



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

WASHINGTON, D.C. 20245

IN REPLY REFER TO:

Tribal Government Services

Memorandum

To: Director, Office of Indian Services

From: Michael T. Smith

Subject: Report on the History of the New York Oneida Indians

J. Long 24, 1982

This report is in response to a request of April 10, 1980, from your task force for historical survey of the Oneida Indians of New York.

A. Background to 1830's

In the seventeenth century, when the Europeans made their first contact with the Oneida Tribe of Indians, it occupied the territory along Oneida Creek and the eastern shore of Lake Oneida including the site of the present town of Oneida, New York. It was the smallest tribe in the Iroquois Confederacy, and its neighbors, the Mohawk on the east and the Onondaga to the west, were also members.

The Tribe has a long history of internal division which began around 1700. The basis of the conflict was the rise in prestige and power, as a result of constant warfare, of the warriors within the tribe. They challenged the clan chiefs, whose power rested on the traditional clan mother system, for control. By mid-century both groups had sufficient power and/or authority to veto the others proposals but neither could exercise positive leadership.

In 1767 a Presbyterian minister sought to establish a mission among the Oneida. He quickly allied himself with the warrior faction which became known as the Christian Party. The Revolutionary War further aggravated tribal divisions with the Warrior-Christian faction being pro-American and the clan chief-traditionalist being pro-British.

In addition to these political and social tensions, the war also caused considerable physical dislocation and destruction. The War was characterized by destructive raids which "reduced the Mohawk Valley to a virtual desert." Both Oneida factions maintained proximity to this separate allies. As a result, during the war one party or the other, and sometimes both, were absent from their own lands. After, however, both returned to their homeland but settled in separate villages, each with its own government. All attempts to unify the Tribe not only failed but, at times, increased the factionalism. By 1805 the divisions between the two major factions was so intense that they divided the Oneida territory into two separate reservations. One for the Christian Parties and the other, smaller, for the clan basis group now called the Orchard Party.

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In the 1810's this situation on the Christian Reservation was calmed by the arrival of an Episcopal missionary. He first gained the support of the warrior groups which became known as the First Christian Party. He then concentrated on the others and converted some of them to the church and became known as the Second Christian Party. While these events did not unite the Tribe they did tend to lessen intra-tribal tensions.

Concurrently, pressure was being applied on the Oneida to sell their lands in New York and move to Wisconsin. The tribe divided again over this proposal. Some members of both the First and Second Christian Party was similarly divided. Nevertheless, in 1823 a small group started westward and there were 654 Oneidas living in Wisconsin by 1836.

B. Breakup of the Tribe

In 1838, the United States negotiated the Treaty of Buffalo Creek with the New York Indians. By this agreement, the Oneida of New York were to "... remove to their new homes in the Indian territory, [Kansas] as soon as they can make satisfactory arrangements with the Governor of the State of New York for the purchase of their lands at Oneida."

In 1840 there were three bands of the Oneida Nation; (1) the First and Second Christian Parties of New York; the Orchard Party of New York, and the Oneida of Wisconsin. Notwithstanding the fact that representatives of all three of the New York Oneida factions signed the Treaty, no one actually wanted to remove to Kansas. Because of increasing pressure from the local whites, however, many Oneida finally decided that they wanted to leave the State. These circumstances led to a series of treaties between the State of New York and the Tribe.

On June 16, 1840, the First and Second Christian Parties signed a treaty with the State which theoretically divided their 450,000 acre share of the reservation on a per capita basis. There being 585 Indians eligible this made each individual's share 7,802 acres. Two lists were then made: those who would sell their share of the reservation to the State, Schedule I, and, those who would keep their consolidated acres in common and remain, Schedule II.

Schedule I was further divided into three groups. A party headed Moses Schulyer of 242 persons who took their share and migrated to Canada. They were designated as the "First Emigrant Party". The 87 persons, designated the "Second Emigrating Party", while wanting to move, did not have a specific destination in mind. They did desire an monetary advance, however, in order to find a desirable location. The "Third Emigrating Party," of 69 Indians also wanted to move. They did not have a specific location in mind, but they requested an advance on their funds. This made 400 Oneida of the First and Second Christian Parties who sold, or pledged to sell their share. The 178 persons Schedule II who were remaining in New York were designated the "Home Party." On March 8, 1841, the Home Party of the First and Second Christian parties further reduced its land base when 36 additional Oneida agreed to take their share of the tribal assets and emigrate to Canada.

