

## *The State of New York, The Oneida Nation, and 26 Illegal Treaties*

After the American revolution, it did not take long for settlers and land companies to move into the upstate New York area. The homelands of the Six Nations stretched across vast amounts of territory and the Oneida and Mohawk homelands, stretching across the Mohawk Valley, were some of the most beautiful lands in the state. During the Post-Revolutionary War time period, the American government was still trying to figure out who it was and what its responsibilities were. It was during this time period that key legislation was passed by the U.S. Congress that opened the door for the sequence of events that lead to the signing of 26 illegal treaties between the State of New York and the Oneida Nation. It is from this conflict that the Oneida Land Claims were born in the 20<sup>th</sup> century.

History is like a blanket. When one person tells a story, it is like they have identified one thread in the blanket. Where any two stories intersect is where specific events in history have happened. Just as two threads come from different angles, two people tell the same story from a different point of view. To understand how a thread gets to any point in the blanket, you have to follow it and find out where it began. Historians often view history in the same way. To understand how the State of New York and the Oneida Nation ended up signing 26 illegal treaties, it is necessary go back in history and find out what changed to make that particular situation possible.

The European nations that flooded the American continent after the initial voyage of Christopher Columbus practiced what is called today, the Doctrine of Discovery. The law started with Pope Nicholas V's

papal bull Romanus Pontifex which sanctioned the Portuguese invasion of Africa on the grounds that the African nations were not Christian nations. The law was later expanded to include Spain's violent take over of many Caribbean islands and central and southern American soil.<sup>1</sup>

Subsequent European nations followed suit and when the Netherlands, France, England, and other nations traveled to the Americas they assumed they had the right to the land. The Dutch settled in the regions where New York City now exists. The British moved in along the U.S. eastern coast. France claimed the right to lands in present day Canada and later down the Mississippi valley into southern areas such along the Gulf of Mexico from Louisiana to Florida.

Through wars and diplomatic agreements, these countries often traded what they believed were pre-emptive rights to lands that were used and lived on by Native Tribes for thousands of years. One such case was the famed Louisiana Purchase in 1803. Historians and school text books for years have bolstered that President Jackson purchased millions of acres of land, however, the reality is that what he purchased from France was the pre-emptive rights to the land as was understood through the Doctrine of Discovery. The U.S. still had to purchase the land from the inhabitants that lived on the land or take the land through war or treaty making.

It is in the post revolution time period that confusion began to creep into the scene. The several colonies achieved a victory over the British and then faced the challenge to strengthen and unite themselves under the protection of a central government that was agreeable to all. Congress passed legislation in 1790 that is known as the Indian Trade and Intercourse Act. The law stated in section one, "Be it enacted by the

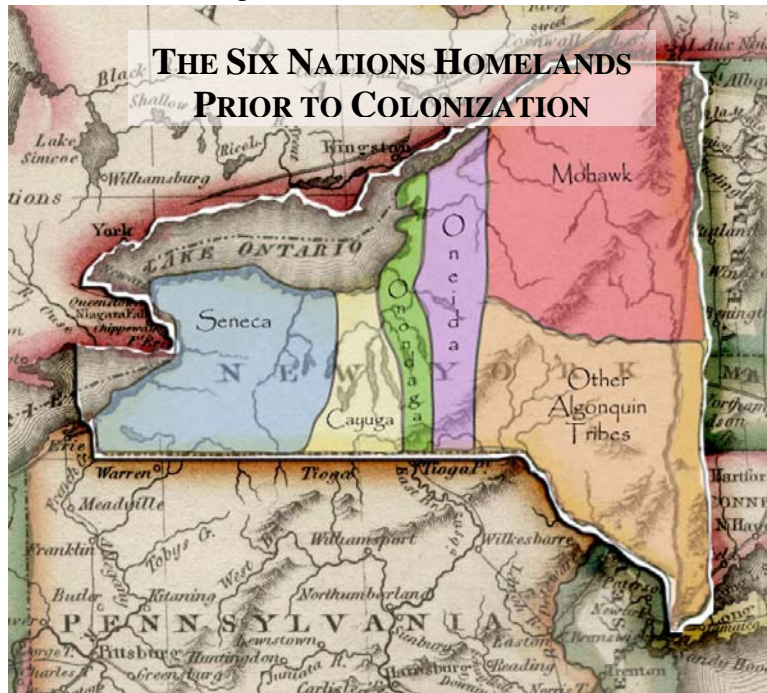


Figure 1: The Iroquois occupied vast amounts of land in what is now New York State. Similar to the Iroquois Longhouse, the nations are lined up from east to west as if they were inside of a longhouse. The Iroquois also controlled land in Canada, the Ohio river valley and Pennsylvania.



