A Different Drum: Buffalo Law Review Symposium Addresses Issues of Native American Life
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Buffalo Law Review Symposium addresses issues of Native American life

The law and politics. Taxation and casinos. Land claims and sovereignty.

Anyone who lives near Native American lands knows the thicket of thorny issues that arise as the different cultures of Native and non-Native peoples seek to live side by side. Those issues are especially apparent in Western New York, where the Seneca Nation of Indians has vigorously contested New York State's demand that Natives collect sales taxes on cigarettes and gasoline sold on the reservation to non-Natives.

The third annual Buffalo Law Review Symposium took those continuing tensions as a starting point for its program titled "Law, Sovereignty, and Tribal Governance: The Iroquois Confederacy." Covering a wide range of issues related to Native law and political
realities. Participants included attorneys with an interest in Native issues, historians, anthropologists, tribal representatives and officials of the state and federal governments.

As Dean Barry B. Boyer noted at the start of the second day's activities, "Universities can be places where people of different backgrounds and different ideas can come together and have discussion and maybe come to be of one mind."

A panel discussion at the University Inn and Conference Center began the symposium, and a quick tour through a few of the participants' theses points up the breadth of scholarship represented:

- **William Fenton**, distinguished professor of anthropology emeritus at the State University of New York at Albany, and author of the newly published *The Great Law and the Longhouse: A Political History of Iroquois Politics*, spoke on the Treaty of Canandaigua, an often overlooked agreement that has proved pivotal in litigation over Indian land claims in this part of New York.

- **Laurence Hauptman**, professor of history at the State University of New York College at New Paltz, spoke of an 1881 case, Seneca Nation of Indians vs. Harrison B. Christie, that "had the effect of shutting the Seneca Nation and all other Iroquois out of the federal courts until 1974," when it was overturned by the U.S. Supreme Court.

- **Oren Lyons**, a professor of American studies at the University at Buffalo, spoke movingly about some tribal wampums held in a state museum in Albany — "wampums that should have been home.... It took us 19 years of hard work to get those wampums back, and it was hard work. But we got those belts back in 1989." He added: "Indian people are giving up jurisdiction, giving up their sovereignty, through gaming contracts and other agreements."

- **Robert Venables**, a professor of American studies at Cornell University, noted that among Native peoples, "sovereignty is not just politics, not just law — it’s a spiritual issue. It goes beyond the measure of what the white courts would say sovereignty is."

And **Mary Druke-Becker**, a research anthropologist for the Iroquois Indian Museum in Schenectady, N.Y., noted that although we often conceive of the Iroquois Confederacy as a unified entity, "there is much evidence for the autonomy of individual nations within the Confederacy. I would like to suggest that this is an integral part of the Confederacy structure."

With its second day, the symposium moved back on campus to the Center for Tomorrow. Seminars addressed the topics of Iroquois land claims, Iroquois tax issues, sovereignty issues and Iroquois governance, with nearly two dozen presenters bringing their perspectives to the podium.

An introductory lecture by Professor Lyons set the tone for the day. The Iroquois Confederacy, he began, is "one of the original democratic governments in the world, and probably the oldest continuously standing government in the world today. There was democracy here when kings were fighting and women were being burned as witches in Massachusetts. Here there was what was called the Great Peace."

Governance of the Confederacy, he said, "was based on the principles that still guide their leadership: peace, equity, justice and a good mind, that's what it is. Justice, that's what it is."

"But land is the issue," Lyons said. "Land has always been the issue, and as long as you have land, you are going to have to fight for it." He detailed the history of the process by which the federal government has availed itself of land the Natives considered theirs — a process, he contended, that has resulted in "the loss of two-thirds of the Indian land in America. The methods have differed, but the purpose is to assimilate all Indian lands into the United States or Canada. That has always been the purpose."

Lyons expressed suspicion toward the idea that Native Americans should take the oath of U.S. citizenship, saying: "Treaties are made between nations. If you are a citizen of a nation, how can you make a treaty with yourself? It is a very simple equation, but it seems to be lost on everyone but the chiefs. They said no, we must retain our identity."

As Native people move into such industries as gasoline and tobacco sales, and especially casino gaming, he said: "Free enterprise isn't free at all. There is always a price." Quoting from the publication Worldwatch, he said, "Of the 100 wealthiest entities in the world today, 51 are corporations and 49 are countries. The balance is moving toward the corporate state.

"What does that mean? It means that economics are controlling the direction of everyone's life today. What is the basis of capital? Is it money? Is it banks? No. That capital is based on the natural resources of the Earth — trees, fish, water. Fundamental life-giving resources. That is what your capital is, and let me tell you, that capital is finite. There is only so much of it, and expansion cannot go on.

"Well, I guess it can go on, but it comes at the expense of someone, and that is the next generation."