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Concurrently the Orchard party of the Oneida was also disposing of much of its lands to the State of New York by the Treaty of March 13, 1841. In this case there were 98 persons on a 464.32 acre reservation or only 4.94 acres per tribal member. This time there were only two parties. The 44 who intended to go to Canada, and the remaining 54, designated the "Home Party of the Orchard Indians." Later, the Treaty of May 23, 1842, 16 of those of the Home Party also emigrated to joining their tribesmen in Canada.

All of these treaties all had the following or similar clauses:

"and it is hereby stipulated and agreed that all the avails of the sale of the said ceded lands are to be distributed, apportioned and paid to the said several migrating parties in the proportions which they respectively bear to the whole number of souls enrolled on the said attested list as intending to migrate.

". . . and such . . . who are enrolled on the said list attested as aforesaid, as intending to emigrate hereby release quit claim & forever renounce to the said Indians who are so enrolled as intending to remain and to those who may succeed them in their rights, all right, title, claim and demand whatsoever in and to the said portion of land so set apart, describe and reserved for the said Indians who do not intend to emigrate."

The "First Emigrating Party" of the First and Second Christian Parties led by Moses Schulyer used their funds to purchase a reserve near London, Ontario, Canada. By 1848 most of the other emigrating Oneida had also settled there.

The result of this series of treaties was that in 1843 there were, in addition to the Wisconsin Oneida, eight identifiable groups of the Oneida Nation:

1. First Emigrating Party of the 1st and 2nd Christian Parties
2. Second Emigrating Party of the 1st and 2nd Christian Parties
3. Third Emigrating Party of the 1st and 2nd Christian Parties
4. 1841 Home Party Emigrants of the 1st and 2nd Christian Parties
5. Post 1841 Home Party of the 1st and 2nd Christian Parties
6. 1841 Emigrant party of the Orchard Party
7. 1842 Emigrant Party of the Orchard Party
8. Home Party of the Orchard Party

On April 18, 1843, the New York State assembly passed an act stating:

"The Oneida Indians owning lands in the counties of Oneida and Madison are hereby authorized to hold their lands in severalty"

This law for all practical purposes ended the official relationship between the Oneida Tribe of Indians and the State of New York. Hereafter the Oneidas were treated by the State as individuals, but tribal identification in a social sense remained. The language, the matrilineal clan system, a continued attachment to the Iroquois Confederacy, manifestations of "Oneidaness", seem to have been maintained to the present.

C. Oneidas on the Onondaga Reservation: to 1930's

Not all of those designated as "emigrants" on various 1840 treaties, discussed above, left the State of New York. Some, because they had already taken their share of the tribal patrimony, settled upon the Onondaga Reservation. In addition, some of those who did emigrate to Canada or Wisconsin returned to New York and also settled on the Onondaga Reservation. The Onondaga Reservation was a natural choice for these Oneida because of the Onondaga Nation's traditional central position in the Iroquois Confederation. They did not participate in the politics of the reservation and maintained their separate identity, but, as fellow Iroquois, they were welcome. Furthermore, the proximity of the city of Syracuse offered employment and other economic advantages.

The Oneidas on the Onondaga Reservation represent one more division of a tribe with a history of fragmentation. In the 1840's it was a small group of around thirty persons, compared to over 170 at Oneida. The Annual Reports of the Commissioner of Indian Affairs show that in 1853 the population jumped to 72 and remained near that number until the 1890's. During the same period, the population of the group at Oneida remained fairly constant at around 180. At the turn of the century the Onondaga group increased rather dramatically to over 120 while the group at Oneida was deminishing to about 150.

A 1901 roll prepared by Special Agent Guion Miller to determine those Oneida eligible a per capita payment for the judgment award for the so-called "Kansas lands" listed 159 persons Oneida, 283 at Onondaga and 6 at Tonawanda. A major reason for the dramatic increase in Onondaga population was, of course, that the claim itself made it more profitable to take the time and make the effort necessary to prove one's Oneida blood. Part of the increase however, is attributed to the immigration of a group of thirty-one Oneida from Canada.

