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Justices Refuse to Restore Sovereignty to Land Bought by Indians

By [DAVID STOUT](#)

WASHINGTON, March 29 - The Oneida Indian Nation lost a court battle today, one that arguably began when most of New York State was a vast wilderness and endured into the era of highways, shopping centers and gambling casinos on reservations.

The Supreme Court, 8 to 1, overturned rulings by two lower courts and said that the Indian nation cannot expand its tax-exempt property holdings by buying up land that has been outside its control for decades, even centuries. The ruling was a bitter defeat for the Oneida, and allowed the City of Sherrill, N.Y., a collective sigh of relief.

"The Oneidas long ago relinquished governmental reins and cannot regain them through open-market purchases from current titleholders," Justice Ruth Bader Ginsburg wrote in a decision joined by all her colleagues except Justice John Paul Stevens.

Citing the "long-standing, distinctly non-Indian character" of the region, even while acknowledging early white settlers' broken promises and dishonest dealings that helped purge Indian culture from the area, the justices said the Indians had waited much too long to seek relief in the courts.

"Today, we decline to project redress for the tribe into the present and future, thereby disrupting the governance of central New York's counties and towns," the majority wrote. "Generations have passed during which non-Indians have owned and developed the area that once composed the tribe's historic reservations."

To uphold the Indians' position, the court said, would ignore "the impracticability of returning to Indian control land that generations earlier passed into numerous private hands."

In the 1794 Treaty of Canandaigua, the court noted, the United States acknowledged the Oneidas' 300,000-acre reservation and the Indians' right to free use and enjoyment of that great tract. But as the years went by, New York State, often with the complicity of the federal government, pushed the Indians farther and farther west so that the land could be used by white settlers.

"By 1920," the court noted, "the New York Oneidas retained only 32 acres in the state."

Strictly speaking, the case decided today was not about unspoiled lands and broken promises. Rather, the immediate issues were more mundane, involving taxes that the City of Sherrill (population, 3,000 or so) has been trying to collect from the Indians for a convenience store and gasoline station.

The Oneidas bought the land for the store and station in 1997. In fact, for much of the past two decades the tribe has been buying up land in Oneida and Madison Counties, using revenue from its Turning Stone Resort and Casino in Verona.

But the Oneidas resisted paying taxes, arguing that only the federal government could revoke ownership and tax exemption on tribal lands. Sherrill officials said that assertion was absurd, that it was wrong for one business to choose

not to pay taxes while other ones had to pay.

A federal district court and the United States Court of Appeals for the Second Circuit, in Manhattan, sided with the tribe. But only Justice Stevens did so today, noting that in recent years the Indians had "fully respected the interests of innocent landowners" in buying the land on the open market, and that only Congress should have the power to revoke a tribe's tax immunity. Justice Stevens said his colleagues were exaggerating the threat of chaos if the Indians' arguments were upheld.

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