

ONEIDA TRIBAL GOVERNMENT
1930-PRESENT

Compiled for the 2004 Oneida History Conference
by Loretta R. Webster

By 1930, the Oneida Tribal Government was composed of chiefs who were seen by many of the members as having little or no power, and acted at times as mere tokens of the federal government. The Allotment Act and the federal policy of assimilation had torn tribes apart and worn them down. Oneida people were models of "assimilation" yet no amount of education or hard work could dull the discrimination which was found in and around the reservation. There were very successful white farmers who now owned over 60,000 acres of the lands originally allotted to tribal members, the Oneidas who continued to live on the reservation found little or no employment except for seasonal jobs. There were a few who lived on the reservation that I can remember found full-time work in Green Bay, the railroad, or construction, but most had to leave the reservation to find work to support their families. Well over the majority of Oneida reservation families lived on close to a subsistence economy: canning and drying summer vegetables, meat, fish and fruit for the winter months; hunting for fresh meat in the winter; gathering wood for their cooking and heating; relying on the church and its benefactors for clothes, household items and other amenities. Little or no cash was part of this subsistence economy. The joke on the Oneida Reservation was that the "great depression" in the United States actually raised their economy, because it brought stable WPA jobs to many Oneida families for a few years.

The Meriam Report of 1928 chronicled the poor health, housing, education and general living conditions on reservations throughout the United States: Average life expectancy for American Indians was around 35 years of age, and the dropout rate in high school was phenomenal. The history of federal policy which eliminated the Oneida family support systems and the language and cultural base, had generated many abusive behaviors in the family and community. The Meriam Report wanted to reform the deplorable life on the reservations, and recommended that health and education funding be increased; that the allotment policy be ended; and that tribal self-government be encouraged. These recommendations were eventually codified

by the U.S. government in the Indian Reorganization Act of 1934. About this same time the Johnson O'Malley Act provided special educational funds for Indian public school children, and established the blood quantum level of 1/4 for services. This 1/4 blood quantum level became the basis for Oneida enrollment in their constitution formulated under the Indian Reorganization Act of 1934.

The Oneida Tribe of Indians of Wisconsin was formed and accepted its constitution under the Indian Reorganization Act (IRA) in 1936. They became a "federally recognized tribal government" on December 21, 1936 when the US Secretary of the Interior approved their constitution. There was a close debate over this decision to accept an IRA constitution. The Oneida people made it, in part, because the Reorganization Act offered to accept lands in trust for tribal governments and its people, and even provided funds to repurchase lands lost through the Allotment period. After the Oneida constitution was approved, the Bureau of Indian Affairs (BIA) purchased approximately 1500 acres of land and put it in trust for the Oneida Tribe. The title to these first purchases were held by "The United States of America in Trust for the Oneida Tribe of Indians of Wisconsin." A survey of the status of the title of lands within the Oneida Reservation, taken shortly after the first officers were elected under the IRA, showed that 92% of the original 65,400 acre reservation was owned by non-Oneidas. This survey included the 1500 acres that had recently been purchased for the tribal government.

The Indian Reorganization Act (IRA) provided the Oneidas with their present elected government. It also formulated the Indian Preference policy in hiring, established a revolving loan fund for tribal development, and generally included other provisions directed toward improving the lot of American Indians and strengthening tribal self-government. The first elected Chairman under the new Oneida constitution was Morris Wheelock, who was elected for a one-year term. Like any new project in Oneida, the newly elected government was slow to fully implement or even understand the meaning of the powers outlined in the boiler plate constitution. IRA constitutions adopted by tribes across the country all read basically the same, with heavy control and oversight by the Department of the Interior through the Bureau of Indian Affairs (BIA). Access to financial resources was also controlled by the BIA. The BIA revolving loan fund may have looked like a pot of gold for the elected volunteer IRA governments, but it

was hopelessly inadequate when they attempted to use it to pull their reservation economy out of the mire of subsistence. It is hard to imagine the financial constraints under which the Oneida Executive Committee worked for decades after the IRA constitution was approved. Our conference coordinator, Gordon McLester, was elected as a councilman on the expanded Business Committee in 1969. He indicated that the nine elected members received \$5.00 a month to attend meetings, and occasionally his five dollar check was returned to him because of non-sufficient funds.

ECONOMIC DEVELOPMENT

The new Oneida Constitution of 1936 points out the two major sources of governmental power to be its land and its people. The history of Oneida economic development shows that raising the level of income for Oneida people is closely entwined with the tribal ownership of land.

