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# The End of the Iroquois Mystique: The Oneida Land Cession Treaties of the 1780s

J. David Lehman

**I**N the spring of 1792 a delegation of forty-seven chiefs and warriors of the Six Nations Confederacy arrived in Philadelphia at the invitation of Secretary of War Henry Knox and federal Indian commissioner Timothy Pickering. Disembarking at the Market Street wharf, the Indians were escorted through the streets of Philadelphia by a detachment of light infantry to Oeller's Hotel, where they were saluted by a discharge of cannon and welcomed by Pennsylvania governor Thomas Mifflin.<sup>1</sup> In light of recent failures in United States Indian policy in the west, officials attached critical importance to the Six Nations' visit. No opportunity was lost to welcome the delegation or to display the grandeur and wealth of the nation's capital. When one of the Oneida chiefs died unexpectedly, he was accorded an elaborate state funeral, climaxed by a grand procession to the Presbyterian burying ground in Mulberry Street that was witnessed by a throng of ten thousand.<sup>2</sup> During the six weeks' visit, the delegation received such royal treatment that the editor Philip Freneau, upon hearing the chiefs being introduced as "Princes" at one gathering, felt required to remind his fellow citizens that the Iroquois were well known to be "republicans rather than aristocrats or monarchy men."<sup>3</sup>

Perhaps the Six Nations chiefs also felt the irony of being addressed as "Princes." Only eight years earlier, at the Treaty of Fort Stanwix, officials had bluntly asserted that the hostile tribes of the Confederacy had forfeited their status as free and independent nations by allying with Great

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<sup>1</sup> [Philadelphia] *Independent Gazetteer and Agricultural Repository*, March 17, 1792; Henry Biddle, ed., *Extracts from the Journals of Elizabeth Drinker, from 1759-1807* (Philadelphia, 1889), 184. The best description of this visit is in Katharine C. Turner, *Red Men Calling on the Great White Father* (Norman, Okla., 1951), chap. 1.

<sup>2</sup> [Philadelphia] *Dunlap's American Daily Advertiser*, March 26, 1792.

<sup>3</sup> [Philadelphia] *National Gazette*, April 5, 1792.

Britain during the Revolution.<sup>4</sup> But in the fall of 1791 the stunning defeat of General Arthur St. Clair's army by a coalition of Shawnee, Miami, and Wabash Indians in the Ohio Valley had returned the Six Nations to the center stage of Indian affairs. President George Washington told the Indians that the purpose of the Philadelphia meeting was to "remove all causes of discontent." The more immediate purpose was revealed by Knox in a message to Congress: the Six Nations representatives had been invited "to influence them to repair to the hostile tribes in order to use their efforts to bring about a peace."<sup>5</sup>

The Philadelphia meeting illustrated the ambiguous position of the Six Nations Confederacy at that period. The ceremonious reception in the nation's capital and Knox's regard for the Confederacy's power demonstrated the persistence of what one scholar has called the "Iroquois mystique."<sup>6</sup> For most of the eighteenth century, the Six Nations had played a crucial role in European-Indian diplomacy through the bicultural confederation known as the Covenant Chain.<sup>7</sup> Iroquois military power and diplomatic skill had made the Covenant Chain the primary preoccupation of British and colonial Indian policy, and the domination of the Six Nations over neighboring tribes was assumed. Even after the Revolution, the Continental Congress on occasion still referred to the Indian nations of the Ohio Valley as "tributaries" of the Six Nations.<sup>8</sup>

But by 1792, when Knox persuaded the Six Nations to take up their familiar role as intermediaries, the Iroquois mystique had greatly eroded. One American, meeting the Indian delegation after its departure from Philadelphia, scoffed that the peace mission would have "no effect." The Six Nations, he asserted, had become "poor enervated creatures" since the Revolution. Confined to state reservations and surrounded by white settlers, their present condition was "contemptible compared with their former greatness."<sup>9</sup> And indeed, when the Iroquois delegation arrived at the pan-Indian conference held at Au Glaize on the Maumee River in the summer of 1792, it faced suspicion and a distinct lack of deference. The Shawnees threw the document containing the American message into the

<sup>4</sup> Richard Butler, one of the U. S. commissioners at the Treaty of Fort Stanwix, declared to the Six Nations, "You are a subdued people." See Henry S. Manley, *The Treaty of Fort Stanwix, 1784* (Rome, N. Y., 1932), 90.

<sup>5</sup> Secretary of War Henry Knox to Congress, *American State Papers, Indian Affairs* (Washington, D. C., 1832), Class II, vol. IV, 229.

<sup>6</sup> Dorothy V. Jones, *License for Empire: Colonialism by Treaty in Early America* (Chicago, 1982), 21-35.

<sup>7</sup> The creation and functioning of the Covenant Chain is explored most fully in Francis Jennings, *The Ambiguous Iroquois Empire: The Covenant Chain Confederation of Indian Tribes with English Colonies from Its Beginnings to the Lancaster Treaty of 1744* (New York, 1984). See also Daniel K. Richter and James H. Merrell, eds., *Beyond the Covenant Chain: The Iroquois and Their Neighbors in Indian North America, 1600-1800* (Syracuse, N. Y., 1987).

<sup>8</sup> Worthington C. Ford, ed., *Journals of the Continental Congress*, 34 vols. (Washington, D. C., 1904-1937), XXII, 226-230.

<sup>9</sup> "Extract of a Letter from a Gentleman upon his return from Niagara, dated August 8, 1792," *Collections of the Massachusetts Historical Society*, I (1792), 287.

fire and asked the Six Nations "with malicious voice . . . what was their business with the white people these several years?"<sup>10</sup>

The humiliation of the Six Nations at Au Glaize—"the nadir of Iroquois diplomacy," according to Anthony Wallace—encouraged the overturning of the Iroquois mystique.<sup>11</sup> As Francis Jennings has observed, the myth of the Iroquois empire persisted during the eighteenth century because it served British interests.<sup>12</sup> The subsequent rejection of the myth conformed to the policy needs of the new American states. In 1784 James Duane urged New York Indian commissioners to abandon "the disgraceful System of flattering [the Six Nations] as great and mighty Nations." He advised teaching the Indians "that the public Opinion of their Importance had long since ceased." Only then would they be "reconciled to the Idea of being Members of the State [of New York], dependent upon its Government, and resting upon its Protection."<sup>13</sup>

If the Iroquois mystique had magnified the power and influence of the Confederacy, an exaggerated image of its demise replaced it. According to this interpretation, the American Revolution had "extinguished" the Council Fire of the Confederacy and left the individual nations politically divided and spiritually demoralized. During the war the nations of the league had fought on opposite sides: the majority remained loyal to the British while Oneida and Tuscarora warriors joined the Americans. This division destroyed the unity of the league and brought devastation to the heart of Six Nations country. In 1779 American troops under General James Sullivan invaded Iroquois territory, destroying villages, crops, and orchards. The return of peace brought little solace; abandoned by the British, the Six Nations faced an American nation bent on expansion into Indian territory previously closed by the British. Weakened by faction, the Six Nations could not resist the tide of settlement. In the decade following the war, the individual nations bartered away the bulk of their homelands. For Lewis Morgan, whose writings celebrated the ancient league, the end of the war was, in effect, "the termination of their political existence."<sup>14</sup> Twentieth-century historians have generally agreed with this portrayal of the postwar years; "From having once been a mighty confederacy composed of six sovereign nations, feared by whites and

<sup>10</sup> Turner, *Red Men Calling*, 24; Anthony F. C. Wallace, *The Death and Rebirth of the Seneca* (New York, 1970), 164; see also Hendrick Aupaumut, "A Narrative of an Embassy to the Western Indians," *Memoirs of the Historical Society of Pennsylvania*, II (1827), 61-131.

<sup>11</sup> Wallace, *Death and Rebirth of the Seneca*, 164.

<sup>12</sup> Jennings, *Ambiguous Iroquois Empire*, 10-20.

<sup>13</sup> James Duane to George Clinton, August 1784, in Franklin B. Hough, ed., *Proceedings of the Commissioners of Indian Affairs, Appointed by Law for the Extinguishment of Indian Titles in the State of New York*, 2 vols. (Albany, N. Y., 1861), I, 21-24.

<sup>14</sup> Lewis H. Morgan, *League of the Ho-de-no-sau-nee, or, Iroquois*, 2 vols., (New York, 1901), I, 28.

