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"People of the Standing Stone"

ONEIDA LAND CLAIMS SPECIAL EDITION

JANUARY 15, 1994

# OUR HOMELANDS

*What is the future of Oneida Land Claims?*

## Greater awareness of Land Claims needed

By Ed Williams  
Kalihwisaks

To bring the Oneida Land Claims closer to settlement, people may need to increase their interest. Creating awareness with information may be the ticket.

According to Oneida Nation of Wisconsin Vice-Chairwoman, Loretta Metoxen, people would become more interested if they saw the land that is involved. Land in New York State that was illegally obtained from the Oneida people by the State of New York.

"If all the membership knew the details and had the opportunity to see the area for themselves, they would be very emotionally affected by it," Metoxen said. "They would see how beautiful the land is."

Metoxen, who is also Chairwoman of the Oneida Land Claims Commission, said the main objective of the land claims issue is to get land back which equals recognizing treaties made with the Oneida people.

"The main premise of the negotiations is for return of land," she said, "and recognition of boundaries that were set in 1788 and confirmed in a treaty in 1794."

She added that the land claims is a very old issue and has been pursued for many years.

"Our leaders have been pursuing this land claims in New York for 200 years," she said.

"An early leader, Good Peter, had demonstrated it was wrong of the state to take the land and that was shortly after the Revolutionary War."

She said since that time, various leaders have pursued land claims by trying to use diplomacy with the State of New York and the United States government. She added that the claim involves all Oneida people and thousands of acres of land in the state of New York.

"The Oneida Nation in total, that includes the Oneidas in Thames, the Oneidas in New York and the Oneidas in Wisconsin have aboriginal title to 270,000 acres of land in mid-state New York," Metoxen said.

She added that unity among the three Oneida communities is important not only to the land claims issue but to the Oneida Nation as a whole.



**Oneida Burial Grounds:** The three Oneida Communities shared ancestors are buried on this sacred plot of land in Marble Hill, New York. It is just one of many things all Oneidas have in common with land in mid-state New York. This area and approximately 270,000 acres were guaranteed to be protected and secured for the citizens and descendants of the Oneida Nation through federal treaties.

"There are nearly 16,000 Oneidas," she said, "and if the 16,000 were unified in economic, political and cultural aspects there would be an extremely strong base from which the Oneidas could do a lot of things."

"They could relate to government, not only to the U.S. Government but international governments, they could do development not only for

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Page 7

## About this Special Edition

The Oneida Land Claims has been both mystery and legend for most Wisconsin Oneidas.

We've grown up listening to bits and pieces of a story about a 200-year-long battle to reclaim our ancestral homeland in New York state. Today the story still has no ending.

When asked about land claims, most of us give two typical responses: "It won't be settled in my lifetime" and "How much money will we each get."

This special issue is designed to help you learn more about the Oneidas unending demand for justice - to get the United States to honor its treaties that promised to protect the Oneidas rights to their land.

In this issue, we focused on providing the basic background material - history, legal, current - that make up the Land Claim. You'll find easy to read information about the Revolutionary War's effect on the Iroquois

Confederacy, three federal treaties that were broken by New York state, the Oneida's legal battle and strategy, and guidelines for a settlement.

This issue, which was coordinated by the Oneida Tribe of Indians of Wisconsin, is part of an educational effort to help the Wisconsin Oneidas learn more about the Land Claim. Hopefully, Oneidas of the Thames and New York will find the information helpful for them, too.

As you review the material, keep in mind that we decided not to tackle any of the complex issues facing each of the three Oneida communities. Our aim was to first give you a foundation of information to help you understand how the claim originated.

You may not find answers to all of your questions in this issue. But we do hope it spurs more questions and generates more interest. Yaw^kó

### Awareness/ From Page 1

themselves but perhaps for other tribes...there are a lot of things they could do from a strong unified base."

Debbie Doxtator, Oneida Nation of Wisconsin Tribal Chairwoman, shares similar views about the importance of unity not only toward reaching a land claims settlement but because all three communities have something to offer to each other that can be used toward the betterment of all Oneidas.

"Unification is very important," Doxtator said, "We do have a historical tie to the land in New York - that is our homeland.

"We also have a tie to our Oneida community in the Thames in that they are the preservers of the culture, I think each community is bringing something to the table that is of value to all the rest of us - being Oneida.

"It does tie into the settlement of the land claims in that all of us will be reaping some of the benefits of the settlement and hopefully all three communities work together toward that unification so that those benefits can be reaped in each Oneida community - I think unity is important to everyone."

She added that although there were some leadership questions regarding the New York Oneida community representation, she feels confident things will work out for the best.

"We've always taken the stance that we'll recognize the leader that the federal government recognizes," Doxtator said, "Whatever leadership issues the New York community has, they have to deal with within their community.

"We've tried to stay out of it to the best of our ability," she added, "I'm confident that they're going to get it worked out, it's just a matter of time for the people to come together and determine what's best for their community."

## Kellogg's fight for land claims

By Dawn Thomas  
Kalihwisaks

In the early 1900's, Oneida Tribal member Laura Minnie Cornelius Kellogg was a key figure in the Oneida Nation's struggle to reclaim their homelands in New York state.



Kellogg

On Oct. 9, 1925, Kellogg organized a meeting in Oneida, Wis. where nine chiefs and nine subchiefs were appointed by the Chiefs Council of Onondaga.

The condolence was part of an effort to win back the Oneida Nation's ancestral land and

to restore its traditional government.

"She was extremely intelligent, well-educated, a very good speaker and ahead of her time," said Loretta V. Metoxen, vice chairwoman of the Oneida Tribe of Indians of Wisconsin.

Unfortunately, Kellogg's desire to further the cause of the land claims and traditional government led to her downfall.

According to a 1924 article in the Green Bay Press-Gazette, Kellogg wanted to win back 18 million acres of land that she believed was illegally taken from the Iroquois by the United States. If successful, the plan would have ended poverty conditions faced by her people by providing \$500,000 to each member of the Iroquois Nation: Mohawk, Oneida, Onondaga, Cayuga, Seneca, Tuscarora.

