



Upstate Citizens for EQUALITY, Inc.

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PRESS RELEASE

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In light of the Congressional Press Release of Sept. 23rd titled "Pombo Commits Congress to Bringing Resolution to New York Land Claims Issue", there are many issues and statements to be covered that are difficult to condense into a brief reply.

The only reason the New York land claims lasted 25 years in the courts is because one judge held them up using intimidation techniques to try and force a plea bargain before finally issuing a final judgment allowing his incorrect rulings to be appealed and reversed in their entirety.

The New York land claims no longer have no end in sight, they are basically all dead. The ruling on the Sherrill case in March by the United States Supreme Court against the Oneida land claim, followed by the ruling on the Cayuga claim June 28th by the U.S. 2nd Circuit Court of Appeals, have made this emphatically clear. These claims were presented at the oversight hearing by Ray Halbritter, but possibly not in their true light

The tribes are now excruciatingly desperate in their attempts to circumvent the judicial process primarily for the purpose of setting up casinos within a few hours drive of New York City.

The Oneida claim includes the New York Oneida Indian Tribe, the Oneida Tribe of Indians of Wisconsin, the Stockbridge Munsee Community of Wisconsin, and two other tribes. The Cayuga claim includes the New York Cayuga Tribe and the Seneca-Cayuga Tribe of Oklahoma.

Oddly enough, four of these very same tribes that lost their land claims, or precedent to lose them, and corresponding off reservation casino deals in close proximity to New York City, with the New York Mohawk tribe in the same boat all testified at the Oversight Hearing on Status of Settling Recognized Tribes' Land Claims in the State of New York July 14th.

The citizens group Upstate Citizens for Equality, Inc. (UCE) has three chapters, with close to 11,000 members, which have had numerous demonstrations, rallies, and repeatedly written, petitioned, lobbied, and picketed our elected representative's offices to emphasize fighting these frivolous claims in the courts and NOT agree to any plea bargain settlement. We did so because our New York officials have made numerous offers of casinos, tens of thousands of acres of land including private property owned by farmers who did not want to sell, and millions of dollars. The tribes refused these offers and wanted more. One can hardly even insinuate that our "New York officials failed to address these important issues ...", as Congressman Pombo has stated.

The tribes that testified already have lands and casinos, so we're sure they can afford to garner the attention of Mr. Pombo. But to state in a press release that "all parties testified" is another "oversight". The only others to testify were the BIA Acting Principal Deputy Assistant Secretary, who works for the tribes, and the Committee on Native American Affairs and Gaming Chairman for the New York State Association of Counties (NYSAC). NYSAC's statements were tempered with casino money that has already influenced a few county politicians. Neither landowner's groups, of which there are many, or the state, or counties with land claims against them were represented.

An appeal to the U.S. Supreme Court has just been filed in Dalton v. Pataki to clarify if the federal government can override a state constitution that prohibits casinos. If we win this, most of the land claims will likely disappear anyway. Imagine that? UCE won our lawsuit declaring the New York Oneida casino to be unconstitutional three years ago. It's not in Indian Country and there is no compact, but our Governor has repeatedly and continues to not enforce the laws.

As for Pombo's warning of the Committee ready to move forward with legislation settling the "non-existent" claims, with or without the help of New York politicians in Albany and DC., it would likely violate the 10th Amendment and the Takings Clause of the Fifth Amendment. Get ready for more lawsuits.

The claims do involve tribes that fought in the Revolutionary War and War of 1812, including tribes that fought on the losing side in both wars. Nevertheless, the tribes have been compensated numerous times in settlements and state courts and even through the 1926 International Tribunal in the Cayuga claim. The Congressional Indian Claims Commission ruled the federal government to be at fault and the Seneca-Cayuga tribe settled their claim in 1977 for \$66,000. I'm sure it was another "oversight" they forgot to mention. Even Common Law should hold that one cannot continue suing in different courts to reach a different conclusion.

The Indian trade and intercourse laws the tribes sued under were not applicable to the alleged violations. The 1790 act expired in 1792 and 25 USC 177 is a rewrite of the 1834 NIA, neither of which had the "surrounded by settlements" exception which was written into all of the acts in-between, which may have applied.

Our property titles are close to being cleared and the land claims are close to being non-existent. Therefore, as I stated before, the tribes are now desperate in their attempts to circumvent the judicial process and using well meaning well intentioned congressmen to do so.

The initial Oneida claim of a few thousand dollars rent on 841 acres of unoccupied county land was precedent setting, but unfortunately was not argued properly and did not have all of the applicable treaties presented. The Sherrill case brought this to light.

There are many other counter claim arguments to be made that could take, and have taken, many reams of paper. They have been argued. The courts have dealt with them. The Sherrill decision has set the precedent because it was a Constitutional Law decision. Unlike what Ray Halbritter testified, this was not a tax case. Congress cannot change the decision. Chief Justice Roberts pointed out the 1997-'98 Clinton v. City of New York case where Justice Brier stated there is not going to be any more acts of Congress to override a Constitutional Law decision of SCOTUS.

For congress to undue what has taken us decades to accomplish by finally bringing matters to a close would be borderline terrorism from within. In any lawsuit there is always a loser. The system works. We were the defendants and finally have favorable rulings by the courts. Don't allow the plaintiff losers to sway the logic of congress and use congressional well intentioned efforts to try and undue what has already been settled.

Sincerely,
Richard E. Tallcot, Chairman
Cayuga-Seneca Chapter
Upstate Citizens for EQUALITY, Inc.