Indian neighbors alike, whose alliance was eagerly sought by the Europeans, they now descended to the status of mere tribal villages.”<sup>15</sup>

Like the mystique of Iroquois power, the story of the decline and fall of the Iroquois empire owed as much to white perceptions and to historical and literary comparisons as it did to the reality of the Indians' experience. For DeWitt Clinton, the fate of “the Romans of the Western World” evoked republican imagery. The Six Nations had lost their “high character and elevated standing” due to the rise of “party” and “factions.” The “ancient and cementing principle of union and fraternity . . . which was the basis of their greatness has been entirely driven from them.”<sup>16</sup> Greater contact with white society had led to the loss of “savage virtues,” wrote another observer. “The hospitality, the courage, the fortitude, the spirit of independence, and the respect for the chiefs, which pertained to their more savage state, are in a great measure wanting.”<sup>17</sup> When Jeremy Belknap and Jedidiah Morse visited Oneida territory in 1796, they too emphasized the contrast between the league's past greatness and present distress. “Once we coveted their friendship either from fear or policy, but neither of these motives can now have any influence; they are rather objects of pity.”<sup>18</sup> For these New Englanders, the fate of the Six Nations recalled that of the Massachusetts Indians a century before. The Oneidas, once “native lords” over a vast territory, were in danger of becoming “strollers and beggars 'till, like their brethren of Natick, they shall cease to have political existence among mankind.”<sup>19</sup>

But if white perceptions of the Six Nations clashed following the Revolution, a third perspective needs to be considered—that of the Indians themselves. While in Philadelphia, an Oneida chief named Good Peter gave a lengthy account of what had happened to his nation in the eight years since the end of the war. For many white observers, the Oneidas exemplified the decline of the Iroquois Confederacy. According to one, the Oneidas had been “severe sufferers in the late war.” Not only had the destruction of their villages reduced them to “absolute want and dependence,” but the war had introduced political “resentments and dissensions which embitter their intercourse, and will be continued through successive generations.”<sup>20</sup> The Oneidas were the second largest of the Six Nations in population and, following the departure of the

<sup>15</sup> Barbara Graymont, “New York State Indian Policy after the Revolution,” *New York History*, LVII (1976), 472.

<sup>16</sup> DeWitt Clinton, *Discourse Delivered Before the New York Historical Society, at the Anniversary Meeting, 6th December, 1811* . . . (New York, 1812), 47, 52, 53.

<sup>17</sup> John Thornton Kirkland, “Mr. Kirkland's Answer to Queries Respecting Indians,” *Coll. M.H.S.*, IV (1795), 70. Kirkland was the son of the missionary Samuel Kirkland.

<sup>18</sup> Jeremy Belknap and Jedidiah Morse, *Report on the Oneida, Stockbridge, and Brotherton Indians, 1796*, Indian Notes and Monographs, No. 54 (New York, 1955), 36-37.

<sup>19</sup> *Ibid.*, 37.

<sup>20</sup> Kirkland, “Answers to Queries Respecting Indians,” *Coll. M.H.S.*, IV (1795), 69.

Mohawks for Upper Canada, the easternmost, making them the first to face the pressure of white settlement after the war. Good Peter's speeches, transcribed by Timothy Pickering, provide a perspective on the Oneida struggle to respond to the new circumstances created by American Independence—a perspective missing from white accounts. As James H. Merrell has argued, greater attention to native voices like Good Peter's reveals that Indian efforts to maintain autonomy did not simply cease in the aftermath of the Revolution.<sup>21</sup>

Good Peter had been a key participant in Oneida affairs since before the Revolution. Along with the Seneca chief Red Jacket, he was the main spokesman of the Six Nations at Philadelphia. Whites noted his eloquence and rectitude. Pickering called him the “great Speaker of the Oneida Nation” and told Knox that he was one of the few chiefs who could not be bribed.<sup>22</sup> Samuel Kirkland, longtime missionary among the Oneidas, believed that “his equal is no where to be found among all the Indian nations.”<sup>23</sup> Even George Clinton, who clashed repeatedly with Good Peter during the 1780s, instructed his agents to “pay Attention to, and flatter him on Account of his Good Sense and Friendship to Us.”<sup>24</sup> This friendship for the American cause had led to Good Peter's imprisonment by the British at Niagara early in the war. Released after some months, he was not allowed to return to Oneida until hostilities ceased. When he came back, Good Peter found the Oneida villages in ruins and his countrymen living as refugees.<sup>25</sup>

At the time, Good Peter did not perceive the war as a political and cultural catastrophe for the Indians. “I expected when I returned to my Country to have sat down in Peace and enjoyed pleasant Days. I was even encouraged to hope this, Brother, from you, from your own Declarations.”<sup>26</sup> The prospect of an American victory raised hopes among the Oneidas that their loyalty would secure their land and sovereignty: their land would be confirmed to them and the “disposal of it should be optional with us.”<sup>27</sup> Oneida expectations were seemingly validated by the Treaty of Fort Stanwix in October 1784, by which the United States pledged that “the Oneida and Tuscarora Nations shall be secured in Possession of the Lands on which they are settled” in gratitude for their assistance during the war.<sup>28</sup> Soon after this pledge, the three clans of the

<sup>21</sup> James H. Merrell, “Declarations of Independence: Indian-White Relations in the New Nation,” in Jack P. Greene, ed., *The American Revolution: Its Character and Limits* (New York, 1987), 197-223.

<sup>22</sup> Pickering Papers, Massachusetts Historical Society, vol. 60, fol. 69, 116.

<sup>23</sup> Walter K. Pilkington, ed., *The Journal of Samuel Kirkland* (Clinton, N. Y., 1980), 231.

<sup>24</sup> Hough, ed., *Proceedings of the Commissioners*, I, 12.

<sup>25</sup> Timothy Pickering to Henry Knox, May 2, 1792, Pickering Papers, vol. 62, fol. 31; Barbara Graymont, *The Iroquois in the American Revolution* (Syracuse, N. Y., 1972), 235.

<sup>26</sup> Hough, ed., *Proceedings of the Commissioners*, I, 228.

<sup>27</sup> Good Peter Memoir, Pickering Papers, vol. 60, fol. 121.

<sup>28</sup> Treaty of Fort Stanwix, in Hough, ed., *Proceedings of the Commissioners*, I, 64.

Oneida Nation met in council and “determined never to sell any more of our land.” Good Peter told Pickering that the sachems (civil clan chiefs), warriors, and women were united in this decision “to reserve it for the benefit of our children and grand children.”<sup>29</sup>

The Oneidas’ hope to retain a measure of autonomy was threatened by the pressure of settlers and speculators on their strategically located lands. The heart of their territory lay between the headwaters of the Mohawk River and Oneida Lake, an area described as the future “emporium of commerce between Albany and the vast western world.”<sup>30</sup> Among those drawn by its potential were two future presidents, James Madison and James Monroe. Together they bought 900 acres on the edge of Oneida territory in 1786. Madison regretted that they were not able to purchase more land, for “my private opinion is that the vacant land in that part of America opens the surest field of speculation of any in the U. S.”<sup>31</sup> In 1785 there had been no white settlements on the Mohawk River above German Flats, some fifty miles away from the main Oneida village of Kanowalohale; by 1788 small communities had appeared along the Line of Property which marked the Oneida border. One visitor in that year described Whitesborough, the first village near the border, as being “just in its transition from a state of nature to civilization” and noted that riverfront lots were selling at \$3.00 per acre.<sup>32</sup>

The Oneidas lost millions of acres in the 1780s, mostly by sale to New York in two transactions, the Treaty of Fort Herkimer in 1785 and the Treaty of Fort Schuyler in 1788. Whites and Indians agreed that these losses marked a crucial turning point in Oneida history. There was less agreement on why the Oneidas had been unable to hold on to their lands. On the one hand, white observers considered the massive transfer to be inevitable. As George Washington had predicted in 1783, the advance of settlement “will as certainly cause the savage, as the wolf, to retire.”<sup>33</sup> But land cessions were also taken as evidence of a lack of political will among the Oneidas. Unwilling or unable to adapt to new circumstances, the Oneidas seemed to have made the shortsighted decision to live “as spendthrifts on the price of their lands.”<sup>34</sup> This lack of resolve, critics agreed, was rooted in the weakness of Oneida political structure and internal factionalism. Belknap and Morse noted the “small degree of power” held by the sachems and a “want of subordination” among the

<sup>29</sup> Pickering Papers, vol. 60, fol. 121.

<sup>30</sup> Winslow C. Watson, ed., *Men and Times of the Revolution; or, the Memoirs of Elkanah Watson . . .*, 2nd ed. (New York, 1857), 313.

<sup>31</sup> James Madison to James Monroe, March 14, 1786, in Robert A. Rutland et al., eds., *The Papers of James Madison*, VIII (Chicago, 1973), 497.

<sup>32</sup> Belknap and Morse, *Report on the Oneida*, 18; Watson, ed., *Men and Times*, 311.

<sup>33</sup> George Washington to James Duane, September 7, 1783, in Worthington C. Ford, ed., *The Writings of George Washington*, 14 vols. (New York, 1889-1893), X, 312.