A BIA report on tribal economic development stated that in 1937 the Oneida tribal government had no source of funds. Also in 1937 it was reported that the average annual income was \$369.17/year; much of this coming from farming, work in Green Bay and De Pere, and seasonal employment. Most of the Oneida homes were considered to be substandard, meaning there was no electricity, running water, indoor bathroom facilities, or adequate space. Of the 65,400 acres designated as the Oneida reservation in 1838, the tribe and its members now held only 3,644.76 acres; the devastating result of the 1887 Allotment Act. During the great depression, the federal government provided a WPA project on the Oneida Reservation, which provided stable jobs for many Oneidas from 1935-1941. This WPA project generated many volumes of stories which the Oneida Cultural Heritage Department and the Oneida Language program have catalogued for access by community members. Oneidas who lived on the reservation indicated that their standard of living actually got better during the depression, because of the stable WPA jobs.

The economic situation of Oneida changed little until the 1960's when the Kennedy administration moved the Economic Opportunity Act forward. For the first time in America's history, depressed communities like Native American reservations were provided grants to do their own planning and provide services to their constituencies. In 1965 the Headstart Program

began in the Parish Hall, and to this day, its federal funding has never lapsed. Besides adding many human service programs for the community, the Oneida leaders took advantage of this federal funding by developing one of the first Indian owned industrial parks in the state. Through loans and grants from the Bureau of Indian Affairs and Department of Commerce (EDA) the Oneida tribal leaders improved twenty seven acres of heirship land, which was right in the middle of the Green Bay Industrial Park. This twenty seven acre area became the Oneida Industrial Park. Unfortunately, there was little or no money to do the fulltime promotion necessary to fill it, and the Oneida Industrial Park stood virtually empty for many years.

In 1970 the Oneida Tribe built a building in their Industrial Park, and started the Standing Stone Corporation. Money to start the Standing Stone Corporation, a musical instrument repair business, was partially raised through selling shares to tribal members all over the country. A low interest business loan was also negotiated from the Bureau of Indian Affairs. Although it was generally felt that the BIA loan would not provide needed working capital to take the business to a profit making level, this was the tribe's only chance to develop a viable business. Like so many underfunded tribal businesses all over the country, the Standing Stone Corporation went bankrupt in 1975. At this time, the Oneida tribal budget was around a million dollars, but it was all due to federal contracts which left no discretionary money for investment. If money could have been invested into Standing Stone, there is a good possibility that eventually it would have proved to be profitable. Oversight for the many federal programs and tribal economic development efforts was provided by an elected Business Committee, which was still composed of volunteers.

Other enterprises started by the Oneida tribe were similarly unsuccessful. These included waste management, several construction firms, a credit union, and an environmental lab to name a few. Luckily this did not deter the tribal leadership from their fundamental goal of developing an economic infrastructure that was not tied so completely to federal and state contracts, or "soft" money.

In Oneida's 1976 Overall Economic Development Plan, it was noted that they now had 2,516.55 acres of land, having lost another 1,000 acres held by tribal members since 1937. Only three tribal members now made their living by farming; about one-half of the 100 homes on the

reservation owned by Oneida people were still considered substandard; some inroads had been made in employment, with unemployment calculated at about 24% of the available labor force of 552. Non-farm economic activities in the community were largely service oriented: taverns (7), grocery stores (4), filling stations (1), laundromats (2) and a resale shop (1). All except for two or three were owned by non-Oneidas. The Oneida people on the reservation commuted to surrounding urban areas or to specialized farm areas to work.

Throughout the 70s and 80s the tribe made many unsuccessful attempts to attract industries to their industrial park. None of the potential businesses were considered viable for one reason or another. The Industrial Park remained a continual source of hope and frustration for the Oneida tribe up until the late 1980s. In 1982 there were 3 buildings in the industrial park, using 6 acres of land. There were 26 acres still vacant and available for development.

In 1977 the tribe had a \$1.5 million dollar annual budget composed of 28 federal programs. Most of the programs were for HUD housing, which did two things. It provided for above standard housing that was sorely needed, as well as fulltime jobs for tribal members who had construction experience. The Oneida Tribal Development Corporation was formed to construct numerous buildings funded by state and federal grants: the post office, civic center, HUD housing. Tribal leadership made the most of their federal contracts which was a source of services as well as jobs, but unfortunately these contracts were providing an economy completely dependent upon the whims of D.C. politicians.

