy from all government intervention might be unrealistic: Darcy did not discuss what type of oversight the Federal Government might have of such a covenant. But he described a covenant in terms of joint decision making between the State and the CIN, rather than the contractual, obligatory nature of the relationship that a compact entails.

would be permissible. As long as it was not thought of as a tax, such a payment could be interpreted as going toward the maintenance of the infrastructure and civic relationships necessary for the CIN to flourish in the 21st century. Such a payment would not necessarily undermine the CIN's sovereignty, and in fact could strengthen it.

At the June 3rd Seneca Falls town council meeting, three Cayuga speakers followed Darcy, who then stood up again to make the Unity Council's concluding remarks. "We want to move our people here," he said, before concluding with a final repetition of the Unity Council's invocation of the good neighbor. "Now we can hopefully find a path where we walk together as neighbors."

After the Unity Council finished their presentation, a brief Q & A session followed. Several town supervisors raised their hands. Darcy moderated the session and chose the man whose arm had gone up first. The chosen supervisor stood by his chair as he spoke. "We've never wanted anything other than the Cayugas to come here as neighbors. Frankly, it's been years of disappointment because nothing that your nation has done looks anything like being a good neighbor to us so far."

"I understand," Darcy responded. "The others haven't been good neighbors to you. We want to do things better. We want to work together and contribute to this place and your community."

Seemingly satisfied, the supervisor nodded his head and sat back down. Soon after the members of the Unity Council left, and the town meeting returned to more typical matters.

As I have previously stated, Zizek argues that invoking the "neighbor" can work to emphasize closeness and similarity, or alternatively it can emphasize points of difference: a polarity that Zizek describes as "the neighbor as the extension of the self" or "the other," (2006: 6-7). This binary distinction suggests that a neighbor is either one of us and therefore a *good* neighbor; or an outsider and therefore a *bad* neighbor. This distinction between the neighbor as either inner/familiar or outer/hostile overlaps in many ways with the dichotomy that Bruyneel identifies in dominant American conceptualization of American Indians, in which Indians can either live within the American body politic as citizens or outside of it as foreigners. The town supervisor that I quoted above used this framework to criticize how the nation had behaved under Athill's leadership—how the nation remained an "outsider" and refused to join the community as a "good neighbor." In response, Darcy and other Unity Council representatives invoked a new type of good neighbor that transcended this dichotomy: the CIN would not pay taxes, but would still be a contributing participant within Seneca Falls' economic community. This figure would not be fully interpolated into the dominant political community as a citizen, but would not remain a hostile outsider. In Darcy's description, being a good neighbor is not synonymous with being "one of us;" it conjures another, less exclusive, mode of belonging. In this way, the Unity Council members used a model of neighborliness to carve out a "third space of sovereignty," (Bruyneel 2007).

Although I argue that Darcy and other members of the Unity Council were articulating a model of good neighborly relations that defied the typical inside/outside binary of tribal sovereignty, these local politicians did not necessarily grasp this

distinction. Later in the season, it became apparent that most town politicians had in fact interpreted the Unity Council's pledge to contribute as a pledge to be the sort of good neighbor-citizen that Darcy and the other council members were rejecting in their discussions of a covenant. I will return to this dissonance further below. But first I turn to another local government meeting where the Athill faction spoke to make its own call for support. The members of the faction who spoke at this meeting also used a model of neighborliness, but the dimensions of their hypothetical neighborly relationship were quite different.

The Nation Next Door: Benefit and Exception

Across Cayuga Lake from Seneca Falls sits the village of Union Springs in Cayuga County, where the other Lake View Trading store is located. Although Cayuga County holds more of the contested Cayuga reservation than does Seneca County, in the years since the opening of the two Lake View Trading stores, the nation has bought far more land in Seneca County than in Cayuga County. In Union Springs and Cayuga County, the nation only owns four parcels totaling roughly 100 acres, including the Lake View store, a small bingo hall (which was closed for eight years between 2005 and 2013,) and a large Victorian mansion. As a result, the nation's relationship to Cayuga County was not a facsimile of its relationship with Seneca County. First, the nation's smaller holdings meant that its foregone property tax bill was not nearly so high in Cayuga County and so caused considerably less concern. Second, the Cayuga County seat is situated in the City of Auburn, which is relatively

far removed from the Cayuga reservation area both geographically and demographically, compared to the Seneca County seat, which is less than two miles away from Seneca Falls in the bordering town of Waterloo. Accordingly, these "Indian issues" are not as big of a priority at the county government level in Cayuga County as they are across the lake in Seneca County. As an Auburn resident told me: "In Auburn itself, you don't hear about that stuff. It's not something on people's minds at all." While most of the members of the Cayuga County Legislature expressed the same concerns about the potential reduction of their tax base as the representatives on the Seneca County Board of Supervisors, the level of animosity was considerably lower.

