



SHAPING PUBLIC OPINION: SLANTED COVERAGE IN THE CITY OF SHERRILL V. ONEIDA INDIAN NATION

By Tom Wanamaker

Since the City of Sherrill filed its taxation lawsuit against the Oneida Nation in 1999, coverage by the two largest local dailies, the Syracuse Post-Standard and the Utica Observer-Dispatch of that litigation's progress has been timely, but not always completely accurate. The purpose here is not to accuse either paper of intentional wrongdoing – it is instead to point out that misperception of and bias against Indians are so pervasive that they commonly creep into the coverage of otherwise impartial newspaper professionals.

The Research

To access relevant articles, I used the Newsbank database, and searched the archives of both papers from January 2003 (the earliest date that the Utica paper's stories are currently available electronically) through March 2005, when the Supreme Court handed down its Sherrill decision. The search terms "Oneida Nation" and "Sherrill" were entered simultaneously as I sought to acquire articles with both terms in the text.

An examination of several dozen articles from these two papers reveals that the language that they use, the sources they consult, and the way in which they construct their stories can frame Indian-related news in general, and the Sherrill saga in particular, in ways that promote public misperception. In many of these stories, the "Indian quote" is buried in the seventh, eighth, ninth or even tenth paragraph, while the "pro-Sherrill quote" is featured within the first two or three paragraphs.

To be fair, both papers have on occasion run articles positive to the Oneidas. Both have published news stories on the Nation's Silver Covenant grants to local governments and school districts and its college scholarships for non-Indian high school seniors. Both have also touted the job-creation power of Oneida Nation business enterprises.

The Oneida Nation has sometimes refused to speak with Post-Standard reporters. The Nation cut off all contact for a time in 2002 and 2003, protesting against what it felt was the paper's overly negative coverage. This reluctance to comment may have contributed to some of that paper's slant toward Sherrill. But on the

whole, both papers could do a lot to improve the negative lean toward Indians that their articles generally contain.

More Than a Tax Case

During the time frame we examined, both papers consistently portrayed the issue in the *Sherrill* case as being solely about taxes. From Sherrill's perspective, this is true. But for the Oneida Nation, the litigation was all about protecting and asserting its sovereignty, not about avoiding taxes. The Nation's refusal to pay property taxes stemmed from its belief in its own inherent tribal sovereignty over the land it owns.

Both papers give far too much credence to the so-called Upstate Citizens for Equality. A vast majority of their articles on the *Sherrill* case and on Indian issues in general contain quotes from this group, a vocal minority claiming to promote an equal tax burden for all residents of upstate New York. A look at Upstate Citizen's web sites belies this claim. All of its rhetoric is directed against Indians, the Oneida and Cayuga nations in particular, and strays widely from tax issues. The group is silent on tax issues that do not involve Indians.

For example, Upstate Citizens says nothing, on its web sites or through the media, about New York State's quasi-corrupt Empire Zone program. Originally a well-intentioned plan to spur economic development in blighted inner-city areas, the program has morphed into a loophole-ridden scheme that awards tax and utility breaks to well-connected developers for projects that create a few low-paying jobs.

Destiny USA

Likewise, Upstate Citizens has been mum on Destiny USA, a controversial mega-mall/tourist destination project proposed by the Pyramid Companies as an expansion of its Carousel Center Mall in Syracuse. In return for building this ambitious project, for which it refuses to reveal a coherent design or plan, the developer seeks a 30-year exemption from paying property taxes to the city of Syracuse.

The Post-Standard and the Observer-Dispatch interview this group's leaders solely about Indian issues, not about other obvious tax issues. Neither paper, as best as we can determine, asked Upstate Citizen's opinion on Empire Zones, Destiny, or other tax-related issues like New York's brutally high tax burden and Albany's 20-year streak of late budgets. All of these issues would seem to lie within the group's supposed interest in promoting an equal tax burden for all. But they say nothing, and the papers don't ask.

The Hate Group

Both the National Congress of American Indians and the Oneida Nation have publicly identified Upstate Citizens for Equality as a hate group.

Although, the Syracuse and Utica papers are generally thorough in their approaches to other issues, neither paper appears to have questioned or investigated Upstate Citizen's ethnic-centered motives. Isn't the presence of an alleged hate group within a community a worthy topic for journalism? How would these papers react if other hate groups that target other racial or ethnic groups set up shop in upstate New York?

What the Post-Standard Says

A look at a few examples of published articles and editorials will offer a feel for the generally anti-Indian tone of these papers' coverage.