In order to pay for legal expenses, Kellogg and her supporters sold shares and collected dues from clubs organized to discuss land claims. They traveled to each Iroquois community in New York, Canada, Wisconsin and Oklahoma to raise money to fund a test case

filed by James Deere, a Mohawk, against the St. Lawrence River Power in 1925. Kellogg was doing all her work before the Indian Reorganization Act in 1934 which provided funds for lawsuits.

In the lawsuit, Deere sued for the ejection of the power company and 17 other occupants from a one-square-mile parcel of land.

The U.S. District Court dismissed the lawsuit in October 1927 stating that the federal court had no jurisdiction in the matter.

It wasn't until 1974 in the case Oneida and Madison Counties v. The Oneida Indian Nation did the Supreme Court rule that the federal courts had jurisdiction. Kellogg's group appealed the decision to no avail. The lack of results led people to accuse Kellogg of fraud.

"Oneida folks had contributed to the cause of settling the land claims and they never saw the settlement," said Metoxen.

Marj Stevens, Land Claims coordinator for the Wisconsin Oneidas, believes Kellogg may have made enemies in "high places" within the United States due to her relentless efforts in seeking justice in the return of the Iroquois homelands.

"She was also a threat to the United States because she was bringing back the traditional government," said Stevens.

Kellogg was born in 1880 to Adam Poe Cornelius and Celisha Bread Cornelius, and was the granddaughter of Daniel Bread, leader of the First Christian Party. In 1912 she married Orrin Kellogg, an attorney. They traveled together across the country to meet with Native American leaders.

In April 1911, she helped organize the Society of American Indians to deal with Indian issues.

Kellogg helped keep alive a dream to recover her nation's territory in New York. "Her research on the Land Claims was invaluable," said Metoxen.



ONEIDA NATION  
New York\*Wisconsin\*Thames  
SOVEREIGN LAND RIGHTS

"The general government will never consent to your being defrauded, but it will protect you and all of your just rights."

## Chiefs Condolence

A historic condolence ceremony for nine Oneida chiefs by the Onondaga Chiefs Council was held Oct. 9, 1925.

A 1925 issue of the Press-Gazette states that the ceremony was held in a meadow behind the Episcopal mission (now a baseball field). Six fires were lit, representing each of the Iroquois nations. Three lodges were erected signifying each of the three clans: Turtle, Bear and Wolf.

The Onondagas condoled nine Oneidas who were descendants of past chieftains. For the Turtle Clan: C.P. Cornelius, Eli Skenandoah, Emerson Metoxen; Bear Clan: Nelson Metoxen, Richard Summers, Gilbert Parkhurst; Wolf Clan: John Powless, Phillip Cornelius, Alfred Powless.

The nine subchiefs were: Henry Smith, Peter Danforth, Packenzie Skenandoah, Nicholas Elm, Wallace Cooper, Solomon Skenandoah, Jonas Schuyler, Fred Cornelius, Alfred Powless.

# Chiefs and Elective Councils meet on unity

*Historic meeting between traditional and contemporary Oneida groups*

By Dawn Thomas  
Kalihwisaks

For the first time in seven generations, leaders of the Oneida Business Committee, the Onyota'a:ka Chiefs Council and the Elected Council of the Oneidas of the Thames met Jan 7-9 in Oneida, Canada to discuss 13 principles of working together on settlement of the Oneida land claims.

"This was an extremely historical meeting. It was the traditional chiefs from time immemorial, from before history, the same titles, meeting with this so-called modern day elective system Business Committee," said Loretta Metoxen, vice-chairwoman of the Oneida Business Committee and chairwoman of the Oneida Land Claims Commission.

The first day, the Onyota'a:ka Chiefs Council talked about the importance of unity within the Oneida Nation to deal with land claims issues.

"We may all have different perspectives, but when we have one cause, one goal, we can work together," said Terry Doxtator, Turtle Clan Chieftain.

The Council explained the unique working relationship the Traditional Onyota'a:ka Chiefs Council and the Elected Council have developed over the past 12 years.

"In the past, (the Chiefs Council) didn't recognize the Band Council, and they probably didn't recognize us," said Howard Elijah, Fire Keeper for the Faith Keepers, "But we've done a lot of work... We learned about each other and learned to trust each other and learned to respect each other."

Talks on January 8 & 9 centered around a list of 13 principles developed by the Elected and Chiefs Councils in Southwold to deal with Land Claims. Discussion focused on Principle 4 (see side bar). Misunderstandings were cleared up about the role of the Haudenosaunee in Land Claims issues and Business Committee actions.

Bob Antone, Interim Turtle Clan Chieftain, explained that the Haudenosaunee, Grand Council of the Iroquois Confederacy, is only interested in protecting the Oneida's indigenous rights and sovereignty within the Land Claims area. Antone said the Grand Council has no interest in land or money.

Through these discussions, one philosophy was found to be held in common to both communities - Oneida land is not for sale to any non-Oneida.

"Our land is our mother, and we cannot sell our mother at any price," said Antone.

Chairwoman Doxtator agreed, "I think we have a common ground in that the land is held for the seventh generation."

The three groups plan to meet in Wisconsin in spring and hope to meet quarterly to continue building unity and learning about each other.

"We agree we need to develop the trust between our communities," said Chairwoman Doxtator, "In our own community, we have a lot of work to do because there is some mystery wrapped around the confederacy, a fear of the unknown."

Other plans to encourage unity include a student exchange program and pooling Oneida language resources.

Elijah said "What we need is to rebuild our nation, to make that heart beat strong again."



Photo By Dawn Thomas

**Yaw^ko:** Howard Elijah (center) presents gifts to Wisconsin Oneida elders on behalf of the Chiefs Council. **Left to right:** Chiefs Bob Brown and Foster Elijah, Sub-Chief Larry Christjohn, Clan Mother Margaret Doxtator, Faith Keeper Howard Elijah, Sub-Chief Bob Ninham, Interim Chief Bob Antone, and Chief Belanger Brown.

