

# REGIONAL NEWS

## Iroquois Issues Surround Smokeshop

*Untaxed cigarettes were seized at the shop in Canastota, but a judge later ordered the state to stop interfering in the business.*

Canastota - As smokeshops go, the Kanastota Smokeshop is as basic as they get--a small trailer, fitted with shelves, stocked with a few dozen cartons of cigarettes.

But the small smokeshop, on Route 13 just off Thruway Exit 34 and owned by the traditional Oneida Council of Chiefs, has brought into sharp focus the historical antagonism between Native Americans and the state, as well as the factionalism among Oneidas and within the Iroquois Confederacy.

State Tax Department investigators seized 70 cartons of cigarettes from the smokeshop two weeks ago and arrested the clerk, Mikel Babcock-Kenyon, charging her with possession of more than 20,000 untaxed cigarettes, a felony under state tax law.

April 12 in Albany, state Supreme Court Justice Lawrence E. Kahn temporarily ordered the state to stop interfering with the smokeshop's business. The next day, the shop reopened, and it has been open every day since, sell-

ing cigarettes without the state's \$6-a-carton tax.

Since it first opened last fall for a week, the shop has raised questions about which among several Oneida groups have pre-eminent domain in Central New York, and how much untaxed Native American enterprise the state will tolerate, particularly within the area of the Oneidas' 254,000-acre, unsettled land claims against the state.

Statements in court papers filed by the Traditional Oneidas, who call themselves the Onyota'a:ka Nation, (pronounced Own yo to A ka), claim that the shop is owned and operated by a "sovereign, Native American nation that has existed from time immemorial...a full member of participant of the Haudenosaunee Iroquois Confederacy."

The cigarettes are not subject to taxation, the Onyota'a:ka say, because the state already allows untaxed cigarettes to be sold at several locations, "including the Oneida Indian Nation of New York's Turning Stone casino."

Land on which Turning Stone is built has not been declared Indian land by federal officials -- technically a requirement for

Indian casinos. But federal and state officials have skirted the issue by referring to the Oneidas' unsettled land claim, which is based on a U.S. Supreme Court decision of 1985 that determined the state illegally took land from the Oneidas.

The state, which has dealt in the land claims with the New York Oneidas, Oneidas from Wisconsin and the Thames Band of Oneidas (the elected Onyota'a:ka government in Southold, Ontario), has not dealt with the traditional Onyota'a:ka Council of Chiefs before this. The council is made up of nine chiefs living in Canada and Wisconsin.

"They're certainly not recognized by the federal or state government, nor are they on any reservation land," said Karl Felson, a state Tax Department spokesman.

"Other than that, we'll wait for the court to make its decision."

No hearing date has been set for the next court appearance.

New York Oneida representative Ray Halbritter said this week that any Oneidas doing business within traditional Oneida land must get "approval from our government here, because this is the

Oneida Indian Nation government of the (Iroquois) Confederacy."

Last fall, the New York Oneidas had federal marshals seize cigarettes at the shop in execution of a \$3.5 million judgment against the two men who opened the shop; John Kane, a Mohawk and Don Marks, an Oneida. The 1988 judgement was made for damages stemming from the burning of the New York Oneidas' bingo hall in 1987. Kane and Marks were convicted of conspiracy to commit arson.

Federal marshals made last fall's seizure based on the belief the cigarettes belonged to Kane and Marks. Both men claim the cigarettes belong to the Onyota'a:ka Nation.

Until April 7, the day of the recent cigarette seizure, the property on which the smokeshop sits was deeded in the name of Darcie Tarbell.

Several hours after the seizure, the property deed was transferred, without payment, to the Onyota'a:ka Nation.

The Onyota'a:ka Nations' attorney, Vaughn Lang of Fayetteville, maintains the deed transfer was a formality, a way of "confirming title."

rently working with the Museum of the American Indian, used a slide presentation to illustrate the use of wampum and art in historical documentation of the relationship between the Confederacy and the colonist, vintage Rick Hill.

Katsi Cook, Mohawk, presented an informative account of a multitude of work, studies, in women's health, science and environmental issues of which she a part.

A special part of the agenda was a panel of women who expressed their individual struggles in preserving traditions in contemporary family and community life. Sometimes frustrated, but always determined, these formidable women symbolized strength we must sometimes dig deep for. They are the Mothers, the Grandmothers, the givers of life. Nya wenha Arlene Logan, Seneca elder, Denise Waterman, Oneida, Teacher, Yvonne Henhawk, Onondaga, Barricader, and Barbara Barnes, Mohawk, Activist.

John Mohawk's message, "the fight isn't over" came through loud and clear. Mohawk detailed the clashes the Haudenosaunee has had with New York State and warned, "we're not out of the woods yet." "Somewhere tomorrow, in New York State, we'll still be fighting." Mohawk urged the people to support their Chiefs in their Longhouses, get involved in what's happening, find out what's going on. (I lost my notebook, but I had some good quotes here, sorry.)

The only criticism I could possibly make of this worthwhile venture is to have better communication in scheduling. The date was also the date for Grand Council which put many in a dilemma right there. Also, I understand the Senecas were having ceremonies. However, those who chose to were very well informed by very excellent speakers in their fields. Nya wenha, Wendy Huff, for putting together the conference, and doing all the leg work.

Oneh, Wendy P.S. It was announced at the conference that tapes would be available of all the presenters.

cus curie) victories, Heath said "we have some good law here."

Chief Irving Powless gave historical information arriving at the current situation the Onondaga Nation now faces in regulating commerce within its territory.

Janine Huff, Seneca, told of her experiences living with a family in a Third World country, the struggle to maintain sovereignty is universal.

Rick Hill, Tuscarora, cur-

## Iroquois Sovereignty Conference

The speakers were lawyers, historians, Chiefs, mothers, educators and a meeting of people who are involved in Haudenosaunee struggles to preserve sovereignty in very trying times.

The theme that ran throughout the two day conference was simply put by Chief Irving Powless of the Onondaga Nation. He said, "sovereignty is what we make it." John Mohawk, Seneca, later stated, "the people are the essence of

sovereignty."

Opening remarks were presented by Onondaga Faithkeeper, Oren Lyons, however, I don't have a comment because I was late, but am sure he was good. Ditto Tonya Frichner, President of Indian Law Alliance in N.Y.C. Tim Coultier, Director of the Indian Law Resource Center gave a brief account of the Rights of Indigenous Peoples. Howard Berman, Professor at the California School of Law

presented an overview of how native nations arrived at this point from a historical perspective.

A very thorough account of legal actions involving the illegal businesses on the Onondaga Nation was presented by attorney Joseph Heath. Heath's philosophy of "hard work, long briefs, fight hard and have a thorough record" has proved itself. As a result of Heath and the Onondaga Nation's (friends of the court ... ami-