The inclusion of the Canadian group, and other individuals who allegedly had to pay a fee to be on the roll, was challenged by other Oneidas. In 1904, after an investigation of these charges, Special Agent Miller concluded that they were groundless. He stated that Canadians were readopted into the tribe(?). This event, however, illustrated the unofficial nature of the census rolls of this period. Many times they were taken by members of the group itself, who could have arbitrarily excluded persons of whom they disapproved. In addition, the ability to construct such rolls indicated the existence some informal organization which thought it had the right to determine the qualifications for inclusion.

Cloth Payment

A major reason for the maintenance of a "membership list" was for the annual distribution of the "cloth payment" due the Oneida under the provisions of the Treaty of Konondalguwa, November 11, 1794. A representative of the Tribe, usually a chief but not necessarily, is given that Tribe's share (2% for the Oneida) of the cloth to distribute. This individual then distributes the cloth. It is left to his discretion to determine the recipients. It should be emphasized that neither the individual representative nor those to whom he distributes the cloth acquire any "federal recognition" as a "tribe" by this act. It is a situation in some ways analogous to the distribution of a claims award to a non-tribal descendants of the aggrieved historic tribe. The individual's right to share is derived from his or her connection to the historic entity and not dependant on his or her current status.

In the particular case of the Oneida, the "tribal representative" who received and distributed the cloth was many times self-appointed. The cloth payment did, however, necessitate the maintenance of some form of identification list. This, in turn, could at various times be the starting point for an organizational effort, and prevent the complete dissolution of the group.

D. Oneida at Oneida

As previously mentioned, in 1843 the New York State Assembly enacted legislation authorizing the the Oneida of the two Home Parties to hold their land in severalty instead of in common as was the situation at the time. Most Oneida took advantage of this act and divided their lands into individually owned plots. One group, however, did not. The group of the 2nd Christian Party assigned Lots 17 and 19 under the 1841 treaty maintained common ownership of their land.

According to the 1907 testimony of William Rockwell the acknowledged leader of this group:

"We formed band of our own in regard to this thirty acre parcel. We covered? (sic) it in such a way that up to the present time, you can see, it is preserved yet. When our own members, no matter how distant the relation might be, are taken ill and there are those who ought to go home, is the place he thinks of . . ."(emphasis added)

From this statement it appears that this "band" of Oneidas was not a traditionally derived group, but that it was an ad hoc organization of those persons and their descendants who were allotted lots 17 and 19. There is no claim in this statement that they were the legitimate successors of the "Oneida Nation". It would have been difficult for them to do so since they all descendants of small portion (35 out of total population in 1841 of 146) of the "Home Party of the First and Second Christian Parties". Furthermore, they were only descendants of the Second Christian Party.

Nevertheless The group was the last remaining Oneida to communally hold aboriginal lands. This fact, among others, tended to make this group the core of most this official relationships with the "Oneida at Oneida."

The aforementioned Mr. Rockwell, leader of this band, was the acknowledged spokesman for the "Oneida Nation of New York" until his death in 1950's. Many times he acted in concert with a "tribal" delegation. But more often the various Federal and State officials looked to him as the only representative.

The U. S. Circuit Court of Appeals in the case of United States v. Boylan et al expanded upon Mr. Rockwell's definition of lots 17 and 19 as stated above. It ruled that this plot was never relinquished by the Oneida Nation to the United States or the State of New York, and so remained tribal property. The court reaffirmed that:

"The record discloses that between twenty-three and thirty-Indians hold and enjoy the land in question from the date of the treaty with the United States government in 1749 (sic 1754) down to the time of the eviction referred to [1906]. . . . The trial judge has found that the Oneida Indians were a distinct people, tribe, or band." (365 Fed. Rept. 171)

The following is the finding of the District Court referred to:

"William Rockwell, an Oneida Indian, son of Margaret Honyost, daughter of Maggie Charles, one of the 23 persons named in Schedule B, gave testimony to the effect that he was born in a house on lot 17 of this reservation, that these premises were occupied by these Indians and their descendants down to the time of the eviction by the sheriff (1906), and occupied by them in common, and that tribal relations, etc., were maintained, and that they had chiefs and held and attended councils." (256 Fed. Rept. 471).