The Post-Standard published a news story under the headline "Counties bemoan Oneidas tax-exemption" (Coin, 2003). The second sentence of this article calls the Oneida Nation's Turning Stone Casino Resort "a visible and vexing symbol of the erosion of the tax base in Madison and Oneida counties." This qualifies as inflammatory rhetoric and creates the impression that the Oneidas alone are responsible for the two counties' economic problems. If the reader reads no further, that's the gist he or she would take from this article.

By the eighth paragraph, the reporter gets around to mentioning the plethora of other tax-exempt properties owned by various non-Indian people and entities. He also discusses various other tax exemptions, but inexplicably fails to mention Empire Zones. While this article is actually a bit fairer to Indians than most, it contradicts itself before ending with a pair of inaccuracies.

The contradiction is here: After describing Turning Stone as a symbol of the declining tax base, in his third and fourth paragraphs the reporter says that tax-exempt properties comprise 35 percent and 25 percent of all property in Oneida and Madison counties. But then in

the ninth paragraph, the reporter says that tribally owned land comprises merely 5 percent of the tax-free property in the two counties.

It is not until the 18th paragraph that the reporter states that "state-owned land is the single biggest category of tax exemption in Madison and Oneida counties." Why, then, is the Turning Stone cast as a "symbol" the region's declining tax base? Would it not be more accurate to lead this article with a statement like the sentence on state land, cited above, that was buried deep in the article?

Inaccuracies

The first inaccuracy is its assertion that Oneidas "do not pay" sales taxes. This is incorrect – Oneida Indians shopping at any off reservation retailer pay the same sales taxes as does everyone else. What the author was probably referring to is the fact that Oneida-owned retail businesses do not collect state sales taxes because the Nation does not view itself as an agent of New York State. Properly wording and explaining this issue might help to correct the common misperception that "Indians don't pay taxes."

The second comes in the last paragraph when a 32-acre parcel of land on Route 46 south of the city of Oneida is described as the Nation's "original" territory. Actually, the Oneida Nation's original ancestral territory stretched from the St. Lawrence River to what is now the Pennsylvania border, and from around Chittenango in the west to the Utica/Rome area in the east. The 32-acre tract was the only land that New York was unable to take away from the Nation.

Framed

In early November 2004, the Supreme Court announced that it would hear arguments in the *City of Sherrill v. Oneida Indian Nation* case. On Nov. 12, the Post-Standard published a story that began with the following sentence: "The city of Sherrill has a date with the U.S. Supreme Court."² This lead immediately laid out the story's bias – framing the story this way paints Sherrill as the "good guys" and the Oneidas as the "bad guys."

The article quotes the chairman of Madison County Board of Supervisors, Rocco DiVeronica, a staunch opponent of Oneida sovereignty. It also quotes Sherrill's lawyer, Ira Sacks. But there are no quotes from the Oneida Nation – not even a notation asserting that they declined to comment, and why.

The article frames the case solely from the city's perspective, while asking questions to which the newspaper should already have known the answers.

It asks if the land is tribal, and if that means it's not taxable. The reporters should have known that the U.S. Supreme Court ruled in 1985 that this land was tribal. Could the land have really been reservation land if it was established by the state of New York? They should have known that the U.S. guaranteed the reservation in the 1784 Treaty of Canandaigua. Didn't the 1938 Treaty of Buffalo Creek disband the Oneida reservation? Again, the Supreme Court already ruled that the reservation was not disbanded. Does the land remain tribal if the Oneida cease to exist as a tribal nation? That's the wishful thinking of hate groups.

The Oneida Nation has never ceased to exist since its 1784 treaty with the U.S., and there is no reason to think it ever will.

Indian Country

Another problem with this article is its use of the term "Indian Country." This phrase, which is sometimes in common parlance used to refer to tribal lands, has no legal meaning. A popular phrase in Native American communities and media as observable in the newspapers Indian Country Today and News from Indian Country. Indian Country can be defined in various ways to imply everything from reservations to urban Indian communities to the millions of acres that the U.S. took from tribes. The phrase has no place in a news article about a Supreme Court case involving a specific tribal nation and specific lands.

The newspaper reports further failed to explore important national implications in case.

Unlike the city's argument, which basically sought to distract the Court by rehashing old issues, the Oneidas presented a novel legal theory. They argued that because Congress never disestablished their reservation, the Nation continues to hold aboriginal title to the land. By acquiring property within the old reservation boundaries from willing sellers, the tribe unites fee title with aboriginal title and is thus able to reassert its sovereign control over the lands guaranteed it by the federal government.