In 1978, Bingo emerged as a sound independent money producer and employer for the tribe, and for the first time the tribe was seeing a profit. Soon after, in 1979, the tribe began selling State tax free cigarettes, which also was an instant successful venture. For the next ten years, these two enterprises provided increasing profits so that other enterprises could be started. The Tobacco Enterprise created the first funds for purchase of land within the reservation by allocating 10% of its sales for this purpose. The Rodeway Inn (now the Radisson Inn) was built and expanded in 1994 and again in 2001; Oneida One Stop Convenience Stores are at four locations on the reservation; Bay Bank is entirely owned by the Oneida Tribe; and Seven Generations Corporation continues to provide excellent real estate management services which generate a profit for the tribe each year. Probably the most significant impact on tribal economy

occurred when the tribe opened its first casino. Just about every tribal administrative and service program was expanded by the profits generated from "gaming", i.e. Bingo and the casinos; and finally the Business Committee members could be funded on a full-time basis.

A final note on tribal economic development concerns the Oneida Industrial Park. The development of this Park finally came to fruition in 1989 when it was leased to a non-Oneida developer for a substantial fee. Anchor tenants of Wal-Mart, Sam's Wholesale Club and Festival Foods have maintained a successful, expanding business on this site to this day. This was the first successful commercial lease negotiated by the tribe, and it became the model for generation of substantial lease fees from other negotiations.

The success of the tribal leadership's economic ventures can be measured by the increase in the tribal budget and the concurrent increase in tribal employment. The Kalihwisaks reported in February 1985 that the projected 1986 tribal budget was \$34 million as compared to the 1973 budget of \$375,000. Twenty years later, the projected 2005 tribal budget is near a quarter of a billion dollars. The semi-annual GTC labor force report noted that the Oneida Nation employs 3,067 people and that 80% of the management positions are held by Oneida people. Of the 2,627 non-management positions, 41% are Oneida and another 8.9% are other American Indians. The average employee salary is \$14.49 per hour. It is obvious that the Oneida elected government has brought an increasingly positive change to the Oneida Reservation economy since its meager beginning, and that it now has substantial economic clout when dealing with local municipal governments and the State of Wisconsin.

FEDERAL LAWS AND THE POLITICS OF GOVERNMENT

"Federal policy is central to Indian affairs because Congress has "plenary" (broad) power over Indians, including the authority to decide who is, or is not, recognized as an Indian under federal law. For more than two hundred years, Congress has vacillated between two conflicting themes: self-government for tribes and assimilation of the reservations into the existing framework of state and local government. The tension

between those themes likely will remain."¹

It is amazing to realize that the new elected Oneida government managed to survive the never ending pressures of federal Indian policy, considering they had no money, no lawyers, and very little experience in 1937. Many of the new IRA elected governments were in a similar situation, and in 1944, tribes came together to form the National Congress of American Indians (NCAI). This organization became the first major national lobbying group for tribal government causes, and was composed solely of representatives of recognized Indian tribes. For many years the Oneida elected leadership petitioned the BIA for funds to travel to annual meetings of NCAI. Although other national Indian organizations have since been formed, i.e. National Tribal Chairman's Organization, National Indian Health Board, National Indian Gaming Association, and others, NCAI continues to be a strong lobbying force for tribal governments. It formed a coalition of tribal governments, which shared expertise and strategy for dealing with such federal actions as the formation of the Indian Claims Commission, the Termination Act, Relocation policies, and Public Law 280, to name a few. For many years, most tribal leaders depended entirely on NCAI for information and legal advice, which was directed solely at forming strong, independent Indian governments. I would like to focus on just a few of the federal laws and policies that opened up extensive, long-term activity for the elected leadership of the Oneida Nation.

The Indian Claims Commission was formed in 1944 to provide a forum for adjudicating the continuous complaints from tribal governments against the United States.² It accepted claims brought by over 170 Indian tribes, until it was disbanded in 1978. The Oneida Nation in Wisconsin filed two claims in the Indian Claims Commission forum. Their New York Immigrant Claim was filed in September 1967 for all grievances against the United States arising

¹ Charles Wilkinson & The American Indian Resources Institute, INDIAN TRIBES AS SOVEREIGN GOVERNMENTS, 2ND EDITION, 2004.