## Land Claims Principles

Principles for working together to develop a united front in support of Haudenosaunee Land Rights (Land Claims)

1. The first step is to recognize that a common bond exists between all Onyota'a:ka people. That all have and participate in the same history, culture, customs, etc, that form our identity as Onyota'a:ka people.
2. The objective of a united front is the survival of our people and their distinct and unique position of the ancestral land rights.
3. That the Onyota'a:ka Council of Chiefs have their beginning in natural law, Gayanlahgohah; and the Onyota'a:ka Band Council is created by the Indian Act of 1934 instituted by the Canadian government.
4. That it be understood that any position taken by this united front will be in express accordance to the treaties and laws of the Haudenosaunee.
5. That the treaties and laws become the foundation of a lasting union that will provide for the full participation of all Onyota'a:ka people.
6. That written reports of all Land Rights meetings will be made available to all parties concerned. Quarterly General Council meetings will be conducted to disseminate information to all Onyota'a:ka people.
7. All Onyota'a:ka people will have a voice in all Land Rights issues through their clan and/or General Council meetings.
8. Official Representation will be by those who carry the signatories of the treaties.
9. If so desired and/or necessity, an appointed representative of the band council will travel with the delegation of the Chief Council.
10. This representative will have a voice through the delegation of the Chief Council.
11. Final decisions of Land Rights issues the effect the next seven generations will be made through a consensus of all Onyota'a:ka people.
12. Any agreement made between the Council of Chiefs and the elected Band Council can only be severed if said parties consent at a general council meeting by the people.
13. The Elected Council and the Traditional Council of Chiefs shall agree to work in concert, shall a conflict arise, both councils shall discuss each and every facet of the conflict until it is resolved (Developed last month).

### What is the Chiefs Council?

The Oneida Chiefs Council consists of nine chiefs, nine clan mothers and faithkeepers.

Of the nine chiefs and nine clan mothers, three chiefs and three clan mothers are appointed to represent each of the clans: Wolf, Turtle and Bear.

Clan mothers are the "titleholders". They decide who will be a chief and provide names for babies born into their clan.

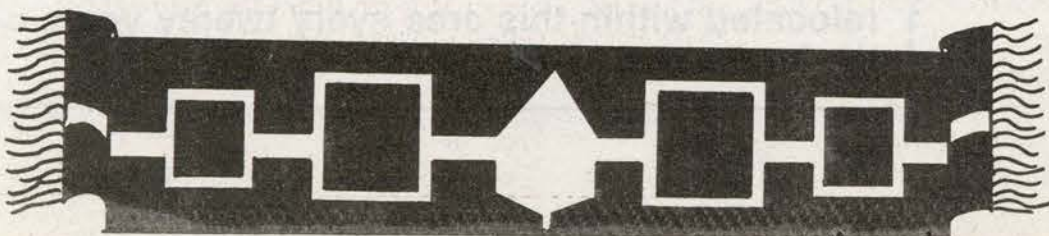
Faithkeepers are responsible for calling council meetings, selecting meeting dates and insuring traditional ceremonies are held throughout the year.

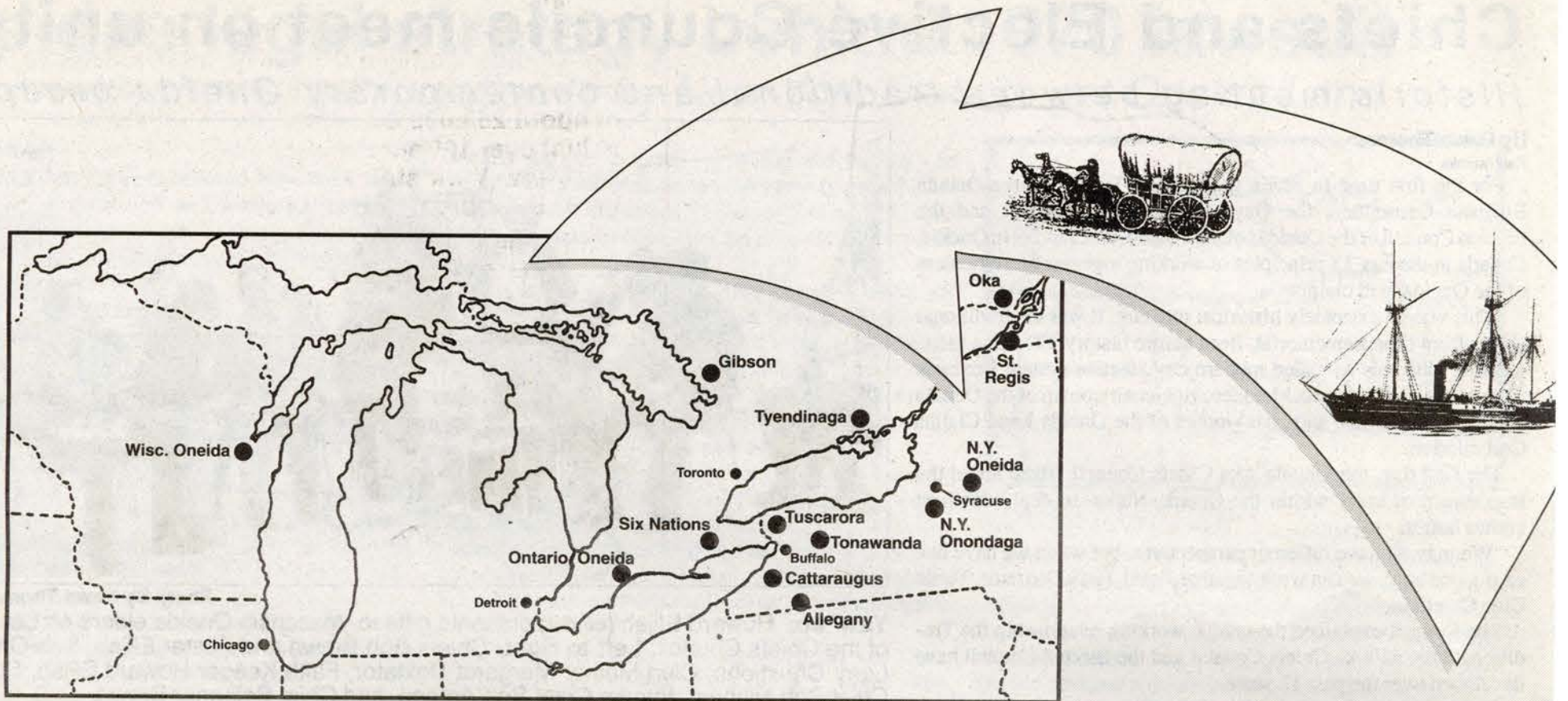
### Who are the nine traditional Oneida chiefs

