

Oneida Tribe of Indians of Wisconsin

Post Office Box 365

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Oneida, WI 54155



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them



UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the Colony of Pennsylvania, a new nation, the United States, was made possible.

M E M O R A N D U M

TO: Litigation Committee:
Kathy Hughes
Loretta V. Metoxen
Ernie Stevens
Richard G. Hill
Jerry M. Hill
Jerry L. Hill
Francis Skenandore

FROM: L. Gordon McLester *RAM*

DATE: November 22, 1988

SUBJECT: Meeting November 23, 1988

Make a copy for Chair

The meeting has been set for November 23, 1988 at 9:00 A.M. in the Forum Room at the Radisson Inn.

Attached is a memo from George Shattuck confirming our meeting with him on the 29th of November in the afternoon.

Attachment

"What If? . . ."

What if Governor Clinton, and New York State, had kept the promise made in 1788 to hold the 6,000,000 acres of Oneida land In Trust for them to manage it and remit to the Oneidas the new rents. The initial rent was set at \$600 per year, but this was to be adjusted every 21 years.

Look at a map of the Eastern Seaboard. There are only two or three water-land routes from East to West across the Appalachian Mountains. One of these passable routes is just south of Oneida Lake between the respective foothills of the Adirondacks and Catskills. It was of crucial strategic importance to the westward growth of the United States.

If the State had keep its promise to hold the land in trust, the 6,000,000 acre Oneida Reservation would be large, but by no means the largest Indian reservation in the United States. It would cover an area roughly from Utica to Manlius, East-West, and the Canadian Border to Binghamton, North-South. The post-Revolutionary pioneers would still have made their western trek from Albany, up the Mohawk River to the old Indian trails, e.g. Rt. 173, Rt. 5, to points west. One of these pioneers, my great, great, great grandfather, Abel Shattuck, a veteran of the Revolution, would probably have still left Watertown, Massachusetts, and settled at Durhamville, near Oneida. In the 1790s, the State would have been managing the land and opening it up for orderly development, paying annual rents to the Oneidas.

After the first 21 years elapsed, the \$600 rent would have ben adjusted to reflect 1809 values. Oneida children would have been well nourished, would learn to speak English in addition to their native tongue, and by 1809 many of them would have been educated enough to read and write. Surely the Erie Canal, "Clinton's Ditch," would have been built by the Trustee over its original path to Utica, Rome, Chittenango, Syracuse, and on westward.

In 1830, at the time of the second rent adjustment, the highways and railroad tracks that now cross the water level route west would have been located with the informed consent of the, wealthy and educated, Oneidas. By 1830, the Oneidas would have been graduating from advanced schools and would be teachers and lawyers--well able to deal with the increased complexities of life. They would have been able to demand accounts and audits to ensure that the trust was properly managed. They would have negotiated fair financial arrangements for the passage of the canals, roads, and railroads over their strategically-located Reservation.

By 1851, at the third adjustment of the rents, Madison and Oneida Counties in the area south of Oneida Lake were the Gateway to the West. The growth and wealth of the United States would have flowed across this narrow corridor regardless of who owned it. The majority of the Oneidas would not have been forced to follow their trail of tears and migrate to Canada, Wisconsin, and Kansas. It may be that wealthy developers like Peter Smith and the principals of the Holland Land company would not have grown quite so rich, but someone would have been the developers--possibly Oneidas.

Let me speculate more: Non-Indian landowners, the canals, the railroads, the turnpikes, would be paying special "land rent taxes" to the State, which would be remitted by the State to the Oneida Indian Nation. I would be paying my share of such rents on my home at Cazenovia. Would such extra taxes have crippled the growth of the 6,000,000 acres over the past 200 years? I doubt it. Economics always prevails. A canal has to have reasonably level water. A water level route is a water level route, and the nearest one lies hundreds of miles south. A road grade is a road grade. A railroad grade is a definable percentage, subject to the limitations of available power and friction. No, the Oneidas would not have throttled growth across their land, the only water level route to the West. Remember, the State was the Trustee. If the State had kept its word and acted as Trustee, the outcome essentially would have been unchanged.

What I am speculating about here is not a total change of the State's history, but rather a wealth transfer. In the years that followed 1788, the State breached its trust and sold off the lands that belonged to the beneficiaries of the trust. It forcibly transferred wealth from the then illiterate Native Americans to invading bands of grasping land speculators. If this transfer of wealth had not occurred, New York would still be the Empire State, but different persons over 200 years would have enjoyed the wealth.

The facts of history disclose that the Oneidas in 1788 were coerced and tricked into signing an ambiguous instrument which they thought was a form of renewable lease, in our terms a trust, with rent adjustments every 21 years.

What if New York had kept its word? The tenth rent adjustment would be scheduled to take effect in 1998. Things would be pretty much as they are today, economically and socially. But that "Picture of Dorian Grey" that hangs somewhere in the State capitol would not bear the cancerous scars of deceit, avarice, and arrogance that now stain, but do not trouble, the conscience of the State.

George C. Shattuck

Statement to Boston Globe on Recent Oneida Decision

As Attorney for the Oneida Indians, I filed their first land claim case in 1970. It was dismissed for lack of federal court jurisdiction and the Oneidas appealed to the federal Second Circuit Court of Appeals. When I argued the jurisdictional issue before the Second Circuit in 1972, I closed with what I thought was a stirring quote from a prior U.S. Supreme Court decision concerning the obligations of the U.S. to Native Americans:

"Great Nations, like great men, should keep their word."

I remember clearly that one of the three judges on the bench laughed and said in effect: "G'wan all the Indian lawyers say that." He did not mean it unkindly, but the fact is that the federal Second Circuit and the New York Court of Appeals have a long history of denying jurisdiction to Native Americans on land claims. This was changed by the U.S. Supreme Court in 1974.

Now that the Oneidas have been admitted to court, the Second Circuit has dismissed their fact-filled complaint, and denied a trial on the overall merits.

The Oneidas are entitled to a full and fair trial on their pre-1790 land claims.

I hope that the U.S. Supreme Court will once again keep the word, the solemn treaty covenants, of the United States of America.

George C. Shattuck

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November 4, 1988

JOHN F. EVANS (1941-1988)

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Via Federal Express

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Dear Daan and Fran:

Recent events have conspired to make it difficult to have a meeting of the Oneida groups and their counsel. My firm has been preoccupied with taking depositions and concluding discovery in the Nation's action against individuals responsible for the takeover and arson last winter. We hope to be able to give a reasonable prediction of when the New York Oneidas will be prepared to proceed with claims proposals within the next couple of weeks. In the meantime, we do not wish to delay negotiations which Canada and Wisconsin wish to proceed. Accordingly, I suggest that we schedule a meeting with the Working Group in December, again hopefully in Albany, and follow that with a formal meeting in January.

We apologize for these difficulties, but of course if New York State would exercise its law enforcement responsibilities, we could have solved these problems long ago.

Sincerely yours,



William W. Taylor, III