²Lieder, Michael & Page, Jake, WILD JUSTICE, 1997. This book is a history of the Indian Claims Commission, and its ability or inability to carry out the congressional purposes of the Indian Claims Commission Act.

in the State of Wisconsin. Money to settle all Oneida grievances in Wisconsin was won and accepted by the Oneida Tribe in 1977, shortly before the end of the Indian Claims Commission. By this time, Indian tribes realized that the return of land was not going to be part of the United States' redress of wrongs done to them, and they had the choice of accepting money or losing their claim. Attorney fees and "offsets" for money and services provided to the tribe by the United States reduced the award won by the Oneida Tribe. Fifteen percent (15%) of the remaining settlement money for the Oneida's New York Immigrant Claim was placed into a reservation development fund, and 85% was placed into a trust account which made per capita payments to all tribal members from the interest generated annually. This trust account still exists, and continues to generate interest which is used to support Oneida tribal initiatives.

The second claim filed with the Indian Claims Commission was the New York Land Claim. Although the Oneidas won their claim to 250,000 acres in the State of New York they refused the settlement money, withdrew the complaint from the Indian Claims Commission and filed it in the federal court system. They again were successful with their complaint when the Supreme Court confirmed in 1985 that the Oneida Nation still owned 250,000 acres in the State of New York, most of which was now illegally titled to non-Indians. The euphoria of this success was soon dampened as the Oneida leadership began negotiations for a settlement. These negotiations have now gone on for almost 20 years, and at times it seemed close to a settlement, and at other times a settlement seemed darn near impossible. The United States and the State of New York are again offering only money to settle, and through this they want to clear the title for all those non-Oneidas who are now living on the land. Only time will tell how this issue will be settled by the leadership of the Oneida Nation.

In 1953 the Termination Act was passed, and only the strongest, most capable Indian governments were terminated, such as the Menominee Tribe here in Wisconsin. The Oneida Nation in Wisconsin was too poor to be terminated, but this did not relieve them from the fear of being terminated with every progressive step they made. The slow financial deterioration of the Menominee Tribe, under the imposed jurisdiction of the State, was played out in the national Indian forum. All tribes supported Menominee restoration to tribal status however they could, and it finally came after many years of struggle.

Public Law 280 was also passed in 1953, and this time all the tribes in Wisconsin, except Menominee Tribe, became part of an experiment which transferred judicial authority for civil and some criminal complaints arising on Indian reservations to the State of Wisconsin. Because tribal governments were slow to regulate their territory and people through laws, the State of Wisconsin soon came to believe and act as if PL 280 had given it the authority to regulate the tribes with state laws. Several Supreme court decisions such as *California v. Cabazon Band of Mission Indians*³ in 1987 confirmed that tribal governments still had the right to regulate themselves, their people and territory, even in a PL 280 State. It comes down to the difference between a state's "criminal/prohibitory" laws and state "civil/regulatory" laws: "if the intent of a state law is generally to prohibit certain conduct, it falls within PL 280's grant of criminal jurisdiction, but if the state law generally permits the conduct at issue, subject to regulation, it must be classified as civil/regulatory and PL 280 does not authorize its enforcement on an Indian reservation."⁴ For thirty years after PL 280 was passed, this issue of civil jurisdiction was battled out in the courts by tribal governments. Here in Wisconsin, the Oneida Nation is still on guard to protect its right to regulate its members and its territory from State encroachment. Several actions by the Oneida General Tribal Council in 1982 forced the Business Committee to refocus its energy to the development of laws and regulations for the Tribe. The first tribal administrator was hired in 1982 so the Business Committee no longer needed to be involved in the day-to-day business of tribal programs, which had proliferated very quickly with federal contracts and grants.. By 1991, the Oneida Administrative Procedures Act was passed by the Business Committee and General Tribal Council, which provided standards for approving tribal laws, and standards for providing judicial decisions in a tribal appeal forum. For more than ten years, the implementation of tribal laws by the Business Committee, and the development of the tribal appeal process by the Oneida Appeals Commission has strengthened the tribe's ability to regulate within the territory of the Oneida Reservation. During this same period of time, the Oneida tribal constitution has gone through major changes so that the Oneida Tribe can

³480 U.S. 202, 107 S. Ct. 1083, 94 L. Ed. 2d 244 (U.S. Sup. Ct. 1987)

⁴Ibid.

eventually position itself so it can ask the State to retrocede from PL 280 within the Oneida Reservation.