**WOLF CLAN:** Foster Elijah, John Elijah Sr., Charlie Elijah. (Foster and John are brothers; Charlie is John's son)

**TURTLE CLAN:** Terry Doxtator, Dalton Doxtator. The third chief title is vacant due to the death of Frederick Doxtator in August 1993. (Dalton and the late Frederick were brothers)

**BEAR CLAN:** Bob Brown, Linwood Elijah, Belanger Brown. (Bob and Belanger are cousins).

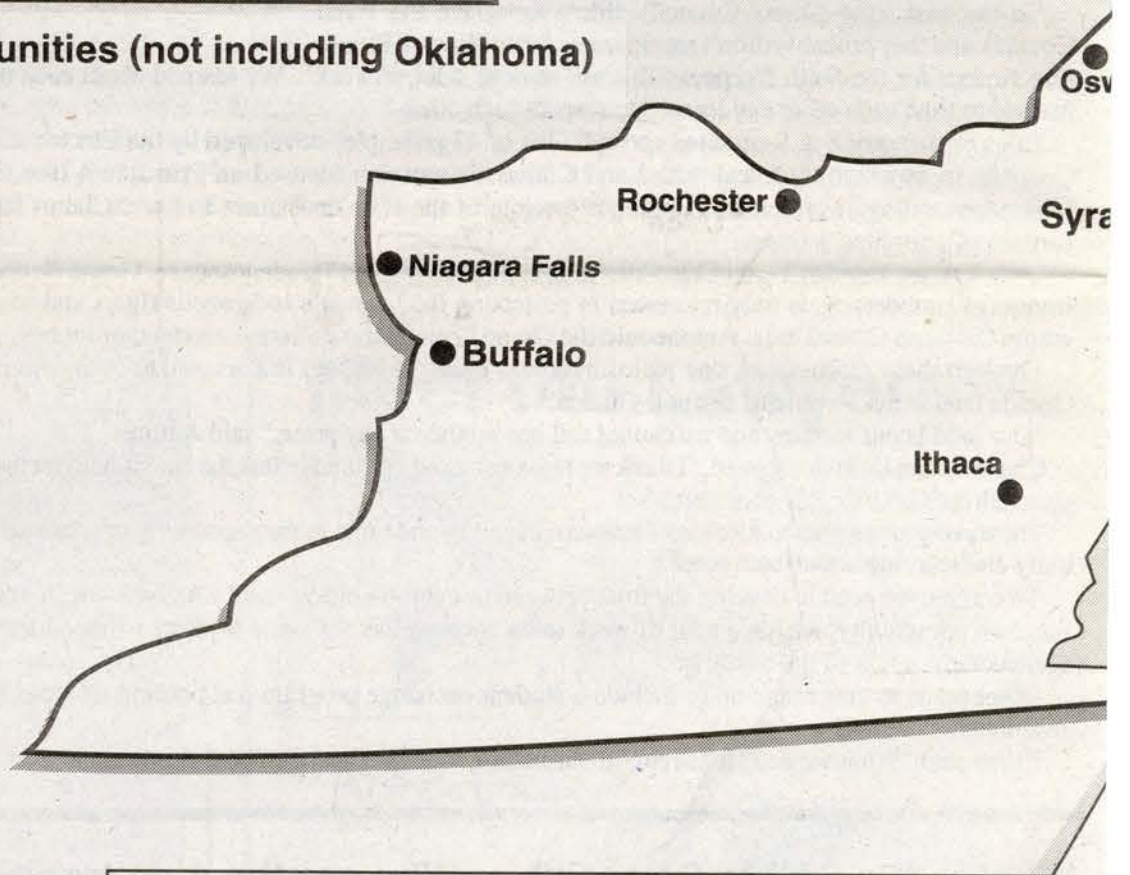




Modern Day Iroquois Reservations and Communities (not including Oklahoma)