<sup>34</sup> Belknap and Morse, *Report on the Oneida*, 37.

people.<sup>35</sup> Even before the war, Kirkland had observed that “the Warriours for the most part are uncontroled by the *Sachems*, or Lords.”<sup>36</sup> In a political system dependent on consensus, in which “the authority of sachems and chiefs is merely that of recommendation,” factionalism had a particularly debilitating effect.<sup>37</sup>

From the Oneida perspective, this emphasis on factionalism and political structure was misplaced. As Daniel K. Richter notes, most white commentators were ill equipped to understand the “nonstate, noncoercive politics” characteristic of a “kinship state.”<sup>38</sup> Good Peter acknowledged the contrast between Indian and white political systems: “Our government is not established like yours, and though many attend to the voices of our councils, yet some don’t, especially the young men.”<sup>39</sup> “Our minds are divided on account of our land,” another Oneida chief admitted. But the Oneidas refused to attribute the loss of their lands to factionalism or any other internal source: “Tis you, Brothers of a white skin, who cause our uneasiness.”<sup>40</sup>

The problem, according to the Oneidas, was not Indian factionalism but rather what might be termed white factionalism. The removal of the British imperial presence had left unresolved the question of jurisdiction over Indian affairs. Six Nations territory, including Oneida lands, became the focus of an intense controversy that pitted New York against both Massachusetts and the Continental Congress. New York perceived its territorial integrity to be under attack from all sides. To the east, Vermont separatists sought to establish an independent state in the “New Hampshire Grants.” West of the Hudson River, New Yorkers feared that “a *second Vermont* may spring up.”<sup>41</sup> Throughout the 1780s, New York considered the extinction of Indian title as a means not only to open new land to settlers but also to establish its jurisdictional “right” to what is now upstate New York. The demand for Oneida land cessions was spurred by New Yorkers’ interest in protecting their claims against other white governments. Matters were further complicated by private speculators who took advantage of this controversy to make their own land purchases, despite a 1777 New York law forbidding such purchases without legislative approval. White competition for land and jurisdiction, in Good Peter’s words, had “thrown our Measures into Disorder” and turned “our Landed Affairs” into “one continued Scene of Confusion and Disorder.”<sup>42</sup> This confusion and disorder created the context for Oneida land cessions.

Contention among whites also contributed to a transformation in the

<sup>35</sup> *Ibid.*, 21.

<sup>36</sup> Pilkington, ed., *Kirkland Journal*, 67.

<sup>37</sup> Belknap and Morse, *Report on the Oneida*, 21.

<sup>38</sup> Daniel K. Richter, “Ordeals of the Longhouse: The Five Nations in Early American History,” in Richter and Merrell, eds., *Beyond the Covenant Chain*, 15.

<sup>39</sup> [Philadelphia] *Gazette of the United States*, April 11, 1792.

<sup>40</sup> Pickering Papers, vol. 60, fol. 219A.

<sup>41</sup> James Duane to Philip Schuyler, June 4, 1782, Schuyler Manuscripts, New York Public Library, quoted in Manley, *Treaty of Fort Stanwix*, 24.

<sup>42</sup> Hough, ed., *Proceedings of the Commissioners*, I, 228, 226.



function of Indian treaties. As Dorothy V. Jones shows, treaties had formerly dealt with a wide range of issues of mutual concern to whites and Indians, including peace, friendship, and trade. But over time they had narrowed down to one purpose: the termination of Indian land title. Although the structure of treaty making remained the same, the formal conventions of diplomacy could not mask the growing disparity of power between participants.<sup>43</sup> In such a situation Indian diplomatic skills were of no avail. "Widely different is this from the condition of us Indians; who may long urge with the white people more forcible arguments—in vain!" Looking back on Oneida-New York negotiations since the war, Good Peter told Timothy Pickering, "It seems to us that we are not really freemen; nor have [we] had the real disposal of our property." White competition for Oneida lands had constricted the Indians' ability to negotiate freely and undermined their determination to hold on to their lands.<sup>44</sup>

If the Revolutionary War had a devastating impact on Oneida society, the same can be said for its impact on New York. Edward Countryman writes that, by the end of 1776, "the province had been so thoroughly shattered that there was no longer agreement even on what New York was in geographical terms, let alone in political ones."<sup>45</sup> With New York City in enemy hands, Vermont in open revolt, the Mohawk Valley a loyalist stronghold, and the majority of the Six Nations allied with the British, New York's Revolutionary leaders were besieged on all sides. When Continental troops invaded Six Nations country, New Yorkers reacted with concern. John Jay warned Governor Clinton in 1779 that "since the Successes of General Sullivan against the six Nations, some People have affected to speake of that Country as a conquered one, and I should not be surprized if they should next proceed to insist that it belongs to the united States." Jay continued, "Would it not be proper for New York to establish Posts in that Country, and in every respect treat it as their own."<sup>46</sup>

Jay's remarkable suggestion that state militia be diverted from battling the British to counteracting the presence of Continental troops in Six Nations territory reflects the insecurity of the state's claims to lands west of the Hudson and beyond the Ohio. These claims were based, not on a colonial charter like those of Virginia, Massachusetts, and other "landed" states, but on the state's supposed historic "special relationship" with the Six Nations. The lands of the Six Nations and their tributaries, so the argument went, had been "put under the protection of the Crown of England by the said Six Nations, as appendant to the late government of

<sup>43</sup> This theme is explored in Jones, *License for Empire*, esp. 93-95, 179-186.

<sup>44</sup> Good Peter Memoir, Pickering Papers, vol. 60, fols. 121, 124.

<sup>45</sup> Edward Countryman, *A People in Revolution: The American Revolution and Political Society in New York, 1760-1790* (Baltimore, Md., 1981), 160.

<sup>46</sup> John Jay to George Clinton, October 25, 1779, in Richard B. Morris, ed., *John Jay: The Making of a Revolutionary*, vol. I, *Unpublished Papers, 1745-1780* (New York, 1975), 659-660.

New York, so far as respects jurisdiction only.”<sup>47</sup> The Six Nations were supposed to have acknowledged themselves dependents of New York over a long history of dealings in return for New York’s protection and support.<sup>48</sup> The British ministry had generally acceded to New York’s pretension of suzerainty, because it served Britain’s interests, but Independence had made New York’s claims suddenly vulnerable. Not only were the claims ill defined and subject to counterclaims, but the Articles of Confederation had reserved to the Continental Congress the “sole and exclusive right and power . . . of regulating the trade and managing all affairs with the Indians not members of any of the states.”<sup>49</sup> Since 1775 Congress had taken responsibility for relations with the Six Nations, and as the war came to a close in 1782-1783, it was Congress that prepared to negotiate a peace treaty with them, threatening New York’s assumption of a special relationship.

Noting the threat to the foundation of New York’s claim to the Indian lands, lawyer and politician James Duane wrote in a confidential message of August 1784 to Clinton that if the Six Nations were admitted to be “detached from the State . . . the Claim of Congress would be uncontroversial.” To substantiate New York’s jurisdiction, Duane held “that these Tribes should be treated as *antient Dependants on this State*, placed under its Protection, with all their territorial Rights, by their own Consent publicly manifested in solemn and repeated Treaties.” He conceded that the tone of recent messages from the Six Nations made it “questionable whether they will submit to be treated as *Dependants*,” yet the “Interest and Safety” of the state “require that these Tribes should be reconciled to the Idea of being Members of the State.” Accordingly, to give the Six Nations a proper sense of their dependence, Duane told Clinton, “I would never suffer the word ‘Nation’ or ‘Six Nations’ or ‘Confederates,’ or ‘Council Fire at Onondaga,’ or any other form which would revive or seem to confirm their former Ideas of Independence, to escape. . . . But I would study to carry on the Intercourse (for I object even against the Term *Treaty*, which seems too much to imply Equality) with as much Plainness and Simplicity as possible, and as if I was actually transacting Business with the Citizens.”<sup>50</sup>

The problem for New York was indeed a perplexing one. The state’s jurisdictional pretensions required the Six Nations’ voluntary admission of dependency. Yet not only did they refuse to recognize this special relationship, but four of the tribes of the Iroquois Confederacy had waged war on New York settlements over the previous five years. As Thomas

<sup>47</sup> Ford, ed., *Journals of the Continental Congress*, XXII, 226.

<sup>48</sup> For a discussion of the development of New York’s suzerainty claim see Jennings, *Ambiguous Iroquois Empire*, 10-24. For documentation of New York’s claim see Julius Goebel, Jr., ed., *The Law Practice of Alexander Hamilton: Documents and Commentary*, 3 vols. (New York, 1964), I, 545-684.

<sup>49</sup> Ford, ed., *Journals of the Continental Congress*, IX, 919.

<sup>50</sup> James Duane to George Clinton, August 1784, in Hough, ed., *Proceedings of the Commissioner*, I, 21-24.

Gage had shrewdly observed to Sir William Johnson a decade earlier, the claim of Indian dependency was best made from afar. "I know I would not venture to treat them as Subjects . . . I believe they would on such an attempt, very soon resolve to cut our Throats."<sup>51</sup>

New York had only two options: it could seek congressional recognition of its claims, or it could ignore competing claims of jurisdiction and act unilaterally to assert its interest in the disputed area. New York first proposed a quid pro quo. In March 1780 the state offered to surrender its claims to lands in Ohio in return for Congress's explicit recognition of its claims to what are now Vermont and upstate New York. This initiative failed; the offer did not attract greater sympathy for the state's other claims but instead revived competing claims to Six Nations territory. In Congress the New York cession fell victim to an intense struggle between the "landed" and the "landless" states. Peter Onuf, in his study of interstate jurisdictional disputes during Confederation, argues that by the time New York's cession of Ohio lands was finally accepted by Congress in October 1782, "New York's western title was generally seen as worthless and contemptible; the failure of Congress to do anything with it in the next year and a half confirmed this judgment." Onuf notes that Congress's acceptance of the Virginia cession in March 1784 implicitly upheld the superiority of charter-based claims over New York's "suzerainty" title and "was an invitation to the other landed states to make use of their own charter claims," an opportunity Massachusetts did not hesitate to exploit.<sup>52</sup>

In October 1783 Massachusetts revived its long-dormant charter claim to lands west of the Hudson and sought congressional recognition of its right. Although the New York delegates to Congress derisively characterized the Massachusetts claim as one that had been ignored for over 150 years, privately they expressed concern that Congress would favor it. "It appears to us," they informed Clinton, "that the Delegates in general have not an over high opinion of the Validity of our Western Claim, and we are perswaded that should the Massachusetts People once get footing in that Country our State . . . is to expect but little aid from Congress. Upon the whole Sir it is our opinion that the utmost Vigilance ought to be exercised to prevent any encroachment on our Territory as we are to expect no protection otherwise than from our own arm."<sup>53</sup> When Congress agreed, over New York's protest, to convene a special court to adjudicate the claims as provided under Article IX of the Articles of Confederation, New Yorkers' fears seemed justified. In the spring of 1784, as Congress

<sup>51</sup> Thomas Gage to Sir William Johnson, October 7, 1772, in Milton W. Hamilton, ed., *The Papers of Sir William Johnson*, 14 vols. (Albany, N. Y., 1921-1965), XII, 995.

