

Good morning to all of you who have made the trip to Syracuse for the 12th bi-annual meeting of the Tribal Courts Forum. Welcome to the Six Nations of the Haudenosaunee - the Cayuga, the St. Regis Mohawk, the Oneida, the Senecas, the Tonowanda Band of the Senecas, the Onondaga and the Tuscarora in upstate New York. Welcome to the Unkechaug and the Shinnecock of Long Island. And welcome New York federal, state and local judges and all others involved with the Forum, however that may be. Thank you for being here, and for supporting this groundbreaking project, the first of its kind in our state. I am sure that Chief Judge Mordue, Larry Baerman and his staff have provided everyone with a hot cup of coffee and a pastry to start off the day. Thank you, Norman.

As I approach the end of my term as Chief Judge of the State of New York, I have reflected on the

many interesting projects -- and many interesting people -- that I have worked with throughout my tenure. Although I can't be with you today in person, I have been given a window to express some thoughts about your Forum, and I am honored to share this time with you.

I would like to use this time to reflect on the beginning of the Forum (with which I was much involved); to highlight and congratulate you on your many accomplishments, and to discuss our combined hopes and wishes for the Forum's future (which, I expect, will involve and credit many here today as well as those not yet present in this room).

First, some history.

One of the most enjoyable duties of my position as Chief Judge is attending the annual Conference of Chief Justices, comprised of all of the Chief

Justices in state court systems throughout the United States. We meet twice a year in different states to share experiences, discuss innovations and often to work on joint initiatives. In 1985, the Conference created a committee to address state law issues raised by the US Supreme Court's decisions in Three Affiliated Tribes v Wold Engineering, then the most recent in a long line of cases primarily involving federal-tribal relations -- by all agreement a complicated and highly controversial subject.

At the recommendation of the Committee, the Conference of Chief Justices initiated a project called Tribal Courts and State Courts: The Prevention and Resolution of Jurisdictional Disputes. The project took off, due in part to the support it received from a national coordinating council, funds from the State Justice

Institute, and administration by the National Center for State Courts.

The project's national scope was aimed at addressing disputes between nations, tribes, and federal, state and local courts --- a monumental task. Specifically, it targeted certain areas of law in which disagreement, misunderstanding and mistrust had stalled progress toward effective judicial resolution, and in so doing, stalled progress toward effective relations. Issues heading this list included the Indian Child Welfare Act, domestic relations matters, and full faith and credit, comity and related issues.

In 1991, the Committee held a national conference in Seattle, Washington. The attendance of numerous tribal entities, as well as representatives from state and federal courts, and the resulting

discussions evidenced the clear need for continued and dedicated work in this area, and the need for this work to take place on a state and local level.

By 2003, 17 states had instituted projects aimed at addressing these concerns. It became clear to me that New York, too, would benefit from exploring ways to foster better understanding and collaboration among our various justice systems. There must be a way, I thought at the time, to increase awareness between these groups, in hopes not only to foster agreement, but also to ensure that disagreements would no longer be based on simple lack of mutual understanding.

I asked my friend and colleague Justice Marcy Kahn of New York Supreme Court, to organize a means of bringing together members of New York's Native nations and tribes, state and federal judges to

address these issues. Justice Kahn presented the Forum idea at a Native American Services meeting organized by Kim Thomas of the Office of Children and Family Services -- Kim, I believe, is here today -- thank you for playing such a key role in the group's early formation. Together with then-Chief Judge John Walker of the United States Court of Appeals for the Second Circuit, we appointed a New York Tribal Courts Committee. Among its original members were Justice Kahn and Judge Edward Davidowitz, who, with the help of too many to name here, convened the first meeting in Syracuse in May, 2003.

The early meetings opened eyes and ears all around. We came to understand the vast differences between systems of justice and methods of implementing laws -- oral and written, passed down by elders or scribed in native language; use of

restorative approaches such as community healing and consensus resolution, often without judges or courts; peacemaker courts and other systems which utilize clan mothers to resolve disputes and set the path for healing. All of these concepts were relatively foreign, and daunting, to many non-native participants. It became readily apparent that with so many different approaches, conflicts were inevitable. Equally apparent, however, was that the different groups might benefit greatly from this type of interaction -- a venue where all could speak up, identify shared issues, and take steps toward educating one other.

As mentioned, today marks this group's 12th meeting. In addition to working hard on issues of Family Law, Jurisdiction, and Judicial Education -- areas of specific accomplishment -- the meetings have become an opportunity to get to know one

another, and for various groups to interact outside of the formal meeting environment.

In April 2006, in response to various participants' suggestions, the fledgling Forum organized its first Listening Conference. Held in Syracuse, co-hosted by the Committee, the Judicial Institute, and the Syracuse University Center for Indigenous Law, Governance and Citizenship, the Conference brought together more than 140 participants from the Indian nations and tribes and the state and federal court systems. Their shared goal was to exchange information - about identity, values, communities - and to learn about each other's concepts of justice, peacemaking, and relationship-building.