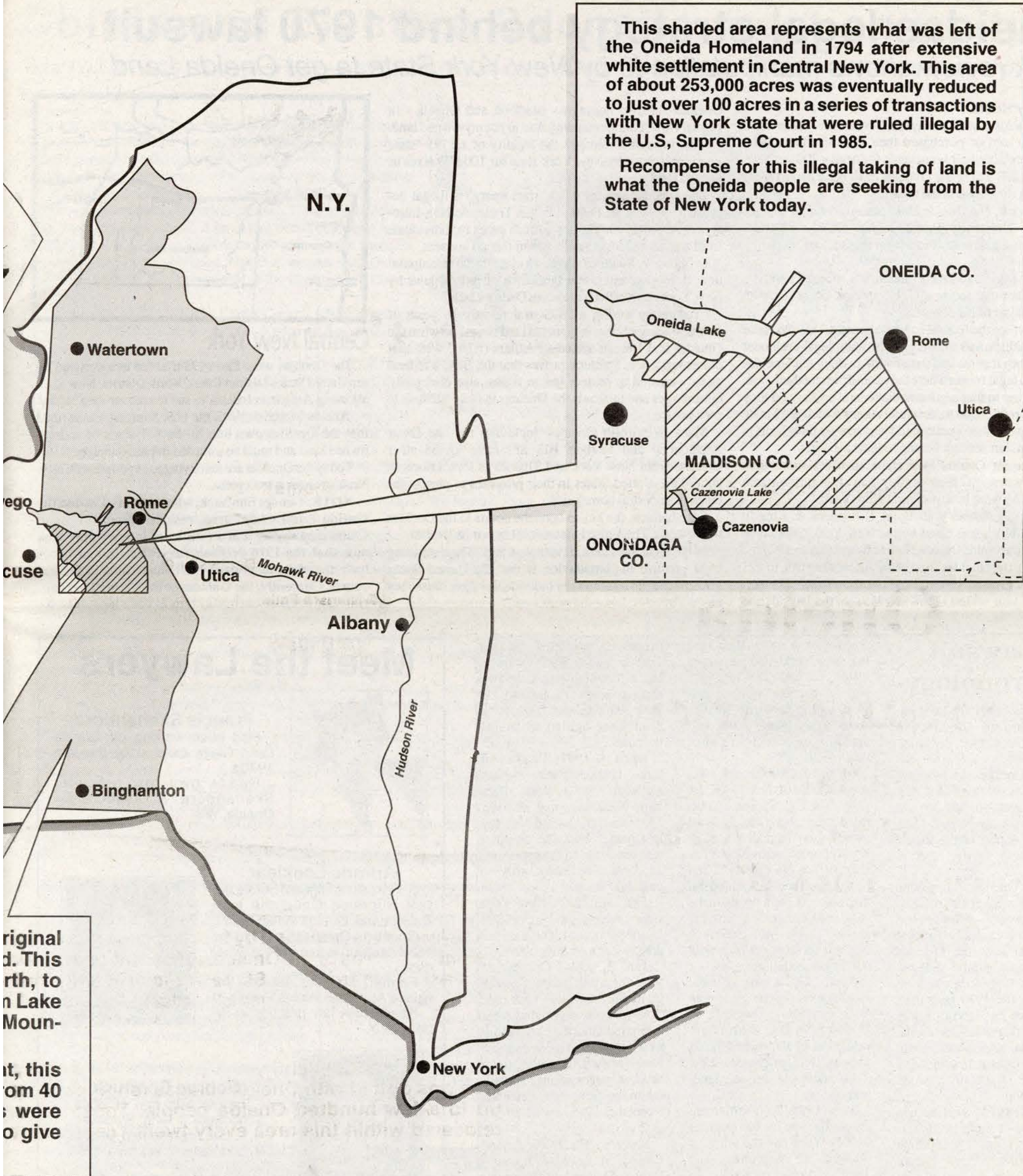
# Oneida Homelands

Land Claims area  
located in central  
New York State.



The large area bounded by this line constitutes the five million acres of the Oneida Indian Nation Homelands area extended from the St. Lawrence River in the north to what is now the Pennsylvania border in the south, from Ontario in the west to the foothills of the Adirondack mountains in the east.

For nearly a thousand years before white settlement this area was dotted with Oneida villages ranging in size from a few families up to a few hundred Oneida people. These villages relocated within this area every twenty years or so to give the land a rest.



This shaded area represents what was left of the Oneida Homeland in 1794 after extensive white settlement in Central New York. This area of about 253,000 acres was eventually reduced to just over 100 acres in a series of transactions with New York state that were ruled illegal by the U.S. Supreme Court in 1985.

Recompense for this illegal taking of land is what the Oneida people are seeking from the State of New York today.

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# Oneidas legal strategy behind 1970 lawsuit

*Book review shows manipulation to by New York State to get Oneida Land*

By Patty Hoelt

The Oneidas, who always believed New York state illegally seized or purchased their territory, have been trying to reclaim their homelands for nearly 200 years.

But for 200 years, the Oneidas have been barred from presenting their case in the courts.

In the book, *The Oneida Land Claims: A Legal History* (Syracuse University Press), author George Shattuck presents his legal strategy to win for the Oneidas "their day in court."

Here is a brief outline of Shattuck's strategy behind a 1970 lawsuit that led to a U.S. Supreme Court decision ruling in favor of the Oneidas.

To convince the federal courts to hear the Oneidas' land claim, Shattuck had to overturn the main legal argument used by both federal and state courts to deny the Oneidas access to a legal forum where they could present their case.

According to that argument the federal courts said they have no jurisdiction to hear land claims which are a state matter and the state courts said they have no jurisdiction because Indian matters belong in federal courts.

The current Oneida land claim involves more than 253,000 acres of their more than five-million-acre homeland in what is now central New York.

Shattuck, a partner with Bond, Schoeneck & King in Syracuse, N.Y., was hired by the New York Oneidas to represent the entire Oneida Nation from 1965 to 1977.

In 1970, the Oneidas filed a lawsuit seeking title to 871 acres of the Oneida's aboriginal land and trespass damages for a two-year period (1968 & 1969). In the lawsuit, the

Oneidas sue two counties - Madison and Oneida - in central New York demanding title to county-owned land.

The lawsuit challenges the legality of a 1795 "state treaty" purchase by New York state for 100,000 acres of Oneida land.

The Oneidas say the 1795 "state treaty" is illegal because it violates the Federal Indian Trade and Non-Inter-course Act of 1790. The act forbade states or individuals from acquiring Indian land without federal consent.

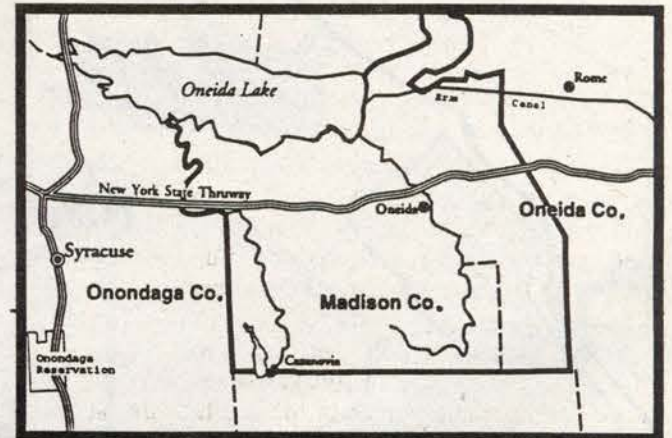
In his book, Shattuck unveils a clear trail of manipulation, deception and direct ignorance of federal laws by New York state officials to seize Oneida lands.