<sup>52</sup> Peter S. Onuf, *The Origins of the Federal Republic: Jurisdictional Controversies in the United States, 1775-1787* (Philadelphia, 1983), 125.

<sup>53</sup> New York delegates to George Clinton, April 9, 1784, in Edmund C. Burnett, ed., *Letters of Members of the Continental Congress*, 8 vols. (Washington, D. C., 1921-1936), VII, 487-488.

prepared to take over British posts in Six Nations territory, rumor swept through New York that the posts would be garrisoned by troops from Massachusetts. Although these rumors proved false, Congress's appointment of commissioners to negotiate a peace treaty with the Six Nations was a highly disturbing development. As congressional delegate Charles DeWitt wrote Clinton, "The whole world seems to look on that W. Country with a wishful eye."<sup>54</sup>

These threats forced New York leaders to reappraise their strategy of seeking congressional recognition of their title. As early as 1781, James Duane had called for a more direct approach, urging the state legislature to adopt "a liberal system for appropriating and settling our western country" in order to effect "the future security of our State against encroachments."<sup>55</sup> With Congress seemingly unwilling to support the state, New York pursued an aggressive plan to establish its presence in Six Nations country.

On July 25, 1782, the legislature designated a large chunk of unpurchased Six Nations territory as bounty lands for the state militia. The following year it considered a resolution directing the governor to prohibit the commissioners "of the United States or of any state or power whatsoever, to hold any conference or negotiate any session [*sic*] of country from the said Indians without the express permission of the Legislature."<sup>56</sup> Although the resolution was not passed, Clinton nevertheless warned the congressional commissioners not to enter into any agreement "with the Indians residing within the Jurisdiction of this State, with whom only I mean to treat."<sup>57</sup>

Congress criticized New York's challenge to its Indian policy as a dangerous usurpation of authority, but its response was ineffectual. In October 1783 a congressional committee warned that New York's establishment of military bounty lands in Six Nations territory "might expose these United States to the dangers and calamities of Indian war." The committee recommended that New York revise its military bounty law "so as to prevent . . . a new rupture with the Indians." A vigorous protest from the New York delegation, led by Duane, eliminated the offending paragraph.<sup>58</sup> Many Congressmen perceived New York's resistance to congressional Indian policy as setting a dangerous precedent. North Carolina delegate Jacob Read complained to Washington, "What think you of the State of New York undertaking to hold a treaty of its own authority with the six Nations in defiance of our Resolves and the Clause

<sup>54</sup> Charles DeWitt to George Clinton, June 4, 1784, in "Letters of Charles DeWitt," *Olde Ulster*, V (1909), 149-150.

<sup>55</sup> James Duane to George Clinton, August 20, 1781, in Hugh Hastings, ed., *The Public Papers of George Clinton*, 10 vols. (New York, 1899-1914), VII, 232.

<sup>56</sup> Undated resolution in Philip Schuyler Papers, Indian Papers, Box 14, New York Public Library, quoted in Graymont, "New York Indian Policy," *N. Y. Hist.*, LVII (1976), 446.

<sup>57</sup> George Clinton to Congressional Indian Commissioners, August 13, 1784, in Hastings, ed., *Clinton Papers*, VIII, 332-333.

<sup>58</sup> Ford, ed., *Journals of the Continental Congress*, XXV, 642-643.

of the Confederation restricting the Individual States[?] . . . Such a step will render all our endeavours abortive and be attended with worse consequences with respect to the Indians than almost any other that State could take.”<sup>59</sup> Maryland delegate Thomas Stone wrote to James Monroe in December 1784, “I have apprehensions from the temper N. York seemed to be in when we were in Congress and from little good will which some of her Neighbours bear her, that their affairs will not be settled without some disturbance to the Union.”<sup>60</sup> Virginia governor Benjamin Harrison rhetorically asked the state delegation, “[I]s there no where a power lodged to prevent any State’s acting as they please notwithstanding they may injure their neighbors in ever so great a degree[?]”<sup>61</sup> But these protests did nothing to deter New York from its strategy of preempting the planned national treaty with the Six Nations. New York congressional delegate Ephraim Paine warned that the state must act “as though it was Sorounded with open and avowed Enemies,” for he was of the opinion that “there is not the least Prospect of any protection . . . from Congress.”<sup>62</sup>

In the spring and summer of 1784 both Congress and New York sought to meet with the Six Nations, each telling the Indians that it alone had the authority to do so.<sup>63</sup> Although Gov. Clinton won the race to the treaty grounds, he failed to achieve the desired result. Meeting with New York representatives at Fort Stanwix on September 10, 1784, spokesmen for the Six Nations told Clinton that “it was the Voice of our Chiefs and their Confederates, that We should first meet Commissioners of the whole thirteen States” and that, in any case, the Indian delegates were authorized only to make a peace, not to “stipulate to any particular Cession of Lands.”<sup>64</sup> A disappointed Clinton ordered two of his men to remain behind at the treaty grounds and to use their “best Endeavours to counteract and frustrate” anything that “may eventually prove detrimental to the State.”<sup>65</sup> Clinton’s agents succeeded in causing such a disturbance at the congressional treaty that they were expelled from Fort Stanwix. Although the Treaty of Fort Stanwix between the United States and the Six Nations explicitly confirmed the Oneidas in the possession of their lands, it did nothing to resolve the controversy over jurisdiction.

By the summer of 1784, New York’s land policy was set in place; the

<sup>59</sup> Jacob Read to George Washington, August 13, 1784, in Burnett, ed., *Letters*, VII, 584.

<sup>60</sup> Thomas Stone to James Monroe, December 15, 1784, *ibid.*, 628-629.

<sup>61</sup> Benjamin Harrison to Virginia delegates, September 19, 1783, in William T. Hutchinson *et al.*, eds., *The Papers of James Madison*, VII (Chicago, 1971), 349.

<sup>62</sup> Paine to Clinton, April 29, 1784, in Burnett, ed., *Letters*, VII, 505.

<sup>63</sup> See Message to the Oneida and Tuscarora Nations from Arthur Lee and Richard Butler, U. S. Indian Commissioners, August 18, 1784, Papers of the Continental Congress, M247, Roll 69, fol. 133; compare with speech of George Clinton, September 10, 1784, in Hough, ed., *Proceedings of the Commissioners*, I, 56-59.

<sup>64</sup> Speech of Joseph Brant, September 7, 1784, *ibid.*, 54, 60.

<sup>65</sup> “Instructions for Major Peter Schuyler,” September 10, 1784, *ibid.*, 63.

state would seek to solidify its jurisdiction over the contested lands west of the Hudson by extinguishing Indian title as rapidly as possible. But despite its defiance of Congress and Massachusetts, the state had yet to bring the Indians to part with a single acre. Although the Oneidas were perhaps unaware of New York's sparring with Congress and Massachusetts, they did know that the state wished to push them off their lands. In March 1783 the New York assembly had instructed its Indian commissioners "to endeavor to accomplish an exchange of the district claimed by the Oneidas and Tuscaroras for a district of vacant and unappropriated lands within this State."<sup>66</sup> The Oneidas learned of this threat from Samuel Kirkland, who was reported to have told them to be "on their Guard, not to exchange their Lands . . . for any other Lands."<sup>67</sup> Heeding Kirkland's advice, the Oneidas initially refused to meet with Clinton at Fort Stanwix in September 1784. Given this turn of events, the commissioners agreed among themselves "for Reasons which are obvious . . . not to mention any thing to [the Oneidas and Tuscaroras] at present with Respect to the Purchase or Exchange of their Lands."<sup>68</sup>

Throughout the 1780s, Kirkland often served as the Oneidas' link with the white world. He had first appeared at the Oneida village of Kanowalohale in 1767, a young graduate of Eleazar Wheelock's Indian Charity School and the College of New Jersey, imbued with Calvinist zeal. According to his own testimony, his religious challenge to traditional Oneida beliefs found a ready audience among the disaffected warriors at Kanowalohale. Soon after he arrived he reported that "a kind providence has so ordered it, that several of their head warriors have become soldiers of Christ & valliant in his Cause."<sup>69</sup> Kirkland's influence was a major factor in persuading a portion of the Oneidas to side with the "Bostonians" in the Revolution. But his rigorous brand of Christianity alienated many Oneidas. In 1796, Belknap and Morse reported, only three or four men at Oneida were reputed to be serious Christians, and "the whole nation, notwithstanding their opportunities for religious improvement, are still influenced in a great degree" by native beliefs.<sup>70</sup> Although Kirkland had advised the Oneidas in 1784 "not to give over a Foot of their Ground" to New York, he came to believe that the religious transformation he sought

<sup>66</sup> Quoted in Manley, *Treaty of Fort Stanwix*, 28.