Missing the News

Yet the Post-Standard apparently does not see such an innovative argument as newsworthy. Instead the article reports only that the Oneida Nation "argues" that the land is part of its reservation and that it "claims" that the state illegally acquired the reservation lands. At

the same time the newspaper failed to report that knowledgeable historians and legal scholars agreed with the Oneida's interpretation. Thus Post-Standard acted like a surrogate prosecutor. But in failing to properly and fairly summarize the Nation's judicial stance, the newspaper did its readers a serious disservice. By presenting the Sherrill case in such a one-sided manner, the newspaper created a condition in which readers will automatically dismiss the Oneida Nation's stance without ever being exposed to it, much less gaining the opportunity to understand it.

On March 30, 2005, after the Supreme Court's announcement of its decision in *Sherrill*, the Post-Standard published what it called the "official reaction." But the paper failed miserably in offering a broad spectrum of reactions – every person quoted has long been on record as opposing the Oneida land claim, including state Assemblymen Bill Magee and David Townsend, and State Sen. David Valesky. By labeling these peoples' and other's statements of "common sense," "vindication," and "positive development," as somehow "official," the paper gives undue credence to the notion that this erroneous decision is justified.

What about Gov. George Pataki or Sen. Hilary Clinton? Why are there no comments from the Oneida Nation, the Native American Rights Fund, the United South and Eastern Tribes, the U.S. Bureau of Indian Affairs or the National Congress of the American Indian? Why are no Indian law experts included? Are such reactions any less official? What is so official about a bunch of people who are generally known to be unsympathetic to the Indian cause?

After All

Consider an editorial published in the Post-Standard ("Consider This," 2005). The editorial discusses federal Judge David Hurd's ruling that Madison County cannot foreclose on Oneida land for non-payment of property taxes. It states that Hurd's ruling means that "the property in question is tribal land after all."

After all? In *Sherrill*, the Supreme Court said that the Oneida Nation could not "unilaterally revive its ancient sovereignty" over land re-acquired from willing sellers. It did not rule on the legitimacy of Oneida claims to the land. The court simply refused to provide a remedy for the Nation and instead passed the buck to the Interior Department, which will rule on the Oneida's land-trust application. With the words "after all," "unilaterally" and "ancient" the editorial board reveals that it may not comprehend what the *Sherrill* decision really means, which is that the court strayed into "legal territory that belongs to Congress," as Justice Stevens correctly said in

his dissent. “Only Congress has the power to diminish or disestablish a tribe’s reservation.”

It’s not tribal land “after all” – it’s tribal land because Congress never said it wasn’t. But the Syracuse paper failed to explore this angle.

The Utica Observer-Dispatch Reports

The Utica Observer-Dispatch did no better. Following are but a few examples.

In a editorial, the Observer-Dispatch states that “the Oneidas say that New York state illegally took some [land] from them ...” (“Land Claim,” 2004). It’s not that the Oneidas *say* so, what’s important is that the Supreme Court ruled as such in 1985. A more responsibly written editorial would have noted this fact (which is probably filed somewhere in the newspaper’s library) rather than simply framing the issue as an assertion by the Oneidas rather than an opinion from the highest court in United States.

In its end-of-year summary of top stories, the Observer-Dispatch failed to mention any of the Oneida Nation’s lower court victories in the *Sherrill* case.

In its headlines and leads, the Observer-Dispatch consistently referred to Sherrill’s status as the smallest city in New York State, as if to paint Sherrill as a David against Goliath of the Oneida Nation. Comparing the size of the two entities serves no purpose, as they are not analogous in any way. But this was done repeatedly in the run-up to the hearing in January 2005 and after the decision was announced in late March of that year.

In 2004, the U.S. Census Bureau estimated the City of Sherrill’s population to be 3,126, the least populous entity in New York State with a city-style government. The Oneida Indian Nation is a federally recognized Indian nation with approximately 1,000 enrolled members, although its business enterprises it employs some 5,000 people, a vast majority of whom are non-Indians. What good does it do to compare the size of these two entities? It’s akin to comparing a banana to a turnip.

No Sherrill Residents

The Observer-Dispatch published another irresponsible article headlined “Sherrill tense in advance of court arguments” (Karch, 2005). The story’s two quotes come from people who don’t even live in Sherrill, but reside instead in Oneida. The first gentleman inexplicably states that people are afraid of repercussions from the Oneidas and that the Nation owns “every corner in the city of Oneida.” The second statement is patently false, and the first is rumor-

mongering of the basest kind. What repercussions? Why were no Sherrill residents quoted? If Sherrill is tense, as the headline implies, the reporter should get quotes from people or members of the police force in Sherrill.