Testimony during a 1975 trial reveals 36 years of correspondence about the Oneida land claims between the Oneidas and Bureau of Indian Affairs (BIA). With that correspondence, Shattuck proves that the BIA, a federal agency created to protect Indian rights, also disregards, discourages and misleads the Oneidas in their attempts to seek justice.

Many Wisconsin Oneidas, including the late Oscar Archiquette and Norbert Hill Sr., have joined other Oneidas from New York and Thames in their efforts to uphold the United States in their promises to protect the Oneidas ancestral homelands.

For Shattuck, the key to open the courts to the Oneidas was simple: The United States must honor its treaties.

In his legal argument, Shattuck stated "The overriding legal premise for jurisdiction is that the United States government, no less than any individual citizen, must obey its own treaties, laws and promises."



## Central New York

The Oneidas won. The 1975 trial led to a decision by the United States District Court, North District, New York allowing American Indians to sue to recover their lands.

And on March 5, 1985, the U.S. Supreme Court ruled that the Oneidas own title to the 871-acres of county-owned land and must be awarded trespass damages.

Today the Oneidas are still trying to negotiate with New York state for a settlement.

**NOTE: George Shattuck, who owns land within the Oneida Land Claim area, resigned from the Land Claim case saying that a conflict of interest may exist now that the 1974 decision ruled that Indian tribes have the right to present their land cases in federal courts. Currently, the Oneidas of the Thames are considering whether to employ him as their legal counsel.**

## Lawsuit Chronology

Here is a brief chronology of legal events by the Oneidas since 1970 to reclaim their land:

**1970:** Oneidas sue Madison and Oneida counties as a "test case" to reclaim title to 871 acres of county-owned land. The land is part of the tribe's 250,000-acre treaty reservation.

**1974:** Oneidas file second lawsuit to recover the remaining land owned by Madison and Oneida counties totaling 30,000 acres of the Oneidas 250,000-acre treaty reservation. This lawsuit remains on hold until the 1970 lawsuit is over. Since this lawsuit raises the same legal issues as the 1970 case, the courts could apply to this lawsuit the decision from the 1970, which is still pending.

**Jan. 21, 1974:** Oneidas win first phase of their 1970 "test case". The result: U.S. Supreme Court rules that Native American tribes can sue to recover their lands.

**1979:** The Oneidas file a third lawsuit to recover about

5.5 million acres of their land that New York state purchased by the 1785 and 1788 "treaties". Federal courts dismissed this case stating that the treaties were signed when states had authority to extinguish Indian title.

**March 4, 1985:** Oneidas win second phase of their 1970 "test case". The U.S. Supreme Court ruled that the Oneidas still owned their land that was illegally purchased by New York state in a 1795 "treaty". The ruling also sent back to federal district court for a decision the issue of damages for a two-year period (1968 & 1969). A decision on damages is on hold pending negotiations.

**Sept. 23, 1986:** Formal negotiations for the settlement of damages begin in Washington, D.C. with representatives of the three Oneida nations, Dept. of Interior, New York state and private land-owners.

**June 1989:** Two settlement proposals, one by the Oneidas of New York and the other by Oneidas of Wisconsin and Thames, were submitted to New York State.

**Aug. 18, 1989:** New York state rejects the two settlement

proposals submitted by the Oneidas stating that it would be too difficult to negotiate two separate proposals. Instead, the state requests the Oneidas to submit one unified settlement proposal.

**April 4, 1991:** Leaders of three Oneida bands - Ray Halbritter, New York; Rick Hill, Wisconsin; and Al Day, Thames - sign Unified Proposal in Oneida, Wis. The proposal was submitted to the state April 11, 1991 (See related story on page 8.)

**Jan. 31, 1992:** New York state rejects the Oneidas' Unified Proposal. The state did not present a counter offer.

**Jan. 3, 1994:** Oneidas of Wisconsin and Thames accept invitation from New York state to return to the negotiating table and request that the state submit a counteroffer. The Oneidas of New York will be seeking independent negotiations, according to the New York Oneida's December 1993 newsletter.

*Sources: The Oneida Land Claims: A Legal History by George Shattuck, and Francis Skenandore, attorney for Oneida Tribe of Indians of Wisconsin.*

## Meet the Lawyers



### Francis Skenandore

Had been working on Oneida Land Claim case since the late 1970's.

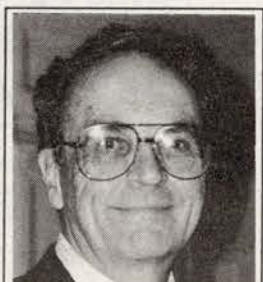
Heads own law practice, Skenandore & Associates, Oneida, Wis.

### Arlinda Locklear

Successfully litigated before the U.S. Supreme Court the land claims case, Oneida Indian Nation v. County of Oneida that led to the 1985 decision in favor of the Oneidas.

Former directing attorney for Native American Rights Fund

Heads own law practice in Albany, N.Y.



### George Shattuck

Partner with firm of Bond, Schoeneck & King, Syracuse, N.Y. that represented Oneida Nation Land Claim from 1965 to 1977.

**\*Note:** The Oneida Indian Nation of New York is represented by Attorney William Taylor III (not pictured).

# Land Claims injustice began centuries ago

By Teri Tronstein & Patty Hoeft

Before 1785, the Oneida Nation and the other five Indian nations of the Iroquois Confederacy claimed as their homelands what is now New York state. Here is a brief historic report of the events leading to the unjust seizure of the Oneida territory and their legal efforts to reclaim it.

For longer than one thousand years, the Oneida people held claim to more than five million acres of land in what is now central New York state.

The other five Iroquois Nations - Seneca, Cayuga, Onondaga, Mohawk, Tuscarora - controlled the rest of what is now known as New York state.

The Oneida Nation territory was about 50-miles-wide, stretching from the present day New York-Pennsylvania border in the south to the St. Lawrence River and the New York-Canada border in the north.