<sup>67</sup> Jellis Fonda to George Clinton, August 31, 1784, in Hough, ed., *Proceedings of the Commissioners*, I, 35.

<sup>68</sup> *Ibid.*, 39.

<sup>69</sup> Pilkington, ed., *Kirkland Journal*, 67. For a discussion of Kirkland's ministry see Robert K. Berkhofer, *Salvation and the Savage: An Analysis of Protestant Missions and American Indian Response, 1787-1862* (Lexington, Ky., 1965), 50, and Graymont, *Iroquois in the American Revolution*, 33-40. See also Samuel K. Lothrop, "Life of Samuel Kirkland, Missionary to the Indians," in Jared Sparks, ed., *The Library of American Biography*, 2d Ser. (Boston, 1864), XV, 137-368. For a contrasting interpretation of Kirkland's influence see John C. Guzzardo, "The Superintendent and the Ministers: The Battle for Oneida Allegiances, 1761-75," *N. Y. Hist.*, LVII (1976), 269.

<sup>70</sup> Belknap and Morse, *Report on the Oneida*, 13, 10.

would be enhanced by the sale of the Oneidas' "excess" lands.<sup>71</sup> After 1784, as we shall see, Kirkland played an important role in Oneida land cessions.

Having failed at Fort Stanwix in 1784, New York's Indian commissioners renewed their efforts to purchase Indian land. The opportunity they sought began with a minor land dispute. In November 1784 Colonel John Harper, a Revolutionary War veteran whose regiment had included a detachment of Oneida warriors, persuaded several Oneidas to sell him twenty-four square miles along the Pennsylvania border for £126.<sup>72</sup> The chief sachem of the Oneidas, known to whites as Grasshopper, informed Clinton of the unauthorized sale in December 1784 and asked that the "Writing might be destroyed."<sup>73</sup>

On May 13, 1785, Clinton responded to Grasshopper's request by inviting Oneida representatives to meet him at Fort Herkimer in July. Although the written version of the governor's message stated that one of the purposes of the meeting was to arrange a purchase of any lands that the Oneidas were disposed to sell, the state agent entrusted with the delivery of the message failed, by design or error of translation, to convey this to the Indians.<sup>74</sup> Believing that the governor would help them invalidate the Harper purchase, the Oneidas told Clinton that they were eager to meet him as soon as possible.<sup>75</sup>

Had the Oneidas been aware of New York's plans for the disposal of their lands, they would not have been so eager to meet. On April 11, 1785, the legislature had passed an act "to facilitate the Settlement of the Waste and unappropriated Lands within the State" by which the governor was authorized to enter land cession treaties with the tribes of the Six Nations. The act also provided for the immediate sale of options on Indian lands.<sup>76</sup> Harper's purchase appeared proof enough to Clinton that the Oneidas were willing, perhaps eager, to sell part of their lands. The only cause of concern was the threat of interference from Massachusetts or the Continental Congress. Clinton urged his commissioners to complete the preliminaries for the treaty with "as much Secrecy" as possible in order "to frustrate . . . any Measures which may be attempted to embarrass Us."<sup>77</sup>

Yet there was little chance of keeping New York's objective secret. On April 18, 1785, just a week after passage of the settlement act, New York newspapers advertised that the state surveyor-general was accepting locations on western lands. The announcements caught the eye of

<sup>71</sup> Peter Ryckman to George Clinton, August 23, 1784, in Hough, ed., *Proceedings of the Commissioners*, I, 33; Pilkington, ed., *Kirkland Journal*, 265.

<sup>72</sup> Harper Deed, November 20, 1784, in Hough, ed., *Proceedings of the Commissioners*, I, 73-74.

<sup>73</sup> Quoted in Message to the Oneidas, May 13, 1785, *ibid.*, 73.

<sup>74</sup> *Ibid.*; see also Speech of Good Peter, June 26, 1785, *ibid.*, 100.

<sup>75</sup> Report of Major Peter Ryckman, May 26, 1785, *ibid.*, 79.

<sup>76</sup> Act of April 11, 1785, *ibid.*, 67; see also Graymont, "New York Indian Policy," *N. Y. Hist.*, LVII (1976), 453.

<sup>77</sup> Clinton to Commissioners, May 1, 1785, in Hough, ed., *Proceedings of the Commissioners*, I, 69.

Massachusetts congressman Rufus King, then in New York City for a session of Congress. King asked Elbridge Gerry to inform the Massachusetts legislature that New York had "opened a Land Office to sell the Territory in dispute between them & us."<sup>78</sup> Fourteen months later, King wrote Gerry that "many hundred thousands of acres have been sold at the Coffee House, in this city within three days past at public auction."<sup>79</sup> Although the state protested, Massachusetts congressman Samuel Osgood despaired of halting New York's aggressive policy. "I expect N—Y—k will purchase all our western Territory of the Indians, before we know it. They are really to[o] cunning for M—tts in Matters of Land."<sup>80</sup>

New York had Massachusetts on the defensive, but when he met the Oneidas in June, Clinton soon realized that getting them to part with their lands would be more difficult than selling land futures. He stated in his opening speech that "we have reason to conclude that you are disposed to sell some of your lands," and he indicated the area New York was interested in purchasing. To his surprise, Good Peter, the Oneida spokesman, replied that the Oneidas had agreed in council not to sell any more lands to whites and that their purpose in meeting with the state was to renew a covenant of friendship and to resolve the issue of the fraudulent Harper purchase. Good Peter observed that in the past many "Difficulties and Disputes" had arisen from piecemeal sale of lands. Relying on the pledge of the United States at the Treaty of Fort Stanwix nine months earlier that "*the Soil of our Lands was our own,*" he asked Clinton's assistance "to prevent your People from coming among Us" to purchase lands. To help deter further encroachments, the Oneidas proposed leasing "one Tier of Farms in the Manner they are done by the White People, along the Boundary Line throughout the Extent of our Country," to be settled by "people of Influence" who would prevent unscrupulous whites from disturbing the Indians.<sup>81</sup>

In a speech that barely masked his anger, Clinton accused the Oneidas of bad faith in leading the state to believe that they were willing to sell certain lands along the Pennsylvania border. Good Peter responded that the governor's messenger had not told them that the purpose of the meeting was to buy lands. In any case, the lands the state desired were hunting lands, "which are very dear to Us; as from thence We derive the Rags which cover our Bodies."<sup>82</sup> With the meeting at an impasse, the Council Fire was covered. During the evening, as the commissioners prepared a speech for the following day, Clinton met in private conference

<sup>78</sup> Rufus King to Elbridge Gerry, April 18, 1785, in Charles R. King, ed., *The Life and Correspondence of Rufus King* . . . , 9 vols. (New York, 1894-1900), I, 88.

<sup>79</sup> King to Gerry, June 17, 1786, *ibid.*, 185.

<sup>80</sup> Samuel Osgood to John Adams, [January 14, 1784], in Burnett, ed., *Letters*, VII, 415.

<sup>81</sup> Speeches of George Clinton and Good Peter, June 23, 25, 1785, in Hough, ed., *Proceedings of the Commissioners*, I, 86, 91-93.

<sup>82</sup> *Ibid.*, 97, 91.



with “several Chiefs and Warriors.” The official record of the proceedings cryptically noted that the prepared speech “became unnecessary to deliver” due to “the favourable Turn the Business took.”<sup>83</sup>

Private conferences played an important role in treaty making between whites and Indians. Sir William Johnson observed in 1770 that the official record of a treaty “Is a very small part of the Debates, Arguements and discourses at the private Conferences where the principal Subjects are first Agitated and Determined upon.”<sup>84</sup> While such conferences are usually lost to history, Good Peter provided an insider’s description of this one seven years later. Clinton, he recalled, “produced a heap of Money” and told several Indians to take some. When they refused, Clinton “himself grasped a few handfuls, and gave to one another, (tho’ perhaps not to more than three or four persons) and said, all this shall be yours, on condition that you follow my advice.” If they did not sell the tract that the state wanted, Clinton warned, the Oneidas could never again expect any help from New York in stopping illegal settlements on their lands, “for he would not hear our complaints.”<sup>85</sup>

The official record of the following day’s session reflects the sudden change in the negotiations. The Oneidas sought to placate Clinton by proposing a small cession of land along the Pennsylvania border on the understanding that this would be their last. Their object, they said, was not “pecuniary gain” but “Friendship” with the state. After further debate in which the governor pressed for a larger cession, an agreement was reached. By the Treaty of Fort Herkimer, the Oneidas sold approximately 200,000 acres of land in the upper Susquehanna Valley for \$11,500 in cash and goods.<sup>86</sup>

News of the treaty provoked an immediate protest from Massachusetts. Governor James Bowdoin wrote Clinton that “an attempt . . . to purchase of the natives their right in that territory” before the competing claims of the two states had been adjudicated was “altogether improper.” He requested that New York stay “all proceedings relative to those lands” until a special court appointed by Congress had resolved the disputed claims.<sup>87</sup> Bowdoin’s reliance on Congress to intervene proved fruitless. The court that Congress had originally scheduled to convene at Williamsburg, Virginia, in November 1785 never met, due to congressional inability to find enough men willing to act as judges.<sup>88</sup> New York’s treaty for Oneida lands sufficiently demonstrated that New York would not wait

<sup>83</sup> *Ibid.*, 102.