Nevertheless, when fighting broke out between the Unity Council and Athill group, the Cayuga County Legislature faced the same difficulties as the Seneca County and Seneca Falls governments. When altercations between the two factions periodically flared up at the Union Springs Lake View Trading over the summer of 2014, officials diverted traffic away from the county road that passed the gas station. As in Seneca County, county police were tasked with keeping the peace, and Cayuga County officials faced mounting pressure from their constituents about the expense and police attention that was being dedicated to the issue. In this milieu, as in Seneca Falls, the two CIN factions felt compelled to explain their sides of the story and solicit what local support they could. When representatives of the Unity Council first began to speak to government bodies about these issues, Cliff Athill responded by breaking his long-standing silence and approaching certain local government bodies to outline what the CIN had to offer the surrounding communities if he remained in his position.

For all of the above reasons, he chose to address the Cayuga County Legislature. I read in a local newspaper that Athill and members of his leadership faction and the Great Swamp Enterprises management would be speaking at the July meeting of the Cayuga County Legislature, approximately six weeks after the Unity Council supporters had spoken in Seneca Falls. I was unable to attend, but I was luckily able to view and analyze video footage of the proceedings.

The recording captured the moment when Athill and his team entered the room. When they walked into the brightly-lit legislative chambers, they were not dressed in any distinctively traditional clothing. Cliff Athill wore a suit and his business manager wore what would have been understood by everyone in the room as typical professional clothes: a button-down shirt tucked into a fitted pair of jeans. Three others accompanied him (two non-Cayuga Great Swamp corporate officers and a young Cayuga man). None of them wore anything to distinguish themselves from the general population of Cayuga County. They resembled the county legislators and their constituents far more than did the Unity Council members in their ribbon shirts and *gastowan*.

When the Legislature chairman invited him to speak, Athill walked to the podium and began to read from a sheet of paper nervously, clearly expecting a negative reception from the people in the room. He briefly apologized for the resources that the county had been spending on the CIN-related turmoil (which he blamed on the "vigilante" methods of the Unity Council) and described to how he wanted to "work together" with them in the future, before sitting back down and

letting his business manager do most of the talking. Throughout the rest of their short presentation, Cliff Athill and his team described their particular version of "working together," focusing specifically on how wealth and money would circulate.

After Athill sat down, Peter Thompson, Great Swamp Enterprises' business manager, walked to the podium to speak. He was a much more polished speaker, a result of his personal history as a member of the economic development team for the Oneida Nation, which, as I described in earlier chapters, had become an economic powerhouse in the region. Considering that the relations between the Oneida Nation and the surrounding counties had been at least as contentious as those between Seneca County and the CIN, Thompson had a considerable amount of practice in speaking to angry audiences. As he had told me on previous occasions, he had been trained in how to persuade others that a tribal sovereign nation was an asset to surrounding communities. He articulated some of these arguments at this Cayuga County Legislature meeting, drawing attention to the benefits that the CIN had brought to the area under Athill's leadership. He described these benefits primarily through numbers and figures, organizing them neatly into three arguments.

The first was that the CIN had created an attraction to the area, getting people to come to the reservation and therefore its neighboring spaces. He listed a "print and media campaign" that he had developed, aimed at bringing people to the nation-owned businesses and the larger region. By attracting customers, the nation was attracting people who would "buy lunch nearby, purchase groceries on their way home." The second form of benefit, related to the first, was the low cost of the items sold by the

nation's businesses (e.g. cigarettes, gas, and other goods typically on offer at convenience stores); this in theory "freed up" customers' money to be spent on other things in the region. The third benefit was local employment. He noted that the nation's 12 businesses "employ over 100 residents who work, live and spend their paychecks in the region." This is especially significant given the fact that there are few employers in the region who employ that many people[102].

Thompson justified his model with reference to the Oneida, specifically to the OIN-owned behemoth Turning Stone resort and casino, which was built in the early 1990s and has grown rapidly ever since. "I want to take a minute to compare some numbers," he explained to the legislators as they listened quietly. "Prior to Turning Stone, the Oneida nation employed 100 people. Ten years later, it employs 5,000. It's the largest employer in the area…this shows that if we work together and not at cross purposes, we can build something that helps all of us." In addition to the same trio of benefits that the CIN's businesses were said to provide to Seneca and Cayuga counties (visitor attraction, "more dollars in your pockets" after buying the nation's cheap gas, and job creation) Thompson defended Turning Stone's economic role in the region by depicting it as an institution that has provided benefits directly to the public through investment.