The legacy of PL 280 remains in Oneida, as it does throughout the State. It continues to muddy the jurisdictional authority between the State and Tribes. It established what is now known as "concurrent" jurisdiction within reservations, where Oneida people may have the choice of going to either a State or tribal judicial forum to settle certain issues. The Appeals Commission regularly meets with judges from Brown and Outagamie County to deal with local civil issues with conflicting jurisdiction, and there is now a national conference being planned to strategize on this. The Oneida Business Committee has negotiated agreements between the tribe and the various State subdivisions within the reservation. It is confusing to many people, even tribal members, that the Oneida Reservation completely encompasses the towns of Hobart and Oneida, and parts of the Village of Ashwaubenon, City of Green Bay and Town of Pittsfield. On land owned by the Oneida Tribe, these State subdivisions have little or no civil regulatory jurisdiction. On land owned by non-Oneidas, the Oneida Tribe has little or no civil regulatory jurisdiction, even though it is within the limits of its territorial jurisdiction. Throughout the reservation there are countless levels of concurrent jurisdiction, and the Oneida Tribe is almost ready to move forward with a newly drafted constitution, which sets the stage for retrocession from PL 280.

Legal scholars have defined the times we are living as the Self-Determination Era (1961-Present). It begins with the Economic Opportunity Act, passed under the Johnson administration after getting its start under President Kennedy. It was called the War on Poverty, and disadvantaged groups like the American Indians, Blacks and Appalachians were given the opportunity to plan and apply for federal grants to help bring themselves out of poverty. The Oneida Housing Authority was formed in 1963 for the purpose of building decent homes under the Housing and Urban Development (HUD) Program. In 1965, the Headstart Program began in the Parish Hall with eight tribal staff. Oneida's Headstart Program continues today, and the tribal leadership developed the expertise to start creating full-time jobs and a reservation economy with more and more contracts and grants from federal agencies such as Indian Health Service, Environmental Protection Agency, USDA, Education, Health and Social Services, Department of

Labor, Department of the Interior, etc. Today, the tribe's Governmental Service Division is one of the largest income areas, second only to the Gaming Division.

In 1968, the Indian Civil Rights Act extended most of the protections of the federal constitutional Bill of Rights to tribal members in their dealings with the tribal government. This law included important provisions allowing states that had assumed jurisdiction under Public Law 280 to "retrocede," or transfer back, jurisdiction to the tribes and the federal government. As I mentioned, the Oneida Tribe, through its judicial system under the Oneida Appeals Commission and drafting of a new Oneida Constitution, have discussed the gradual retrocession by the State courts on certain civil issues where there is presently concurrent jurisdiction. The Indian Civil Rights Act led to a major revision of the tribe's original constitution in 1969 with the addition of "Article VI - Bill of Rights. All members of the tribe shall be accorded equal opportunities to participate in the economic resources and activities of the tribe. All members of the tribe may enjoy, without hindrance, freedom of worship, conscience, speech, press, assembly, association and due process of law, as guaranteed by the Constitution of the United States." The concept of due process was further codified with the passage of the Oneida Administrative Procedures Act in 1991: "The Oneida Tribe shall ensure due process of law for the designated citizens through adoption of this act, pursuant to Article VI of the Oneida Tribal Constitution as amended." The judicial forum for providing "due process of law" for the Oneida Tribe is called the Oneida Appeals Commission. This Commission was established at the same GTC meeting which approved the Oneida Administrative Procedures Act.

Another major self-determination law is the Indian Self-Determination and Education Assistance Act, enacted by Congress in 1975. Through this Act, the Oneida tribe has assumed administrative responsibility for such programs as education, health, and realty from federal agencies. Since 1996, the Oneida Division of Land Management has compacted with the Bureau of Indian Affairs to process transactions on Oneida trust lands..

DEVELOPMENT OF THE TRIBAL ORGANIZATION

It is impossible to talk about the accomplishments of the Oneida elected leadership in less than the hour provided by the Oneida History Conference. Two documents are provided at the

end of this paper which will give you further information on this. The first is a list of tribal members who were elected to the Executive Committee, later to become the Business Committee. The second large document is a list of Oneida Accomplishments. Both were drafted by Business Committee staff, and used to write this paper for the History Conference. My final comments will be to discuss the changes in the management structure of the Oneida Tribe since 1937 when the Oneida Constitution was adopted.