<sup>84</sup> Quoted in Mary A. Druke, “Iroquois Treaties: Common Forms, Varying Interpretations,” in Francis Jennings *et al.*, eds., *The History and Culture of Iroquois Diplomacy: An Interdisciplinary Guide to the Treaties of the Six Nations and Their League* (Syracuse, N. Y., 1985), 88.

<sup>85</sup> Memoir of Good Peter, April 1792, Pickering Papers, vol. 60, fol. 122.

<sup>86</sup> Treaty of Fort Herkimer, June 28, 1785, in Hough, ed., *Proceedings of the Commissioners*, I, 107.

<sup>87</sup> Bowdoin to Clinton, July 18, 1785, *Coll. M.H.S.*, 7th Ser., VI (1907), 59, 60.

<sup>88</sup> Ford, ed., *Journals of the Continental Congress*, XXIX, 865.

while Congress dragged its feet, so Massachusetts moved to settle the dispute out of court. In December 1786 Massachusetts acknowledged New York's jurisdiction over all of present-day upstate New York in return for the right of preemption—the exclusive right to purchase lands from the Indians—to approximately six million acres of Seneca territory west of Seneca Lake.<sup>89</sup>

Congress, meanwhile, did nothing to dispute New York's presumption of the right to purchase land from the Oneidas. An exchange of letters between Monroe and Madison in November 1784, at the height of animosity between Congress and New York over the Treaty of Fort Stanwix, provides several clues to the sudden defusing of the New York-Continental Congress dispute. Monroe observed that the Indians of the Six Nations could not be considered citizens of New York since they “acknowledge no obedience to its laws but hold a country over which they do not extend, nor enjoy the protection nor any of the rights of citizenship within it.” But neither could the lands of the Six Nations be considered part of the national domain since neither New York nor Massachusetts had ceded its rights. Monroe argued that, since the United States had no right of preemption, Congress should excuse New York's interference in the negotiations for the federal treaty. New York's action “must be attributed to a suspicion that there exists in *Congress* a design to injure her,” and no purpose would be served by exacerbating the situation.<sup>90</sup> Madison agreed with Monroe that, although New York had violated “both duty & decorum” in attempting to subvert the federal treaty, “I join entirely with you in thinking that temperance on the part of [Congress] will be the wisest policy.”<sup>91</sup> Congress's “temperance” might also be attributed to the fact that, by 1784, Congress had lost much of its ability to mold a national policy. As Jack N. Rakove notes, “To have anything passed in Congress in the mid-1780's required a fair amount of luck and a substantial level of consensus. Neither came readily to hand.”<sup>92</sup>

Thus by December 1786 neither Congress nor Massachusetts opposed New York's efforts to purchase lands from the Oneidas. New York's strategy of unilaterally pursuing “the most vigorous Efforts for settling this Country under their Authority” had proved effective in deflecting the threats that had seemed so real in the spring of 1784.<sup>93</sup> But years of controversy and jurisdictional competition had created an extremely

<sup>89</sup> The Massachusetts–New York agreement is recorded *ibid.*, XXXIII, 619–629. In April 1788 the Massachusetts General Court sold these preemption rights to two private land speculators, Oliver Phelps and Nathaniel Gorham, for one million dollars in depreciated Massachusetts scrip. See Orsamus Turner, *History of the Holland Purchase of Western New York . . .* (Buffalo, N. Y., 1849), 326.

<sup>90</sup> Monroe to Madison, November 15, 1784, in Rutland *et al.*, eds., *Madison Papers*, VIII, 140–143.

<sup>91</sup> Madison to Monroe, November 27, 1784, *ibid.*, 156–159.

<sup>92</sup> Jack N. Rakove, *The Beginnings of National Politics: An Interpretative History of the Continental Congress* (New York, 1979), 356.

<sup>93</sup> James Duane and Ezra L'Hommedieu to Clinton, October 16, 1783, in Hastings, ed., *Clinton Papers*, VIII, 262.

unstable situation in Six Nations country. While New York's attention was focused on Massachusetts and Congress, scores of private speculators attempted to purchase Indian land. According to information provided to the New York Indian commissioners by Kirkland in the summer of 1788, more than fifteen private leases and sales had occurred in just fifteen months.<sup>94</sup>

By far the most ambitious of these speculative enterprises was the New York Genesee Company of Adventurers. Organized in 1787 by John Livingston, the company's eighty shareholders "read like a Who's Who of the Livingstons, Van Rensselaers, and Schuylers of the upper Hudson Valley" and included thirty-two past, present, or future assembly members. According to Alfred F. Young, this group felt frustrated by the Clintonians' handling of public lands and feared that Clinton would use the disposal of western territory as a means to undercut their power.<sup>95</sup> The company sought 999-year leases from the Indians as a means to circumvent a 1777 state law prohibiting private land purchases from the Indians without legislative approval. This plan was implemented through careful preparation, persuasive argument, and deception. Arriving at Oneida in January 1788, Livingston prepared for negotiations by securing the assistance of Kirkland and James Dean, two whites most influential among the Oneidas.<sup>96</sup> Livingston led the Oneidas to believe that he was sent by Gov. Clinton to help prevent the Indians from being cheated by settlers. Rather than their selling a small tract here and another there, it was better that "one Great Man should undertake to manage the whole." Good Peter recalled later that the Indians "did not know what was right in such a case," but Kirkland's influence proved decisive.<sup>97</sup> Kirkland allegedly told the Indians in a sermon that their territory was so large that "his thoughts flew away." The Oneidas should sell part of their land so that "his Ideas would be more confined and he would preach better."<sup>98</sup> Although Good Peter strongly opposed the plan, the Oneidas entered a 999-year lease with Livingston for an annual rent of only \$1,000.<sup>99</sup>

The fallout from the New York Genesee lease was immediate; Good Peter recalled that as soon as Livingston left Oneida "the voice of birds from every quarter cried out, you have lost your country—you have lost your country."<sup>100</sup> Kirkland's role in the lease led to a bitter division in the Oneida Nation. New York agent John Tayler reported to Clinton that,

<sup>94</sup> Samuel Kirkland, Memoir of negotiations relative to Indian lands within the state of New York, HM 2140, Henry E. Huntington Library, San Marino, Calif.

<sup>95</sup> Alfred F. Young, *The Democratic Republicans of New York: The Origins, 1763-1797* (Chapel Hill, N. C., 1967), 65-66. A list of the shareholders is in Hough, ed., *Proceedings of the Commissioners*, I, 119n-122n.

<sup>96</sup> Dean frequently acted as a translator for the Continental Congress. He was also a stockholder in the Livingston Company. *Ibid.*, 120n.

<sup>97</sup> Good Peter Memoir, April 1792, Pickering Papers, vol. 60, fol. 123A.

<sup>98</sup> John Tayler to Clinton, May 16, 1788, in Hough, ed., *Proceedings of the Commissioners*, I, 141.

<sup>99</sup> Livingston's Lease from the Oneidas, January 8, 1788, *ibid.*, 122n-124n.

<sup>100</sup> Good Peter Memoir, Pickering Papers, vol. 60, fol. 125.

while a few Oneidas remained loyal to the missionary, others had "discovered his Views and despise him." Kirkland, strongly rebuked by the Indians, temporarily left Oneida country in March 1788.<sup>101</sup>

The summer of 1788 was a season of unprecedented confusion in Six Nations country. With Kirkland in disrepute, a number of Oneida head sachems fell under the influence of a roving French merchant and adventurer named Peter Penet. Claiming to be sent by the king of France as an envoy to the Oneidas, Penet rapidly gained a following among Oneidas who had opposed the Livingston lease. This "French Party," as Penet's supporters came to be known, insisted that all dealings between the white world and the Oneidas henceforth be conducted through Penet. The warriors, meanwhile, informed Clinton that the nation was "divided into two Parties, . . . the Sachems follow Mr. Peter Penet the Frenchman's Advice; and we the Chief Warriors and the Majority of our Nation, even Women, follow the State of New York."<sup>102</sup>

Internal disputes were made worse by external pressures. During the summer of 1788, agents from New York, Massachusetts, the Continental Congress, and the New York Genesee Company roamed Six Nations territory seeking councils and land deals with the Indians. Working at cross purposes, they kept the Indians in a constant state of confusion. New York sought to counteract the Genesee Company by inviting the Six Nations to a treaty parley in early July at Fort Schuyler. Oliver Phelps and Nathaniel Gorham, private land developers who had purchased Massachusetts's preemption right to western New York in April 1788, invited the Six Nations to meet them at Canadasaga in May 1788. Congress, seeking to reconfirm the Treaty of Fort Stanwix, urged the Six Nations to attend a treaty conference at the Muskingum River in late summer. And behind the scenes, Livingston and the Genesee Company sowed discord and spread rumors, hoping to prevent the Indians from attending any treaty meeting. A Seneca chief, Big Tree, lamented to Congress, "your brothers of the Six Nations are in much trouble and perplexity. We are drawn and pulled every way. Our peace is like to be broken; councils and treaties are held here and held there, and they speak different languages."<sup>103</sup> The Oneidas suffered food shortages, according to the