While the above contradicts Mr. Rockwell's statement cited earlier, the Courts' reasonings and decisions seem to indicate that it believed the Oneida Tribe of New York to be the descendants of those assigned to lots 17 and 19 in 1842. Furthermore those lots (the 32 acres) are considered the "Oneida Reservation."

D. Oneida and the IRA

After the passage of the Indian Reorganization Act in 1934, William K. Harrison Special Agent in Charge, New York Agency asked if the Oneida were qualified to vote on the Act. The major question concerned the need for an Indian group to have a "reservation" to be eligible to vote. The Oneida on Onondaga were briefly considered to be part of the Onondaga Reservation although they were not allowed to vote when the Onondaga held their referendum. The discussion of eligibility centered on those in Oneida and Madison County, which we now identify as the "Marble Hill" band.

Initially the Oneida were considered not eligible, but in a reconsideration based on the discussion in the case of U.S. v. Boylan, the Department of Interior changed its position and called for a referendum on June 17, 1936, the last day such a vote could be held. The question was then raised as to which Oneida should be allowed to vote and if there should be one or two polling places. It was decided that there would be only one voting place in Oneida County and that the Oneida of Onondaga should be allowed to vote "as absentee members if otherwise eligible." What determined "eligibility" was not specified. The vote rejected the IRA 12 to 57.

E. Oneida on Onondaga Post IRA

The problems concerning IRA eligibility focused new attention on the nature of the Oneida Tribe of New York. In 1940, in response to an inquiry from the Superintendent of the New York Agency, William Rockwell stated:

"The Oneida Nation had the following clans Bear-Wolf-Deer & Turtle. We elect our chiefs as it becomes necessary to take care of our business. The chiefs hold their officer until they fail to act in this capacity for the good of the Nation.

"Chiefs of today - Leyman, John, Oneida Reservation

- Levy Hill, Onondaga Reservation
- Joe Johnson, Syracuse, New York
- Chapman Schenandoah, Onondaga Reservation
- Nelson Schenandoah, Oneida Reservation
- William H. Rockwell, Oneida Reservation

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"Chief since 1522
Aniret: Elm
Albert Schenandoah
Alexander Baurling . . .

"In order for me to find the chiefs plans I would have to travel a great deal."
(emphasis in original)

Similar listings were submitted by Mr. Rockwell throughout the 1940's, when requested. How these "chiefs" are elected, and by whom, is not discussed. Although he names six persons representing various "districts", all of the them, except Levy Hill, were listed as Oneida Reservation people on the 1901 payment roll. Mr. Rockwell was always considered the "Chief of the Oneida in New York" by the Bureau of Indian Affairs' Superintendent in New York.

In 1943, Mrs. Mary Winder reporting to represent the Oneida on the Onondaga Reservation, asked the Superintendent of the New York Agency to aid them in securing their own reservation. She indicated that she was speaking as spokesperson for ". . . a tribe of more than forty families and about two hundred adults and children. . . ." Nowhere in this letter is there any mention of Rockwell or any of the other persons he listed as chief.

The Assistant to the Commissioner of Indian Affairs' reply to this request was sympathetic but negative. Here again, there is no mention of Mr. Rockwell or his group. This could be attributed to the fact that both letters focused on Mrs. Winder's desire to sue the State of New York to obtain lands for the requested reservation. The Commissioner's reply, therefore, was also directed to this question.

After the passage of the Indian Claims Commission Act of 1946 there was a renewed attempt for the formal organization of the Onondaga people. As previously, this movement was led by Mrs. Mary Winder. An informal organization was institutional and meetings held. Most of these meetings concerned the claim under that Act for aboriginal New York lands. The communications with the Indian Office also concerned claims issues. Mrs. Winder continued, however, to seek advise on ways for the Oneida people at Onondaga to form their own reservation.

An exception to these subjects was made on a visit by Mrs. Winder to Washington on March 12, 1948. At this meeting, she requested the Indian Office designate Ross Webster as "Chief" of the Oneida Indians of New York. The reason for this request was that Mrs. Winder did not want other chiefs (Willam Rockwell?) to represent them. Mrs. Winder stated that there was a traditional system with a chief, a sub-chief and a warrior chosen by Oneida clan mothers to represent them in the council of the Six Nation. Nothing further on this subject was found in the records.