Once again, emphasis is placed on the idea that the Oneida Nation claims that its land was wrongfully taken from it, rather than the fact that the Supreme Court ruled it so in 1985. And, other than a brief quote from a Nation spokesman, a majority of the other quotes in the story are negative toward the Nation. In addition the Observer-Dispatch quotes not one, but two members of the Upstate Citizens for Equality group.

Interestingly, Upstate Citizen’s is described in the article as a “landowner’s advocacy group,” even though two paragraphs later, the reporter mentions that Upstate Citizen’s is fighting against the Nation’s casino compact. What does this have to do with landowners? Why didn’t the reporter ask?

Why does the Observer-Dispatch place quotation marks around the Nation’s identification of Upstate Citizens as a hate group? The paper might be wise to investigate its source rather than simply dismissing the predominant Native opinion. Why doesn’t the paper ask Upstate Citizens’ prominent spokesmen about other taxation issues in New York.

The Hate Group Quoted

There are, numerous historians, lawyers and others in New York and the U.S. who possess expert knowledge. Yet such people are rarely quoted, while Upstate Citizens’ talking heads pop up with astounding frequency. These supposed experts offers distorted facts to suit its agenda and makes a lot of noise in hopes of getting its agenda to prevail.

In reporting on Indian-related issues, reporters at both the Post-Standard and the Observer-Dispatch see fit to seek the Upstate Citizens for Equality’s perspective as they apparently fail to establish contact with legitimate, knowledgeable experts who understand law, taxation and sovereignty as they relate to Indians. This one-sided reporting results in a serious failure to properly present the truth.

As the discerning reader with a talent for reading between the lines will note, both of these Central New York dailies consistently fail to report Indian issues fairly. Next time you read a newspaper story about an Indian issue, look at how the issues are framed and who the writer quotes. This phenomenon is not unique to the newspapers described here.

The Aftermath

By any measure, the Supreme Court's *Sherrill* ruling was a disaster for the Oneidas, one that will surely resonate loudly throughout tribal nations in the U.S. for decades to come. In rejecting the Oneida attempt to reassert its inherent control over ancestral territories, the Court pushed the Nation into a new fight – that of having to surrender title to the federal government, after first convincing the federal Bureau of Indian Affairs to take the land into trust.

In local newspaper coverage of the first round of BIA hearings, which took place in early 2006 in Oneida and Madison counties, we have already begun to see how the Syracuse and Utica papers will frame these discussions. Upstate Citizens for Equality and negative local politicians continue to dominate coverage, despite them representing the minority opinion at both meetings.

Whenever somebody makes the outrageous claim that there is no basis or justification for the land-trust process, neither paper cites the *Sherrill* decision, which on pages 20 and 21 of the ruling specifically directs the Oneidas to apply for trust status.

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## Works Cited

- Coin, G. (2003, June 1). Counties bemoan Oneidas' tax-exemption – Madison and Oneida county officials say nation should contribute to tax base. [*Syracuse Post-Standard*], p. B1.
- Coin, G. (2004, Nov. 12). Sherrill, Oneidas get date for court – U.S. Supreme Court justices will hear oral arguments in city tax case on Jan. 11. [*Syracuse Post-Standard*], p. B1.
- Consider this. (2004, Nov. 1). [Editorial] *Post-Standard*, p. A12.
- Issues culminated in year's top stories. (2004, Dec. 26). [*Utica Observer-Dispatch*], p. 1A.
- Karch, K.J. (2005, Jan. 9). Sherrill tense in advance of court arguments, *Observer-Dispatch*, p. 1A.
- Land claim. (2004, July 1). [Editorial] [*Utica Observer-Dispatch*], p. 11A.
- Official reaction to the Supreme Court decision on Sherrill vs. Oneida Nation. (2005, March 30). *Post-Standard*, p. A9.

*The AMERICAN INDIAN POLICY AND MEDIA INITIATIVE is a grant-funded academic and professional project of the Communication Department at Buffalo State College. The Initiative's focus lies at the intersection of media, public policy and Native interests. The Initiative prepares and publishes commentaries, news, research and academic reports that offer original and authentic voices of and about Native America. Available online at [AmericanIndianInitiative.buffalostate.edu](http://AmericanIndianInitiative.buffalostate.edu)*