*Senate and House of Representatives of the United States of America in Congress assembled, That no person shall be permitted to carry on any trade or intercourse with the Indian tribes, without a license...or of such other person as the President of the United States shall appoint.” Section four continues by saying, “and be it enacted and declared, That no sale of lands made by any Indians, or any nation or tribe of Indians the United States, shall be valid to any person or persons, or to any state, whether having the right of pre-emption to such lands or not, unless the same shall be made and duly executed at some public treaty, held under the authority of the United States.”<sup>2</sup>*

It is in the time period following the passing of the Trade and Intercourse Act that the State of New York signed 26 illegal treaties with the Oneida Nation. These treaties are called “illegal” because they were signed between agents of the State of New York, having never been initiated by the President of the United State of ratified by Congress. There is a possible 27<sup>th</sup> treaty that may be included in this list, however, it remains the subject of much debate due to the fact that there was a federal commissioner there.

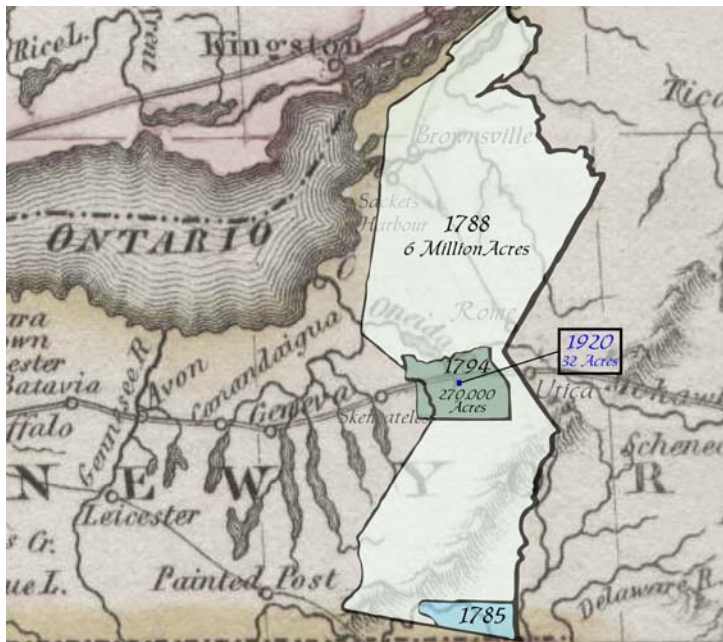


Figure 2: The Oneida Homelands, estimated to be six million acres of land at the end of the Revolutionary War, were reduced to a small 32 acre reservation by the early 1900s. The reservation remains in tact today and is home to a few people, the Shakowi Culture Center and a health clinic.



Figure 3: The Oneida Migration began in 1822, and by 1838, 654 Oneidas were living in Wisconsin, which was still part of the Michigan Territory. A few hundred Oneidas, unwilling to live in Wisconsin, moved to a reservation in Thames, Ontario, Canada. An even smaller number of Oneida remained in New York. These three reservations still exist today with a cumulative population close to 20,000 people.

The Oneida lost nearly six million acres of land in New York (See Figure 2). Due to the loss of land, the vast majority of members of the Tribe migrated westward beginning in 1822 and ending in roughly in 1838. Most of the tribe’s members came to Wisconsin, however, some ended their travels in Ontario, Canada and some stayed in New York. As a result there are three Oneida communities today (See Figure 3).

In summary, the Oneida Nation has begun the long process of reclaiming lands that were taken illegally over two centuries ago. The Oneida Nation has always sought an out of court agreement with the United States government and continues to ask for that even today. There have been two “test” trials which went to the United States Supreme Court and both times the cases were upheld in court and had the Oneida Tribe officially filled claim, they likely could have one the case. It is now up to the United States and the State of New York to decide how they will address the current issues.

<sup>1</sup> Wikipedia, “Doctrine of Discovery.” Accessed on October 26<sup>th</sup>, 2009.

<sup>2</sup> [http://www.uoregon.edu/~mjdennis/courses/hist469\\_trade.htm](http://www.uoregon.edu/~mjdennis/courses/hist469_trade.htm). Accessed on October 26th, 2009.