After the arrival of the first European settlers, the Confederacy remained undisturbed, even co-existing as allies with the British.

But when the American Revolutionary War broke out between 1775 and 1783, the Confederacy split.

The powerful Iroquois Confederacy tried to remain neutral in the war between British and American colonists. But as the fighting wore on, the Oneidas and Tuscaroras joined forces with the Americans while the other members of the Confederacy fought with the British.

By war's end, the new American government was victorious. But for their Iroquois allies - the Oneida and Tuscarora people - the victory took everything they owned.

In 1780, the pro-British Iroquois retaliated against the Oneidas and Tuscaroras by burning their villages and crops to the ground. Their territory was uninhabitable. More than 400 Oneida and Tuscarora people turned to the Americans for help, living as refugees at Fort Stanwix. Others were destitute.

The Americans recognized the vital role played by the Oneidas and Tuscaroras in the winning of their independence. As a result, the new Continental Congress met with the six Iroquois nations. Severe terms were handed to the pro-British tribes. The Oneida and



Photo Courtesy of Oneida Land Claims

**Blood of our ancestors:** Oneidas fought and died on the side of the Americans during the revolutionary war. Oriskany Battlefield is located within the Oneida Land Claims area.

Tuscarora, who were American allies, were guaranteed that their rights to their lands would be protected.

For the Oneida, the Treaty of Fort Stanwix in 1784 guaranteed the security of their five million acres. This right was reaffirmed in the Treaty of Fort Harmar in 1789 and Treaty of Canandaigua in 1794.

But New York ignored these treaties.

In 1785 and 1789, New York Gov. Dewitt Clinton and the land-hungry aristocracy of the state legislature pressured the Oneidas into selling them more than four million acres of their land for less and one-tenth of its value.

To prevent New York's massive land grab, the U.S. Congress passed the Federal Non-Intercourse Act of 1790 to protect Indian lands. The act stated that only Congress can negotiate with Indian nations. It forbade states or individuals from purchasing Indian lands without federal approval.

Unfortunately, the Act didn't stop New York from acquiring Oneida lands. Despite warnings to Gov.

Clinton from the U.S. Atty General that such transactions were illegal, New York made 25 additional "treaties" with the Oneida between 1795 and 1846.

Each time, Oneidas gave up more land, sometimes for as little as 1% of its value. By 1846, only a few hundred acres were left.

The land lost in those 27 so-called "treaties" comprises the Oneidas' land claim case for 253,000 acres, otherwise known in the Courts as Docket 301.

Oneida efforts to regain their homelands have been unceasing for 200 years. U.S. federal and state courts had always been closed to Indian tribes.

In 1970, the entire Oneida Nation - Wisconsin, New York, Thames - challenged the legality of one of New York's 27 "treaty" acquisitions. The treaty: A 1795 transaction in which New York obtained 100,000 acres.

A test lawsuit was filed against Oneida County, New York. The lawsuit cites only county-owned land totalling 871.

After coming before the U.S. Supreme Court twice, the test case finally won a favorable ruling ending a centuries-old deadlock for Indian nations seeking redress for their loss of lands. The 1974 favorable ruling stated that tribes could sue in federal court over Indian land claims.

On March 4, 1985, the Oneidas won again. The court ruled that Oneida and Madison counties were liable for damages - fair rental value for two years, 1968-1969, for unlawful seizure of Indian ancestral lands (see *The Oneida Land Claims: A Legal History* by George C. Shattuck, Syracuse University Press).

The Oneidas also filed another lawsuit in 1974 to recover all county land (approx. 30,000 acres) in Oneida and Madison counties. This lawsuit is currently held in abeyance (temporarily suspended) pending a final decision of the 1970 lawsuit and settlement negotiations.

In 1991, leaders of the three Oneida bands submitted a written Unified Proposal to New York outlining conditions for a settlement. The proposal was rejected.

As of today, the state still has not presented a counter-proposal.

## Treaties affecting the Oneida Land Claims

New York state made 27 illegal transactions to obtain Oneida land after 1795.

The Oneidas say the transactions were illegal because each time the state deliberately disregarded a basic federal Indian law and three federal treaties that promised to uphold and protect the Oneidas' rights to their land.

The state even ignored a promise to the Oneida people by President George Washington who said,

*"Hear well and let it be heard by every person in your nation, that the President of the United States declares, that the General Government considers itself bound to protect you in all the lands secured to you by the Treaty of Fort Stanwix, the 22nd day of October, 1784."*

Here is a brief description of the federal law and treaties mentioned above that lay the legal foundation to recover the Oneida homelands:

### •FEDERAL INDIAN TRADE AND NON-INTERCOURSE ACT OF 1790:

This law forbade states or individuals from acquiring Indian land without federal consent. It required that a U.S. commissioner must be present at all Indian land sales and each sale must be approved by the U.S. Senate. In fact, this law was passed to prevent the vast loss of Indian land that had already occurred due to land-hungry profiteers.

### •TREATY OF FORT STANWIX IN 1784:

In this treaty the United States promised that the Oneidas would be secure "in the possession of the lands on which they are settled." This treaty was in gratitude of the role played by the Oneidas in the Revolutionary War that helped the American colonists win their independence.

### •TREATY OF FORT HARMAR IN 1789:

This treaty reaffirms the U.S. promise to the Oneidas that was stated in the Treaty of Fort Stanwix; that the Oneidas are "again secured and confirmed in the possession of their respective lands".

### •TREATY OF CANANDAIGUA IN 1794:

This treaty reaffirms, for the second time, the U.S. promise to the Oneidas to protect their aboriginal rights to their lands. The treaty states: "The United States acknowledges the lands reserved to the Oneida, Onondaga and Cayuga Nations, in their respective treaties with the state of New York, and called their reservations, to be their property; and the United States will never claim the same, nor disturb them...in the free use and enjoyment thereof; but said reservations shall remain theirs, until they choose to sell the same..."