> Turning Stone was built at the least-used thruway exit. Now it has had to expand the toll booth, usage is up over 1000%...It generated lots of

[102] The Seneca County IDA publishes a list of employers with more than 10 employees (https://www.senecacountyida.org/site/employer_list). Out of the 61 employers listed, 15 had 100 or more employees.

> demand for local businesses, like a restaurant nearby that was about to close, now it's renovating with all the profits.

By arguing that Turning Stone spawned growth for even the non-Oneida regional businesses, the Athill group was attempting to persuade the legislators that tax-free CIN businesses would be a valuable asset to the surrounding municipalities and county.

In Thompson's model, Turning Stone had sparked commercial development in the region because of its distinct sovereign status, and a CIN development that followed a similar mold would do the same.

> Upstate NY is not seeing the economic recovery enjoyed by the rest of this country, and Albany is not where we can go for solutions. I think we all know that. But the sovereign status of the CIN can be a benefit to the local community. And the nation's unique status at the federal level can help bring people into the area, and help local businesses grow their sales and their profit.

In this model, public wealth is ultimately generated for the greater area by the fact that the nation is a distinct sovereign entity that is proximate to the county and not part of it. This *proximity to,* as opposed to *membership in*, the town and county creates job opportunities for taxpayers. These opportunities create private growth, which constitutes the source of public wealth, rather than any direct tax payments. Thompson attempted to persuade the Cayuga County legislators that those jobs could only exist if

the County accepted the nation as an extra-jurisdictional sovereignty, a nation "next door" rather than as a tax-paying member of their community.

The Athill group's version of co-existence involved two political sovereignties. However, when Thompson talked to the Cayuga County Legislature about Turning Stone, he talked about weighing the benefits and risks for the region as a whole. This weighing framework echoed the discourse of the IDA when it tried to convince the public that IDA-supported businesses were contributing to their mutual community as corporate citizens. For years, Great Swamp Enterprises had avoided making any claims of this nature: because the tribal corporation was refusing the obligations of local citizenship, its representatives did not engage with the idea that they could or should contribute to the surrounding towns. When they sought out the support of the county government, however, they engaged in this talk of accountability and obligation to the surrounding community. The Great Swamp corporate officers maintained their position that the CIN and its territory comprised a sovereign entity that bordered—but was not part of—Cayuga and Seneca counties, but the model they put forward at these presentations went further to integrate the nation into the local community. They still rejected the status for the CIN of local citizen, but also rejected the status of complete outsider. Like the Unity Council, Athill and the other Great Swamp representatives offered an alternative to the insider/outsider binary that county officials had long been demanding.

After Peter Thompson finished his talk, there was a brief Q & A session like the one that followed the Unity Council's presentation to the Seneca Falls Town

Council. Apart from one legislator's question about when the "crisis" would come to an end, no one asked any follow up questions. When it became apparent that there would be no further discussion, Athill asked the Legislature to send his best to the County Sheriff, who was currently in the hospital, then ushered his team out the door. Afterwards the Legislature briefly discussed what they had just heard. "I'll believe it when I see it," one legislator said. "They can't really do this good neighbor stuff half-way." Apparently, this legislator was not convinced that there was a way for the CIN to exist in this space as a "good neighbor" without fully committing to the terms of local citizenship.

Local Response

Over the following season, each faction continued to operate one of the nation's gas stations. There were several "flare-ups" (as the local newspapers called them) when Cayuga members affiliated with one of the two factions tried to infiltrate the properties held by the other faction, but the situation where the Unity Council held the Union Springs property and Athill held the Seneca Falls branch persisted. As the two county court decisions demonstrated, no local or county government body could intervene to decide which side should have possession of the nation's businesses and properties. At this point, the leaders of both groups recognized that they were at a stalemate, and both were adamant that they were legally in the right (although they disagreed about which laws were applicable). The only body that had the practical authority to rule on this leadership dispute was the BIA. Therefore, both factions

appealed to the BIA to issue a ruling about whether the Federal Government would recognize Athill on the Cayuga council, demonstrating the complexities of the *domestic dependent* status of modern tribal nations. Throughout the summer of 2014, the leaders of both factions accumulated and submitted documentation to the BIA to support their claims, including surveys of tribal members and historic ethnographic sources[103].