It appears that this "traditional" organization was not political in its motivation, but rather a social-religious organization. There is no reason to believe that there was any inherent conflict between the "traditional and "elective" organizations. A traditional organization can limit its concern to the internal function of the society. It does not necessarily also have to control the political actions of the group.

An example of the above is that in 1949, concurrent with Mrs. Winder's concern over the Six Nation Chieftanship, Milton Babcock, as President of the Oneida Nation of New York, and two other persons, signed a claims attorney contract for the New

York Oneidas. In 1951, Mrs. Winder herself was elected President of the "Oneida Indian Nation of Councilors" and Milton Babcock Vice-President.

There is sketchy information on exactly when, what form, and who created the organization which called itself "The Oneida Nation of New York" and now known as the "elective" faction. It is clear, however, that until the mid-1970's there was a consensus among the Onondaga Oneidas that this group represented them in claims cases and was empowered to represent for them to external (i.e. Federal, State, etc.) agencies. M

In 1971, The Oneida Indian Nation of New York still was not formally recognized as an organization to speak for the New York Oneidas by the Bureau of Indian Affairs.

To rectify this "oversight", Mr. Robert A. Burr, Jr. submitted a constitution to the Bureau for its recommendation and approval. He further stated:

"Please note also that although we are submitting our Constitution to your bureau for confirmation, we feel confident that the Federal Government has previously recognized our organization when the Secretary of the Interior gave his authorization for our organization to enter into contract with the firm of Bond, Scheneck and King, Attorneys at Law."

Commissioner Bruce, in his reply of April 14, 1971, noted that the Constitution required numerous changes before the Bureau could give its approval. The major concern, however, was whether the constitution(s) had been voted upon and approved by the adult members of the Nation. The Commissioner then added:

"You are quite correct that the Federal government recognized fully the Oneida Nation of New York as a tribe of Indians. This was, in fact, a necessary consideration in conjunction with the approval of the Nation's contract with the law firms of Bond, Schoebeck and King of Syracuse, New York, and Aeron, Aaron, Schlimberg & Hess of Chicago, Illinois. Our recognition has been based on our awareness of the Nation's traditional form of government and our acceptance of it. A written constitution need in no way alter this. It could reflect in writing what has already become unwritten practice as such, it would facilitate understanding by others of the Oneida Nation's government.

We would be pleased to extend such technical assistance as you may desire while working on this revision of your governing document."

As a result of the above the Bureau and other federal agencies supplied various services to the Oneida people. Usually, such aid however, was from the Bureau to the people through the "Constitution" government led by President Jake Thompson. The major interest of the elective faction, as with most Oneida people, was the Oneida land claim. All negotiations relative to it were conducted through Mr. Thompson and his Executive Committee.

F. Withdrawal of Bureau Recognition

The Bureau, despite repeated requests, did not receive the assurances of the adoption of the Constitution requested by Commissioner Bruce. Tension began to build up among the Onondaga Oneida concerning the "elected" Executive Committee. In

1975, what has been termed a "revolt" occurred at an August 4 tribal meeting. Thompson was removed and replaced on August 10 by a group led by David Honyokt and others calling themselves "Traditionalist". Later, on September 7, Thompson, in a meeting of his adherents, vetoed the action at the August meetings. The situation continued to deteriorate with each side claiming to be legitimate spokespersons for the Oneida in New York.

On December 18, 1975, the Director of the Eastern Area Office of the Bureau stated that, since there was no verifiable consensus for either party by the Oneida people, the United States did not recognize any government for the Oneida of New York. This is the situation today. Throughout this controversy, the Bureau and the Assistant Secretary of the Interior - Indian Affairs, while offering to lend its offices to mediate, have made it clear that the Federal government considers the question of representation and government an internal problem to be solved by the Oneida themselves.