## General Tribal Council Meeting

**Date:** Monday, January 17, 1994

**Time:** 4-6 PM: Program/Enterprise

6:30 - Tabacco Burning

7:00 - Annual Meeting Begins

**Place:** NHC Auditorium

**Purpose:** Rescheduled Annual Meeting

Bring Oneida Land Claims Special Edition for the Land Claims Presentation.

# OLCC exists to keep land claims alive

Members of the Wisconsin Oneida Land Claims Commission have accepted the responsibility to make the land claims one of their priorities and to keep other Oneida Nation members informed and aware of developments and progress toward an agreement or settlement. Their effort is the kind that keeps the land claims alive.

For 17 years, the Wisconsin Oneidas have been electing a group of their own people to represent the tribe's interests in the Oneida Land Claims.

This group, the Oneida Land Claims Commission develops strategy and brings recommendations regarding settlement negotiations or litigation to the Oneida Business Committee.

As stated in its current Operating Policy & Procedures, the Commission's purpose is:

*"To develop strategy and provide direction and recommendation for Litigation and Negotiation and/or settlement to the Oneida Business Committee and General Tribal Council with the New York Land Claims as established priority, and Wisconsin land claims and other future land claims as second priority."*

The commission was formerly called the Litigation Committee. It was created on March 21, 1977 to monitor the outcome of lawsuits filed by the Oneidas in 1970, 1974 and 1979.

The committee was renamed the Oneida Land Claims Commission when its operating policy and procedures were adopted Jan. 3, 1992.

Membership consists of four General Tribal Council members

Membership consists of four General Tribal Council members who are elected to four-year-terms and two Business Committee members who are appointed to three year terms that coincide with their current position.

The four GTC members whose terms end in July 1994 are: Clifford Cornelius, vice chairman; Mark N. Powless, Vicki Cornelius, Judy Cornelius.

Business Committee members appointed to the commission are: Tribal Vice Chairwoman Loretta V. Metoxen who also serves as chairwoman of the commission, and Gary Jordan, councilman.

The committee also consists of numerous ad hoc members who represent different tribal departments.



Photo/Dawn Thomas

Members of the Wisconsin Oneida Land Claims Commission and staff include: seated left to right, Marj Stevens, Land Claims coordinator; Loretta V. Metoxen, Vera Wilson. Standing, left to right: Margaret Danforth, assistant to coordinator; Clifford Cornelius, Gary Jordan, Mark N. Powless and Vicki Cornelius. (Not pictured, Judy Cornelius).

## ONEIDA OR NOT: ITS ALL IN THE BLOOD

By Patty Hoelt

Whether your Oneida or not depends on your pedigree. Many different definitions for "Indian" exist today. Most criteria for being Indian calls for a specific blood quantum. Prior to European contact, Native American people identified themselves by the nation in which they belonged - political status.

But efforts by Europeans to define these native peoples as one racial group led to "Indian".

Definitions turn important when determining how to distribute funds or services and applying laws to "Indians".

Each tribal nation has inherent sovereign powers to decide who can be a nation member.

For the Oneidas, nationality is all in the blood.

•**Oneida New York:** Enrollment is based on 1/4 degree blood descendancy through the mother only. Children born of an Oneida man and non-Oneida woman do not qualify.

•**Oneida Wisconsin:** Enrollment is based on at least 1/4 degree accumulative Wisconsin Oneida blood descendancy through either mother or father.

•**Oneidas of the Thames:** Enrollment is based on at least 1/4 degree Oneida of the Thames blood line through the father. Canadian government regulations prohibit enrollment of children whose mother is married to a non-Indian man.

•**Oneida Longhouse:** With various flexibility, recognition is based on the mother's clan. Adoption procedures exist.

Source: Kalihwisaks Land Claims Special, September 1988

## Oneidas' sign unified proposal

**Editor's Note:** This article appeared in the April 13, 1991 Kalihwisaks publication. The State of New York rejected the offer on January 31, 1992.

By Keith Skenandore

Kalihwisaks

Following the signing by Oneida Tribal Chairman Rick Hill, the Unified Oneida Nations Land Claims Settlement Proposal now paves the way for negotiations with the State of New York for damages in the 256,000 acres of land dispute.

Signing the proposal prior to Chairman Hill was Al Day, Chief of the Oneida Nation of the Thames Band in Canada, along with Ray Halbritter and Dick Christjohn, official representatives of the Oneida Indian Nations of New York.

"One of the most prominent issues being addressed here is the reaffirmation of the treaty commitments between the United States government and the Oneida Nation," said Hill.

The proposal, signed Friday, April 5, was then sent to New York for their acceptance. Following their approval, the proposal will go back to the respective Oneida communities for final ratification. The final term must then be passed by the New York Legislature and the United States Congress.

"This is an integral part of the negotiations," said Loretta Metoxen, Oneida Tribal Treasurer, and head of the Litigation Committee. "Internally, we have to agree for a settlement, and that is what this proposal does."

This proposal is an attempt to settle the negotiations without litigation. The proposal includes principle settlement in regards to land acquisitions, monetary settlement, governance and restitution.

"There was always a weakness in the negotiations before this," said Metoxen. "The State has no argument with a unified proposal. We are three communities coming together with one proposal, and that's why this is so important."

The proposal represents the basic goals of restoration for the Oneida people to the level of economic cultural well being, that they would have enjoyed had they not

been displaced from their homelands. In addition, it reflects the Oneida Nation's strong belief that a settlement of the Oneida Land Claim has value only in so far as it improves the quality of life of the Oneida people.

"This has been a longtime coming," said Metoxen. "The dispute has been 200 years with the State of New York."

Debbie Doxtator, Oneida Tribal Vice-Chairwoman, added, "These proceedings have been taking place 200 years." Our children need the means to provide fair and equal opportunity to live with the rest of the citizens of the United States."

The proposal, in effect, does just that. It reflects the traditional obligation of Iroquois leaders to look to the future of the next seven generations.

"This is developing a path for our future generations," said Doxtator.

### Oneida Land Claims Kalihwisaks Special Edition, Jan. 15, 1994

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