The Listening Conference, considered a "first step" in implementing an educational program on

subjects of civil and criminal jurisdiction, restorative justice, Native justice systems and ICWA, was a success. The Conference's message was grounded in traditional values of respect for nature, the spiritual basis of law, and the responsibility to future generations. A highlight of the curriculum was a problem-solving focus group composed of panelists who expressed the value of simple strategies such as "working face to face" and "getting away from preconceived notions." In closing, participants expressed their hopes and wishes for future cooperation.

Next, a look at the Forum today.

I would first like to congratulate the St. Regis Mohawk tribe for the launch of their new Family Court, and to give a warm welcome to their new Chief Judge P.J. Herne, who, I understand, is a former ADA

with the Franklin County prosecutor's office.

As you may know, family law, and especially children's rights, is a topic of great interest to me as well as to this Forum. Probably the greatest focus, and the area where group members have been able to find the most common ground -- or at least common ground for advocacy -- is the Indian Child Welfare Act, or ICWA as it is known to us all. ICWA was enacted with the intent to promote the stability and security of Indian families, and, recognizing the essential cultural and social values at stake, to protect Indian children from unwarranted state intrusions.

In response to the great interest shown in an ICWA panel at the Listening Conference, the Forum discussed the need for more judicial education about ICWA. A participant from Tuscarora, Jamie Gilbert,

suggested a regional approach as a way to encourage the participation of a greater number of elders, clan mothers, law guardians and others locally involved with child care and services.

After much planning, the Forum, together with the Judicial Institute, sponsored ICWA education sessions in Buffalo and Syracuse in the fall of 2007. These regional group meetings were very effective and, by all accounts, first nations participants left with a greater sense of the procedures, guidelines and intent of the Family Court when making ICWA determinations, and judges were introduced to first nations' culture and views on children and child care, giving them a better understanding of the significance and importance of partnering with tribal representatives throughout these proceedings. Between the two conferences, over 150 people attended.

Also in the area of Family Law, the Forum has facilitated training on recent federal legislation aimed at tightening sex offender registration requirements. A representative from the Department of Justice came to the fall 2007 Forum meeting and spoke about each nations' ability, under the Adam Walsh Act, to establish its own sex offender registry, and of federal grant money available to assist with implementation of these requirements.

The forum has also moved forward in the area of Jurisdiction, exploring development of protocols to resolve jurisdictional controversies. Earlier this year, a pilot program for recognition of judgments was established between the Oneida nation and the 5th Judicial District Supreme Court. Other nations have been in discussion with state court forum members with a view to developing their own recognition protocols. In another effort at cross-

jurisdictional recognition, tribal orders of protection may now be placed on the state domestic violence registry and added to the state FBI database.

A third focus area, Judicial Education, has seen considerable progress through judicial training sessions on Indian law conducted by the Judicial Institute. Listening Conference presentations are currently being edited into several courses for online viewing and will soon be accessible through links on the Judicial Institute's website; the entire course offerings -- 9 hours of videotaped presentations -- are currently linked from the Forum's new website to the Judicial Institute's website.

Intersecting with these three substantive areas of law, the Forum has generated a lot of discussion

about the need for technical assistance for nations in various stages of amending their own legal systems or training personnel, such as court clerks. For example, Justice Sharon Townshend, with the assistance of Patricia Maxwell, Judge of the Family Court, Erie County, has been working with the judges of the Peacemaker Court and Seneca government officials to provide technical support and collaboration between their two court systems.

Last but certainly not least, the Forum website has proven an effective and informative resource for both forum participants and the general public. Hosted by the Judicial Institute, it currently provides links to nations' own websites, treaties, laws & traditions, and ICWA resources.

So what's to come?

The Forum itself will, of course, determine its

own future path. But in doing so, I hope you will consider the progress made to date. The Forum started from nothing and is by now well established -- your group was even mentioned in a recent New York State Bar Article. Everyone -- myself included -- has learned a lot in the past five years. One thing I have learned is that "membership" is not always a sought-after label; while many of you have joined as members, others come just to look and listen. I have a greater appreciation for the importance of gathering together, whether to reach consensus or merely to express opinions and concerns, and a greater understanding of the complexity and fragility of the relationships we seek to build. "Turn the prism" is what we say in my chambers when faced with a difficult decision. You need, however, to have a prism with many facets in order to catch more light -- and carving these

facets is something that I truly believe is being accomplished by your Forum.

Finally, as you did at the Listening Conference, it seems appropriate to close simply by expressing our "hopes and wishes" for the future.

I hope for additional ICWA regional sessions and additional judicial training, and wish for even greater participation, as basic knowledge of these subjects is key to competent practice. In addition, I hope and wish that the twice-yearly meetings continue to provide a place for discussion of existing problems and issues as they develop, and continue to be a place to bring a variety of viewpoints, good will and thoughtful minds.

Have a productive and enjoyable meeting, and a safe journey as you return home.