<sup>101</sup> John Tayler to Clinton, May 16, 1788, in Hough, ed., *Proceedings of the Commissioners*, I, 141. See also the speech of Beech-tree to Samuel Kirkland, December 1, 1788, in Pilkington, ed., *Kirkland Journal*, 145. Beech-tree apologized to Kirkland for "the hard words some of [o]f your Children spoke against you in the affair of leasing our lands last spring, as tho' you had acted an unfriendly part to [our Nation]." Kirkland was away from Oneida for most of 1788, first acting as agent at the Phelps-Gorham treaty with the Senecas in the summer and then as an agent for the New York Indian Commissioners in the fall. See *ibid.*, 137-146; see also Kirkland's journal in William Ketchum, ed., *An Authentic and Comprehensive History of Buffalo . . .*, 2 vols. (Buffalo, N. Y., 1864-1865), II, 100-110.

<sup>102</sup> For a description of Penet's influence at Oneida see Hough, ed., *Proceedings of the Commissioners*, I, 152n, II, 346, 352-354. See also Hough, *Notices of Peter Penet, and His Operations among the Oneida Indians . . .* (Lowville, N. Y., 1866).

<sup>103</sup> Ketchum, *History of Buffalo*, II, 108-109.

chiefs, since “the young Men cannot hunt because we constantly retain them for the Council.” John Tayler reported that “the Oneidas appear to be much in want of Provision” and recommended that the state provide corn. Deprived of the spring hunt, the Oneidas could support themselves only by attending more treaty conferences where they were assured of receiving food and drink.<sup>104</sup>

Although the Livingston leases were a serious challenge to state authority, they provided New York with a valuable opportunity. The leases placed the Oneidas and the other Six Nations in a vulnerable position. With the Indians’ land under a cloud created by the leases, New York exploited the situation to gain the large-scale land cessions the state had long sought. On February 16, 1788, Clinton’s allies in the legislature succeeded in passing a resolution that declared the Livingston leases void. Two weeks later, Clinton invited the Six Nations to discuss the affair.<sup>105</sup> Although the leases had been declared invalid, Clinton’s message calling the Indians to Fort Schuyler led them to believe that they would irrevocably lose their lands unless they attended the conference. Good Peter remembered that Clinton “told us that our land was sunk—that we and our country were gone, as if swept away by a deluge. However Brothers (said he) I will kindle a council fire in the Spring . . . I am able to recover your lost country & raise it out of the waters.” The Oneidas were convinced that they were in danger of losing everything, but “the voice of the Governor seemed to quiet our fears.”<sup>106</sup>

Although the threat of the leases made the Oneidas willing to meet the governor, Livingston opposed the state at every opportunity. John Tayler, in Albany, had difficulty finding a trustworthy messenger to deliver the governor’s invitation because, he reported, “a great Number in this City are concerned in the Long Lease.” Livingston and his associates were “determined to prevent” a state treaty, Tayler wrote, thus requiring the state to use “every possible Means to counteract their Intentions.”<sup>107</sup>

Despite Tayler’s best efforts, the treaty council failed to attract many of the Six Nations. The Senecas, Cayugas, and Onondagas of Buffalo Creek returned the governor’s message belt, saying that they would not attend “as Business of the utmost importance to the Indian Nations calls our immediate Attendance on the [United States] Treaty now held on the Ohio River.”<sup>108</sup> A group of Senecas and Cayugas from Canadasaga were

<sup>104</sup> In his letter of June 8, 1788, John Tayler suggested to Clinton that the state postpone its treaty conference until September 1788, so that the provisions the Indians had received from Livingston would be exhausted and the Indians “will be more anxious to meet the Governor than they appear to be at present.” Hough, ed., *Proceedings of the Commissioners*, I, 145, 153-154.

<sup>105</sup> *Ibid.*, 126n; Message to the Oneida Nation, March 12, 1788, *ibid.*, 129-130.

<sup>106</sup> Good Peter Memoir, April 1792, Pickering Papers, vol. 60, fol. 125.

<sup>107</sup> John Tayler to Clinton, May 16, 1788, in Hough, ed., *Proceedings of the Commissioners*, I, 141.

<sup>108</sup> Joseph Brant to Clinton, July 9, 1788, *ibid.*, 166-167. The federal treaty council with the Six Nations was held, after numerous delays, from November 1788 to January 1789. The proceedings of the council are in the Lyman Draper

allegedly “kept in a continual state of Intoxication & Dissipation for three Weeks to prevent their going on to the [state] Treaty” by agents of the Livingston company.<sup>109</sup> Other Indians refused to meet with the state because they believed New York sought “by all Means to deprive them of their Lands.”<sup>110</sup> When Clinton arrived at Fort Schuyler in September, only the Oneidas and a handful of Onondagas were there to greet him.

By the time the council opened, the Oneidas were deeply divided. Good Peter recalled that “our minds, on this occasion, were much agitated, and drawn in various ways.” Many Indians feared that Clinton’s ultimate plan was to “get fast hold” of their lands. Penet’s French Party proposed in a pretreaty Oneida council that the Indians should lease their unused territory to New York, as they had tried to do in the Livingston lease. Colonel Louis Cook, a Canadian-born Mohawk closely associated with Penet, argued that, by leasing their lands, they would retain ownership, receive a substantial rent, and no longer be subject to constant pressure for land sales. The Oneidas finally agreed to delegate Cook and a young warrior, Peter Otsequette, to be “our Mouth and Ear”—that is, to act as agents for the tribe to negotiate a lease with Clinton.<sup>111</sup> Good Peter accordingly assured the governor that “after all the Divisions among ourselves, we have now united our Minds as one.” He also reminded Clinton of his promise in 1785 that “you should not want to buy any of our Lands again, no not forever.”<sup>112</sup>

Clinton’s answer reassured the Oneidas. “Be not deceived in supposing that it was our Intention to kindle a Council Fire at this Time in Order to Purchase Lands from you for our People.” The purpose of the treaty, according to Clinton, was to prevent “disorderly People” from taking advantage of the Indians in the manner of the Livingston company. “These People deceived you, and Nothing but the Interposition of our Great Council the Legislature, can defend you against such Injuries.”<sup>113</sup> According to treaty custom, Good Peter repeated the governor’s message in response: “You observed, Governor, that the Design of this Council Fire was to remove the Confusion that had taken Place in our Landed Affairs (which has indeed become one continued Scene of Confusion and Disorder) and not to purchase Lands for your People.”<sup>114</sup> Good Peter noted, with some bitterness, that both the Treaty of Fort Herkimer and the present meeting were occasioned by white illegality, not by good will for the Indians as Clinton suggested.

After Good Peter had spoken, Cook and Otsequette retired with a

Manuscripts, ser. U, vol. 23, fols. 75-143, State Historical Society, Madison, Wis.

<sup>109</sup> “Substance of the Information given by Mr. Kirckland,” December 16, 1788, in Hough, ed., *Proceedings of the Commissioners*, II, 259.

<sup>110</sup> John Taylor to Clinton, June 8, 1788, *ibid.*, I, 146.

<sup>111</sup> Good Peter Memoir, Pickering Papers, vol. 60, fol. 125.

<sup>112</sup> Speech of Good Peter, September 19, 1788, in Hough, ed., *Proceedings of the Commissioners*, I, 220, 222.

<sup>113</sup> Speech of Governor Clinton, September 20, 1788, *ibid.*, 224-226.

<sup>114</sup> Reply of Good Peter, September 20, 1788, *ibid.*, 226-227.

committee of chiefs and warriors to closed negotiations with Clinton. These sessions concerned only the extent of land to be reserved for the exclusive use of the Oneidas. Within a day, their agreement—the Treaty of Fort Schuyler—created a reservation of some 250,000 acres for the Oneidas. New York promised to give the Indians \$5,000 in cash and provisions, plus an annuity of “six hundred Dollars” in silver.<sup>115</sup>

Throughout the negotiations, according to the official proceedings and Good Peter’s recollections four years later, the Oneidas were convinced that the purpose was to restore territory lost in private leases and sales and to protect their lands by leasing them to the state. On September 22, just before the treaty was signed, Good Peter thanked Clinton for bringing “to a happy Close the Business of this Treaty.” He continued, “My Nation are now restored to a Possession of their Property which they were in danger of having lost.” He also thanked Penet for warning the Oneidas of the Livingston deception and for helping arrange the treaty; “had it not come to your Ears, we with all our Property would have been buried very deep in Ruin.”<sup>116</sup> Four years later, Good Peter remembered that Clinton said deceptively in announcing the agreement, “‘You have now leased to me all your territory, exclusive of the reservation.’ . . . He did not say ‘I buy your country’—Nor did we say—‘We sell it to you.’”<sup>117</sup> The elaborate plans the Oneida Council established in October 1788 to divide the rents that would accrue from leased territory provide further evidence of their understanding of the agreement with New York.<sup>118</sup> The Oneidas received their treaty goods and returned to their villages unaware that they had just sold millions of acres of their homeland for a few thousand dollars. But the document the Oneidas signed was explicit. The first article stated: “The Oneidas do cede and grant all their Lands to the People of the State of New York forever.” The second article described the boundaries of the Oneidas’ new reservation.<sup>119</sup>

As rumors of the council and treaty spread through Six Nations territory, the Indians began to question what had taken place between Clinton and Cook and Otsequette. In November 1788 Good Peter told Kirkland of “some uneasiness subsisting betwixt the warriors and their agents, at the treaty.”<sup>120</sup> More disturbing were reports reaching the

<sup>115</sup> Minutes, September 21, 1788, *ibid.*, 233-234.