Simultaneously, both factions spoke at political meetings like the ones described above and issued press releases about how they would be a better neighbor than the other. Many local officials and residents came to hold opinions about which side they wanted to prevail in the CIN's internal political struggle. Some politicians took no position on the matter (other than a general disgust with the nation as a whole), but those who did seemed unanimously to support the Unity Council. When I asked a Seneca Falls town councilman which side he supported and why, he quoted Tim Darcy with palpable hope in his voice. "I'm on the Unity Council's side. They said they wanted to pay. They said they wanted to contribute and be good neighbors." Another supervisor explained to me that the Unity Council had his tentative support because they wanted "to just come back here and blend in." According to this

[103] This was a difficult task, considering the fact that there is no body of written Cayuga law. The Indian Reorganization Act in 1934 requires tribal nations to have codified constitutions in order to gain access to most federal services. As a result, most nations that have long histories of dealing directly with the Federal Government have "modernized," which usually entails instating an elected leadership structure and codifying a constitution. Because it had never previously had to interact with the Federal Government in order to co-manage a reservation, the CIN was never compelled to modernize in that way. This raised questions about the validity of certain types of evidence, e.g. how important are opinion polls about the vying leadership groups if the CIN does not elect its leaders with popular support, and how much credibility should an academic ethnographic account from 100 years ago receive?

interpretation, the Unity Council members may have been wearing ribbon shirts and *gastowan*, but they were expressing their desire to blend in in a deeper, political sense.

These politicians interpreted the Unity Council's pledge to contribute as a pledge to "blend in," but that was not necessarily how the Unity Council supporters wanted to be understood. While Tim Darcy made a pledge to pay something towards the town's expenses on behalf of the Unity Council, he carefully articulated the idea of a covenant between governments where both parties would mutually contribute, rather than tax payments from subjects to their government. Yet many of these officials did not grasp that such a covenant was a strategy for strengthening Cayuga sovereignty, and instead interpreted his pledge as evidence that the Unity Council wanted to join the local community as a group of local citizens. This characterization of the Unity Council as wanting to "blend in" reflects a misunderstanding rooted in the mainstream assumptions about what Indian-ness should look like and what forms it can take in the American nation-state.

Much has been written about the impossible discursive space that American Indian and Indigenous peoples are allowed to occupy. Cattelino calls this a "double bind[104]," which she describes as follows:

> American Indian tribal nations (like other polities) require economic resources to exercise sovereignty, and their revenues often derive from their

[104] The theme of the double bind is a relatively common occurrence in Native Studies. In addition to Cattelino's particular double bind of authenticity/agency, see Cheyfitz's (2003) discussion of the necessity for tribal nations to choose between invoking civil rights or tribal sovereignty, and Singer's (2005) discussion of the double bind between choosing economic sovereignty or avoiding Federal intervention.

> governmental rights; however, once they exercise economic power, the legitimacy of tribal sovereignty and citizenship is challenged in law, public culture, and everyday interactions within settler society, (2010: 236-7).

Cattelino identifies this bind in terms of how it requires Indians to be poor in order to be seen as "real Indians." In the case of the Unity Council, it emerged in a slightly different context: the Seneca Falls Town Council members did not profess their support for the Unity Council because its members had displayed signs of poverty, but many of the town council members did articulate their support for the Unity Council because of its seeming lack of interest in modern commercial development. A town supervisor expressed this view very succinctly: "I would welcome them as friends and neighbors, even helping them to build a cultural museum here to show their heritage. But opening a casino and a gas station…is that really what their heritage is about?" Cattelino's double bind creates an insurmountable division between embracing tribal heritage on the one hand and embracing the opportunities that allow tribal nations to thrive in the modern capitalist economy on the other. This parallels Bruyneel's (2007) spatial dichotomy that requires Indians to be either citizen-insiders or hostile outsiders. If they do not engage in modern commercial activity, Indians can comprise a non-threatening group that complements the larger community; but if wealthy or economically savvy, they are inauthentic and even dangerous in their attempts to take advantage of the dominant polity.