G. Oneida at Marble Hill

In the early 1970's, reasoning that since they are the "Oneida Nation of New York", they also have a right to use of the 32 acre "Oneida Reservation" in Madison County, members of the Onondaga group moved on this land. This was done to the consternation of some of those who were descended from the "Band" subject to the Hovlan decision. The unresolved question in this situation is: Did the Boylan decision, while reaffirming the existence of the Oneida Reservation and the Oneida Tribe, at the same time define the Oneida Tribe in New York as only the descendants of those band assigned to lots 17 and 18? If so, then most of those who are referred to as Marble Hill Oneida and on the Cloth Payment roll kept by Emily Johnson (William Rockwell's successor in this position) should not be considered as "tribal Oneida".

Notwithstanding the above, most of the Marble Hill people are descendants of the "Home Parties" of the 1840's. Therefore, because their tribal affiliation can be traced to the two Home Parties of the 1840 treaties, they are the only historically identifiable "tribal" Oneidas in New York. This is not to say that the Onondaga group are not Oneida. They, however, are individual not tribal. They arrived on Onondaga as individuals or in small groups and not as recognized "bands" or "tribes."

H. Reality vs Theory

The above is a theory of separation between the descendants of the "emigrant" and "home" parties. The reality is that there was a great deal of interchange between them. The census lists submitted by the Oneida chiefs prior to 1900 indicate that there were chiefs among both groups. As previously mentioned the 1901 "Kansas" payment roll listed the two Oneida groups separately. The various census rolls prepared subsequent to the 1901 payment roll also list the Oneidas by either Onondaga or Oneida residence. However, the 1946 cloth annuity roll, a state record, lists all the Oneidas on one roll but contains the notation "ONON" for those Oneidas residing on the Onondaga Reservation.

A comparison of the 1901 listing and the 1948 listing reveals that many of those at Onondaga are closely related to the Marble Hill Oneidas. The 1901 listing reveals that most of the Onondaga listees have brothers and sisters or parents on the Oneida listing which indicates that the member's name was routinely transferred upon his removal to the Onondaga Reservation. Some of the Marble Hill Oneidas moved

to Onondaga when they were evicted from the 32 acres, now known as the Oneida Territory, in 1909. It is also evident that there were individuals intermarried with the Onondaga Oneida at an earlier period of time. There is no indication, however, of any "band" movement the records indicate only individual movements to Onondaga. Apparently, Onondaga was the main recipient of emigrants from the Oneida Reservation areas, Canada and Wisconsin.

In the early 1900's there were six Oneida chiefs of the Six Nation Confederacy. With the passing of William Rockwell in the early 1960's, the system has barely struggled on. William Rockwell, the late owner of the 32 acre Oneida Territory, was the last visible chief he passed much of his work to Emily Johnson, the current keeper of the Marble Hill roll.

I. SUMMARY

The Oneida Nation has been beset by severe internal division since the mid-eighteenth century. The present situation is a continuation of that history. The traditional clan mother based system of government also broke down at this time. This does not mean that adherence to social and religious aspect of the clan mother system are not valid. Questions of descent, property, etc. are answered by many Oneida in this manner.

With the ^{OK} acceptance of those involved in this Boylan decision, there is no "Oneida Nation of New York" which can trace an unbroken tribal existence. The cloth payment does not convey political recognition. It recognizes a cultural organization "the Oneida Nation". This group is made up of persons on a roll (not approved by the government) kept by someone who may have no other official position and the government is seemingly unconcerned to whom the cloth is eventually distributed. There have no other consistent federal contacts with these people.

Neither of the two groups who claim to represent the Oneida at Onondaga have a very strong position. The "elective" faction never submitted its "constitution" or proved that it had popular support. On this other hand, leading members of the "Traditionalist" faction acquiesced to the unapproved constitution for years and accepted "elected" positions within it. In the turmoil of 1975, they approved of the constitution they continued to maintain the system after the initial ouster of Mr. Thompson and "elected" some of their own people to the leadership positions defined in the document.

The Marble Hill group's interest in the entire situation is not consistent. They have no recognized spokesman for their position. Mr. Keith Reitz claims to represent them, but, in fact, he is only concerned with the 32 acre reservation. He feels, with understandable justifications, that it is his family's - the band assigned lots 17 and 19. The Marble Hill people apparently want no intercourse with the federal government beyond the cloth payment. They have been consistently aloof from the entire situation.