<sup>116</sup> Speech of Good Peter, September 22, 1788, *ibid.*, 235.

<sup>117</sup> Good Peter Memoir, Pickering Papers, vol. 60, fols. 127A-128.

<sup>118</sup> According to the “Plan of Government adopted by the Oneida Nation,” October 25, 1788, the rents accrued from the Oneida lands would be equally divided “to every man, woman, and child of the Oneida nation, without exception.” Hough, *Notices of Peter Penet*, 25, 24-31.

<sup>119</sup> Treaty of Fort Schuyler, September 22, 1788, in Hough, ed., *Proceedings of the Commissioners*, I, 242, 241-247.

<sup>120</sup> “Journal of Kirkland,” in Ketchum, *History of Buffalo*, II, 110. There is evidence that Louis Cook had received a bribe from the New York commissioners. On May 16, 1788, their agent, John Tayler, wrote Clinton, “I have further promised to Louis a Reward when the Treaty will be held at Fort Schuyler and have engaged him to return here [Albany] with the Messenger who is to come to

Oneidas from Buffalo Creek. The Six Nations Grand Council accused the Oneidas, as well as the Onondagas and Cayugas, of selling their lands without consulting the Confederacy. Two Oneida warriors returning from Niagara reported they had heard it said in full Council "that the Oneidas had sold all their Country to the Governor . . . and that they had no Reservation but a little Pine Ridge on which they now reside."<sup>121</sup> When Tayler arrived at Fort Schuyler in June 1789 to distribute the first annuity payment under the terms of the treaty, the Oneidas asked him about the rumors. Had the governor deceived them? "We cannot believe it, as we cannot think such were his Intentions." Tayler replied that such reports were only malicious stories spread by the Livingston company.<sup>122</sup>

But when state surveyors appeared in the fall of 1789 to mark the boundaries of the reservation, the Oneidas learned the truth of the matter. What they had thought was a lease was in fact a sale. Stunned, the Oneida council sent a delegation to New York City to meet with Clinton in February 1790. "We returned home possessed with an Idea that we had leased our Country to the People of the State," they told Clinton, "reserving a Rent which was to increase with the increase of Settlements on our Lands." But "our Hopes and Expectations [are] blasted and disappointed in Every particular."<sup>123</sup> The Oneidas' response to this gigantic deception was emblematic of their increasingly dependent position. Instead of repudiating the 1788 treaty, their delegation merely pleaded for an increase in the annuity "as may amount somewhere near to a Compensation for a Cession of so large and fine a Country." Even this modest proposal was refused by Clinton, who answered the Indians' objections by showing them a copy of the treaty and a map of the ceded lands.<sup>124</sup>

Unable to negotiate on equal footing with New York, the Oneida delegation could only plead for justice: "We ask for nothing more." But however unequal the relationship, the Oneidas still insisted on their sovereignty. "We are free People; you have ever acknowledged it. We choose to regulate our Affairs and to conduct our Concerns by the Rules and Maxims of our Ancestors, without being governed by the Laws of our Brothers, the white People."<sup>125</sup> But after Clinton's rejection of their petition the Oneida delegation privately expressed fears for the future of their nation. As they told a Quaker delegation, in New York City to plead

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Oneida from Buffaloe Creek, and to render any other Assistance that will be required of him." Hough, ed., *Proceedings of the Commissioners*, I, 141.

<sup>121</sup> Speech of Good Peter, June 3, 1789, in Hough, ed., *Proceedings of the Commissioners*, II, 319.

<sup>122</sup> *Ibid.*; Reply of John Tayler, June 3, 1789, *ibid.*

<sup>123</sup> Message of the Oneida Council, January 27, 1790, *ibid.*, 360-361.

<sup>124</sup> Minutes of the Indian Commissioners, February 3, 1790, *ibid.*, 358-365. The minutes record that "the Indians . . . appeared fully satisfied, and that the several Matters of Complaint and Request contained in the Messages from the Oneidas were without Foundation" (364-365).

<sup>125</sup> *Ibid.*, 361.



the cause of black abolition, "they knew not but the white people would in time make slaves of them."<sup>126</sup>

In 1784 the Oneidas had stated in council their intention to hold on to their lands. Looking back, eight years later, Good Peter declared that "I did not then expect that we should be reduced to our present situation."<sup>127</sup> The Oneidas' efforts to preserve their land base crumbled in the post-Revolutionary upheaval in Indian relations as three white governments, as well as numerous private land purchasers and adventurers, sought influence and control over Oneida affairs. White competition for jurisdiction in upstate New York created an atmosphere of confusion and deception that directly contributed to the Oneidas' loss of territory. With an eye on Massachusetts and the Continental Congress, New York spared no efforts to obtain Oneida land. Manipulating a treaty system unbalanced by the widening disparity of power between whites and Indians, New York achieved its goals. This disparity of power, as Dorothy Jones contends, could not help but skew the treaty relationship into one so unequal that it "can only be called colonial."<sup>128</sup>

The effects of the treaties of 1785 and 1788 on Oneida society were immediate and far reaching. Factional dispute, always near the surface, boiled over in 1789-1790 after the Treaty of Fort Schuyler. One Oneida chief told Timothy Pickering that the divisions within the nation were rooted in the land controversies of 1788.<sup>129</sup> Kirkland reported that the "spirit of jealousy and animosity at length arose to such a pitch that the peace of the Village and whole Tribe was really endangered." A year later, he noted that many Indians "are exceedingly imbitter'd by frequent disappointments."<sup>130</sup>

This bitterness contributed to a rejection of white ways and a revival of native traditions. During the 1790s Kirkland's mission foundered to such an extent that his sponsors withdrew their support. Visitors to Oneida often commented on the Indians' resolute refusal to assimilate. Despite Kirkland's years of effort, "his whole flock are Indians still," noted one observer. "There never was," he continued, "an instance of an Indian forsaking his habits and savage manners, any more than a bear his ferocity."<sup>131</sup> Elkanah Watson agreed: "It is surprising to observe, how

<sup>126</sup> James Pemberton to John Pemberton, February 16, 1790, Papers of the Pennsylvania Abolition Society, Incoming Correspondence, Historical Society of Pennsylvania.

<sup>127</sup> Good Peter Memoir, Pickering Papers, vol. 60, fol. 121.

<sup>128</sup> Jones, *License for Empire*, 186.

<sup>129</sup> Pickering Papers, vol. 60, fol. 219. John Thornton Kirkland noted that the origin of Oneida factions "is generally the contests of rival chiefs for pre-eminence; the sale and division of territory, and the intrigue and bribes of land-jobbers and traders." Kirkland, "Answers to Queries," *Coll. M.H.S.*, IV (1795), 71.

<sup>130</sup> Pilkington, ed., *Kirkland Journal*, 174, 210.

<sup>131</sup> "Extract of a Letter from a Gentleman upon his Return from Niagara," *Coll. M.H.S.*, I (1792), 287.

tenaciously the Indians adhere to their native customs, although bordering on and intermixed with white men. They stick to the Indian to the last man, with a few exceptions; and this demonstrates a well-known fact, that they despise our customs as heartily as we do theirs."<sup>132</sup> This determination to remain "Indians still" fostered a revival of the traditional Iroquoian religious ceremonies during the 1790s. In 1799, the White Dog ceremony, a central ritual in the Iroquoian Midwinter and Green Corn festivals, was performed at Oneida for the first time in over thirty years.<sup>133</sup> Leading this revival was the son of Good Peter, known to the whites as Pagan Peter.

The Oneida cultural revival demonstrated a determination to maintain a measure of independence against massive odds. Yet it did little to prevent the further breakup of Oneida territory. Between 1795 and 1842, New York State entered into twenty-four more treaties with the Oneidas. After 1805, the Oneida reservation was legally divided between a Christian and a Pagan Party. In the 1830s and 1840s, a majority of the Oneidas left New York for Canada or Wisconsin. By 1855, only 161 remained in what had been Oneida territory.<sup>134</sup>

<sup>132</sup> Watson, ed., *Men and Times*, 350.

<sup>133</sup> "Extract of a Letter," *Coll. M.H.S.*, I (1792), 287; Pilkington, ed., *Kirkland Journal*, 364-367.

<sup>134</sup> The Oneida treaties from 1788 to 1842 are listed in Hough, ed., *Proceedings of the Commissioners*, I, 198n-199n.