In the area surrounding the contested Cayuga reservation, this conceptual framework was not limited to the CIN's critics. Even the very few local people who

had supported the nation since the land claim era articulated this moral division between the "traditional" and "modern" Cayugas. One non-native family, for example, had long been active supporters of the CIN's attempts to re-establish a presence in its reservation area. Elsa and James Ruffalo had lived their entire life in Seneca Falls, but they differed from most other town residents in their outspoken belief that the Cayugas deserved to return to their homeland and reservation. Elsa told me that in 2001, as she and her husband had first become close with several members of the Cayuga nation, she had asked a group that included Cliff Athill[105] to her house "so that they could come back to their ancestral land and recharge." When the Cayugas arrived, Elsa invited them to take a walk in the woods at the back of the property. While some of the guests followed her, Cliff decided to remain on the patio. Years later, his refusal to join her for a walk still rankled. "He asked me if there was poison ivy in there. He didn't want to go into the woods because of poison ivy!" Elsa said in disbelief. "He just sat there in his pristine white sneakers. What kind of an Indian is that?" He could not be a "real Indian" while also demonstrating typical consumerist priorities that reflect participation in the modern capitalist economy.

This double bind pervades both positive and negative depictions of American Indians, and it contributed to local perceptions of the Unity Council. The Unity Council ensconced their pledge to contribute in a discourse about being kind to the environment, and delivered it with ribbon shirts and other visual markers of Indigenous tradition. Local politicians interpreted this assemblage in terms of ancient

[105] Although there was tension within the nation's leadership at that point, it had not yet divided into two distinct factions.

tribal culture, with no grounding in the economic or political aspects of modern tribal sovereignty. For these politicians, the Unity Council's "traditional" presentation eclipsed the ways in which its supporters called for a covenant that would acknowledge and express the nation's sovereign independence. According to their interpretation, the Unity Council's trappings of indigeneity embodied the type of local contribution the CIN under the Unity Council's leadership would make, i.e. "enriching our culture." Cayuga traditional religion and material culture could be celebrated as a thread of the tapestry of Seneca Falls identity, as long as the nation made no claims to distinct jurisdiction over its sovereign territory. On the other hand, the Athill group more explicitly spoke of its sovereign identity in terms of modern commercial activity—ironically the sort of development that Seneca and Cayuga counties might have actively sought out in other contexts. Despite these potential economic benefits, Cattelino's double bind, which renders any financially savvy Indian as corrupt and opportunistic, eliminated the possibility for local politicians to interpret this faction's commercial activities as anything other than unfair, lawless and disruptive to the local community.

In arguing that the discursive binary of Indigenous tradition versus economic sovereignty undergirded local politicians' support of the Unity Council, I am not accusing this faction of performing authenticity disingenuously. In the first place, engaging with the notions of authenticity and tradition that characterize dominant understandings of Indigenous people can be an important act of agency for Indigenous people. As Beth Conklin writes, "authenticity has its rewards," (Conklin 1997: 711). Therefore why should those who have historically been oppressed not engage with

those politics of representation? Moreover, the unit of my analysis is not how or why the members and supporters of the Unity Council used a specifically traditionalist discourse as they pled their case to different groups of government officials. Instead, I have tried to demonstrate that Cattelino's double bind affected how the local populace of Seneca Falls received the two factions. In Seneca Falls, a framework that divides Indigenous people into good, authentic Indians with no economic interests on the one hand, and wealthy, corrupt actors on the other, greatly influenced the ways that local politicians conceived of the Cayuga "leadership crisis."

At first, the Unity Council members benefitted from this framework that positioned them as "authentic" to the local populace. However, the double bind eventually created complications for them. As the BIA withheld its judgment over the remainder of 2014 and into 2015, the Unity Council continued to operate the gas station and a small number of the nation's other businesses in Seneca Falls, including an ice cream store, bakery and fruit stand (the more profitable towing outfit, water bottling plant, and cigarette factory remained under the control of the Athill Group). While most local politicians were initially enthusiastic about the intra-tribal developments that had ousted Athill from the Seneca Falls Lake View Trading branch, soon they began to express frustration that the Unity Council was not acting exactly like the model citizen they expected.

First, the Unity Council did not make any immediate payments to the town. Considering its tenuous position retaining the gas station and the fact that the Unity Council still had no higher control over the nation's finances, this was understandable.

But over the course of the summer, the Unity Council began to do things that could not so easily be classified as an attempt to "blend in." I heard allegations that the county weights and measures inspectors were not allowed on the Seneca Falls gas station's premises, and also that the ice cream stand next door was not granting access to county health inspectors. In contrast, Athill had always allowed county and state inspectors onto the premises. Additionally, more and more Cayugas (and, according to the Athill group, members of other Haudenosaunee nations[106]) were showing up in Seneca Falls and moving onto temporary huts on the gas station property that were illegal according to local zoning codes. When violence did erupt on CIN-owned property, it was more often than not supporters of the Unity Council trying to take control of a property that the Athill Group had in its possession. In the words of Athill's lawyers, the Unity Council's supporters practiced "vigilante self-help." From the viewpoint of local politicians, this was very disruptive. In response, local politicians' commitment to welcoming the Unity Council *as friends and neighbors* began to waver. The same councilman who had months earlier voiced his excitement that the Unity Council "said they would pay," began to produce a different narrative. "They said that they would pay. But nothing's happened," he told me in a wounded tone. "I guess money corrupts."

With their discourse of wanting to contribute and their visually traditional presentation, the members and supporters of the Unity Council initially appeared to local officials to be uninterested in economic self-determination, which meant they

[106] The Athill group accused the Unity Council of hiring non-Cayugas to bloat their numbers. I do not know whether this was true or not.

could be both "good Indians" and good local citizens. But as soon as it became apparent that the members of this faction intended to pursue a form of political and economic sovereignty after all, local politicians such as the councilman quoted above incorporated them into a non-discriminating discourse about corrupt and greedy Indians. The conceptual space that local politicians had initially allocated the Unity Council for the practice of tribal nationhood only accommodated notions of Indigenous culture rather than sovereignty. This meant that by the end of the summer, when the Unity Council still had not brought the CIN and its businesses into the fold of local citizenship, those politicians were left with the sense that the Unity Council had misled and betrayed them.

Conclusion

When delegates from these two CIN leadership factions appeared before the local and county governments, they both spoke about fiscal arrangements that would reflect and manifest the sort of positive relationship that they wanted to have with the surrounding communities. The Unity Council's representatives spoke about a "covenant" in which the nation would pledge to cover its costs to the county and town governments. This model conjured a specific set of political boundaries: the border of the nation's properties would still signify a distinct Cayuga reservation, yet that border would not automatically mean that the CIN was not part of the surrounding economic community. Alternatively, the Athill group spoke about how it could incubate regional growth through its own economic development, which would indirectly promote the

private and public wealth of the larger region. This fiscal model invoked a different set of boundaries, which would render the nation as a jurisdictional entity completely distinct from surrounding municipalities and counties, and yet the competitive edge that the CIN could attain would in the end produce a better economic situation for everyone. Both of these models challenged the conceptual binary that undergirded their treatment by local and county officials, in which Indian nations can exist either as citizens within the USA, or foreigners outside of that space. They both offered a "third space" that defied this strict binary.

And yet when the two factions described these alternate fiscal propositions to local politicians, their audiences did not exactly grasp them as *third* options. Bruyneel's spatial dichotomy and Cattelino's double bind informed how most local politicians viewed the Cayugas. They were only acceptable insofar as they 1.) pledged to act as good citizen-neighbors, and 2.) articulated their sovereignty purely in terms of "tradition" and "culture." In this framework, it was impossible for local politicians to see Cayuga economic sovereignty as a benefit for the whole region. At the same time, they interpreted the Unity Council as wanting to integrate into the surrounding community, despite the council's description of a government-to-government covenant. In the immediate aftermath of the take-over, the Unity Council benefitted from the binary that held Indian cultural traditions as an asset. But it soon became apparent that Unity Council members did not fit with local politicians' expectations any more than the Athill group, and the support of those politicians began to wane.

CONCLUSION

Towards the end of my fieldwork, the BIA decided to recognize the Cayuga council as it had been comprised in 2006, which was the last year that the BIA had made an official statement recognizing specific council members. The 2006 council consisted of present-day members of both the Unity Council[107] and the Athill group (including Athill himself). This was part of the BIA's policy of "non-intervention": by not recognizing any changes to the council, the BIA effectively dodged having to make a decision between the two factions. Unsurprisingly, this mixed council never met as one group, and the feuding continued.

Finally, in March 2018, the BIA decided that present circumstances in the CIN's reservation required more direct BIA intervention, and that it had to decide which of the two rival councils it would recognize. The BIA decided in Athill's favor, recognizing him as FR and denying the Unity Council's claim to being the legitimate government for the CIN[108]. Still, the Unity Council persists, and is currently initiating yet another appeal. As of Summer 2018, they retain control of the nation's gas station in Seneca Falls (renamed "Cayuga Lake Trading" to avoid affiliation with the Athill-held, Union Springs branch of Lake View Trading). At the same time, the Athill group

[107] The group that referred to itself as the Unity Council during the take-over event now refers to itself as simply "the Cayuga Council" in order to bolster its claim to being the leadership of the Cayuga Nation.

[108] I do not know the exact details about how the BIA made this decision, but members of the Unity Council and its supporters accused the Athill group of illegal back-room dealings with BIA officials.

has transformed what used to be a vegetable stand, about a quarter mile from the Unity Council's gas station, into a store that exclusively sells cigarettes (now named "Lake View Trading" to demonstrate continuity with the original Seneca Falls store). Because the Athill group retains control of the nearby manufacturing plant that produces the Cayuga brand of cigarettes, this is the only spot in Seneca County where customers can buy Cayuga cigarettes. During my most recent trips to my fieldsite, the parking lots of both Lake View Trading and Cayuga Lake Trading were full.

Despite this image of the two different facilities held by two different factions claiming to be the legitimate body of Cayuga leadership, this division does not entail a neat split between members of the CIN. Some tribal members have lent their support to the Unity Council faction since I left the field, while others have since removed their support. Many others are not officially affiliated with either leadership group. This doctoral project was never intended to be a comprehensive study of internal Cayuga politics, and I still refrain from claiming to fully understand or accurately represent the nature of these complex political relationships. I highlight the continuation of some of these divisions only to show how intimately Cayuga internal governance is entangled with other forms of American government. Even when the Federal Government officially chooses not to get involved in tribal politics (such as when the BIA states that it will not recognize any recent changes in the CIN's leadership council), that non-involvement has significant impacts on tribal leadership structure. This makes it impossible for the CIN to be the coherent, bounded political body with full territorial sovereignty over its land that Seneca Falls and Seneca County officials decry. When various local residents invoke Cayuga sovereignty as an object

of fear and threat, they are invoking a form of tribal sovereignty that is effectively non-existent in the modern-day USA. The Cayuga people understand this, and try to enact sovereignty through more nuanced and complex ways. However, in this dissertation I have aimed to show that a conceptual binary undergirds how local officials have reacted to these proposed settlements, middle grounds and "third spaces." In this framework, if the CIN is not willing to move to the region as fully compliant economic and political local citizens, the nation is moving in as an invading body. Because Cayuga sovereignty is indeed far more complicated than these officials allow it to be, this refusal to truly examine possibilities of co-existence will continually reproduce this state of unsettlement.

Regarding the specific tax controversies between Seneca Falls, Seneca County and the CIN that I discussed in the first three chapters, a sense of unfinished business indeed remains. In the summer of 2018, Athill submitted a new trust land petition (now that the leadership dispute has nominally come to an end), which is still outstanding. Seneca County's dogged pursuit of property taxes from the CIN has come to an end (at least for now), but only by mistake. When I left the field in 2014, Seneca County officials were planning to appeal the 2012 decision that upheld the CIN's sovereign immunity defense, which would in theory have taken the case to the US Supreme Court. In doing so, they predicted either a decision in their favor (i.e. a dismissal of the doctrine of tribal sovereign immunity for the purposes of refusing local property taxes), or that the CIN would withdraw its case due to pressure from

other Indian nations and tribes not to set precedent[109]. A few months after I finished my fieldwork, however, Seneca County's legal representatives failed to submit the petition by the appeal deadline. As a result, the possibility of further litigation on this issue was foreclosed; the county government had to accept that the CIN's property taxes would go unpaid, at least until officials could develop a new legal strategy. And, of course, the nation-owned gas stations continue to operate without charging customers sales taxes, or remitting any revenue to the county or state.

Since I left the field, the local, county and state governments have together pursued one particular strategy to stop what they consider to be the "hemorrhaging" of state revenue through the "loopholes" of tribal establishments. When I lived in Seneca Falls, Governor Cuomo made an executive decision to allow five state-sanctioned casinos, which was a departure from the state's long-term ban on Class III (i.e. "Vegas style") casinos. This opened a state-wide competition for site selection. Seneca County put together a bid, informed by input from local citizens and municipal governments. The Seneca County bid was for Tyre, a small town just north of Seneca Falls, population 800. Compiling this bid entailed controversies of its own. Some members of the local Amish population voiced their opposition to the casino at a series of town hall meetings—an unusual occurrence, considering typical Amish dedication to non-involvement in local politics. Other regional inhabitants accused the Oneida Nation of secretly funding those Amish critics because of concerns over the hypothetical state-sponsored casino's potential impact on Turning Stone's profits. I met residents of

[109] I cannot speak to the likelihood of these particular verdicts based on Federal Indian Law; only to the fact that the county's lawyers told me several times that they expected such a verdict.

Seneca Falls who supported the casino because they believed it would bring tourists, and I met others who believed it would draw tourists away from the town center. In any case, the Seneca County bid won one of the state's coveted slots, and Lago Casino and Resort opened in February of 2017.

When I spoke to residents of this region about whether or not they wanted the casino to be built there, several of those in favor said that they hoped the state-backed casino would accomplish several goals regarding tribal-local relations. They hoped that the casino would "take back" business from the Oneidas (often mixed together in this discourse with the CIN); that it would "take back" business from the CIN's much smaller gambling operation in Union Springs; that this would disincentivize the CIN from pursuing trust land, which would in turn remove the motivation for the CIN to keep buying land—and increasing its unpaid property tax bill—in Seneca Falls. Moreover, a large chunk of revenue would go to the state, and a portion would also go to the county and municipal governments. Basically, several of my interlocutors seemed to believe that this state-sanctioned casino would solve all of the problems that the CIN had posed in one fell swoop. Local, county and state government bodies issued statements about how this development would recoup lost income and generate new investment. Based on this discourse, a considerable amount of hope was placed on the Lago Casino.

Recent media coverage of the casino, however, tells a story of a highly indebted, "failing," and "troubled" operation. The private developers (it was a private-public partnership) are seeking bail-out money from the state. In March 2018, a local

newspaper quoted a casino spokesman as saying that the request for state funds is the result of the state-backed casino's "blatantly unfair competitive disadvantage" compared to the untaxed casinos of the Oneida nation to the east and the Seneca nation to the west (Harding 2018). This objection is premised on the idea that tribal sovereignty is a "loophole," a remnant of an archaic and illegitimate political system. Following this logic, Lago Casino's lack of success derives not from how unsustainable its business plan is, considering its proximity to several active tribal casinos, but from unfair tribal corruption that the federal and New York State governments have not yet figured out how to eliminate. In this discourse, untaxed tribal gaming, facilitated by the "loopholes" of tribal sovereignty, functions as the modern iteration of the illegitimacy that dominant American society and its institutions have long attributed to Indian political formations.

When local residents voiced their support for the Lago casino, they often described how the casino would save the area from the fiscal problems caused by the various regional Indian nations' attempts to exercise their sovereignty (specifically the CIN, but also the equally unruly, far more prosperous tribal nations nearby). By recapturing the lost revenue that was draining into the coffers of the Cayuga, Seneca and Oneida nations, the state's authority over this space would be re-established, which would shore up the regional economic community. This narrative reflects an idea that both tribal and state sovereignty must be comprised of a total, even and uniform essence, two versions of which cannot co-exist in the same space. Because this discourse frames tribal sovereignty as less legitimate than that of the state (indeed, it does not really grant tribal sovereignty any legitimacy at all,) its logical conclusion

is that no tribal sovereignty can be manifested in the towns and counties that already have a prior sovereign order in place. In this narrative, New York State and Cayuga sovereignty must each be all or nothing; and because of the inherent weakness of tribal polities, Cayuga sovereignty has no place in or near Seneca Falls today. This discursive binary, which renders tribal sovereignty and other modes of political belonging as lesser versions of state sovereignty incompatible with the modern-day American nation-state, is itself an important tool in reproducing the structures of settler colonialism.

In the moments when these officials decry the CIN's acts of fiscal disobedience, the local tax system offers only one mode of political belonging in the community, which the CIN has explicitly refused. However, the CIN's refusal to collect, remit or pay local taxes is not a categorical refusal to belong to the greater community of Seneca Falls. Representatives of the CIN have advocated various ways in which the nation could belong to the larger community that exists within and around its contested reservation, and have proposed several different fiscal arrangements that would help establish this sort of relationship. These alternative modes of belonging simply cannot be reduced to *citizenship*. In this way, the local tax system has come to serve as a frontline where the colonial government demands that the CIN comply and belong in the proper way, and where the CIN refuses those simplistic terms.

This Seneca Falls case-study brings light to a particular instrument that plays a crucial role in how American colonialism is manifested today. The assemblage of

rules, regulations and policies that comprise the local tax system is today a primary site for demanding political subjecthood from Indigenous nations and individuals. While political inclusion is often framed as a positive ideal, that inclusion becomes problematic when it is expressed through the binaristic terms of insider/outsider that the colonial nation-state has historically tried to foist upon native populations. These controversies about the CIN's tax refusals comprise a modern chapter in the American settler state's ongoing project of drawing Indians into its body politic. At the same time, they offer a modern iteration of tribal nations' equally long-term refusals to be completely subsumed into that imagined community.

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