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--Newsletter Supplement-- -Current News and Items of Special Interest-

February 2007

Dear Friends,

On Thursday, January 18, 2007, One Nation United, Free Speech Coalition, American Civil Liberties Union, and many other concerned citizens groups successfully collaborated in a joint lobbying effort to strike Section 220 from the Legislative Transparency and Accountability Act of 2007, (S.1) ridding the reform package of a section that was potentially crippling to grassroots lobbyists.

Bloomberg reporter Jonathan D. Salant notes: "By a vote of 55-43, the Senate removed a provision opposed by business and religious groups and the American Civil Liberties Union. It would have required organizations that often describe themselves as grassroots groups to disclose lobbying expenditures that exceed \$25,000 for any three-month period."

Susan Jones of CNSNews.com quotes Focus on the Family Action Chairman James Dobson: "The big winners in this battle are the American people. Getting rid of the onerous grass-roots lobbying restrictions in S.1 is a triumph of the representative form of government our Founding Fathers established 230 years ago."

Richard Simon of the Los Angeles Times recognizes our coalition's contention that Section 220 "could have a chilling effect on lobbying spurred by grass-roots concerns."

Thanks to all of you who helped us achieve this important legislative victory! Strange bedfellows can sometimes find common ground.

Barb Lindsay for One Nation United (ONU)

THIS IS AN EXTREMELY IMPORTANT MAJOR WIN IN THE COURTS. YET ANOTHER EXAMPLE OF THE COURTS STOPPING TRIBES' SELF ANOINTED "SUPER STATUS" AND OVERREACHING

COURT RULES TRIBES NOT EXEMPT FROM U.S. LABOR LAWS

By ERICA WERNER, The Associated Press, Friday, February 9, 2007; 9:16 PM

WASHINGTON — Indian tribes are subject to federal labor law, an appeals court ruled Friday in a case that could lead to stricter labor protections, and more unions, at the nation's booming Indian casinos.

A three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit rejected arguments from a wealthy Southern California tribe that as a sovereign government, it should not be subject to those laws.

"Tribal sovereignty is not absolute autonomy, permitting a tribe to operate in a commercial capacity without legal constraint," said the opinion written by Judge Janice Rogers Brown.

The ruling stemmed from an organizing dispute at a casino run by the San Manuel Band of Mission Indians, 60 miles east of Los Angeles, where a union filed a complaint with the National Labor Relations Board arguing that another union was getting preferential access.

San Manuel contested the complaint by asserting the labor board didn't have jurisdiction because federal law recognizes Indian tribes as sovereign governments.

The labor board disagreed in a 2004 opinion that, for the first time, said tribes are covered by the National Labor Relations Act that bars unfair labor practices and gives workers the right to organize and bargain with employers.

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BIG COURT WIN- UPSTATE NEW YORK

At stake are protections and bargaining rights for some 250,000 workers, most of them non-Indians, at the nation's 400-plus tribal casinos. The ruling comes as tribal gambling has exploded into a \$22 billion-a-year industry _ richer than Las Vegas _ with Indian casinos in 28 states.

A few tribal casinos in California are unionized, including San Manuel, but most workers at Indian casinos are nonunion. Unions have been trying hard to make inroads with the growing work force but say they've had trouble without the protection of the National Labor Relations Act.

Even though San Manuel employees already have joined Communications Workers of America, the ruling could undercut the tribe's ability to deal with the union on the tribe's own terms, which critics say favor the tribe. The tribe contends it treats its workers well, and employees at the San Manuel casino have praised conditions there.

"We are disappointed by the ruling today," said Henry Duro, chairman of the San Manuel tribe, which was backed in the case by the National Indian Gaming Association and leading tribes.

"We believe that these gaming projects help tribes to fulfill essential governmental functions by providing education, health care, housing, senior care and other key programs," Duro said. "Those are basic governmental obligations that could be impacted by this decision." A tribal spokesman said the tribe hadn't decided whether to appeal.

Jack Gribbon, political director for Unite Here in California, said the ruling came down on the side of "workers who are the engine behind the extremely lucrative tribal gaming industry."

If the ruling stands and tribes don't come to the table, "it creates the opportunity for a major clash, for disputes and unrest and picketing and striking," Gribbon said.

The appeals court said San Manuel read too much into the fact that the 1988 Indian Gaming Regulatory Act permits tribes and states to regulate Indian casinos. "It is a considerable leap from that bare fact to the conclusion that Congress intended federal agencies to have no role in regulating employment issues that arise in the context of tribal gaming," said the 23-page order.

Also on the appeals panel were Judges Stephen F. Williams and Merrick B. Garland.

Here's an edited copy of an email from Joel Rose of Citizens Against Casino Gambling in Erie County.

Joel S. Rose Sent: Friday, January 12, 2007 5:04 PM
Subject: CACGEC et al.: a victory in court! party time!

Folks,

We took a major step forward earlier today with a favorable ruling in Federal Court in Buffalo.

On our Motion for Summary Judgment, United States District Judge William M. Skretny ruled in favor of our claim that the determination of the sovereign status of the Buffalo Creek parcel by the National Indian gaming Commission was a necessary precondition for Federal approval of the Senecas' tribal gaming ordinance. It never happened, and therefore the Judge vacated the ordinance and remanded the matter back to the NIGC.

So, as of the moment, casino gambling cannot be conducted in the Buffalo Creek parcel.

As I'm sure you realize, this does not end the matter. Right now, several things could happen. The government could appeal the Judge's ruling. Otherwise, the NIGC will need to make a determination as to the sovereign status of the land in question. But this time, they will do so in the full light of day, under intense legal and, one hopes, media scrutiny, and at a time when the national mood has turned against off-reservation casinos.

We hope the NIGC will affirm the contention of the plaintiffs that the land in question does not meet the tests spelled out in the Salamanca Settlement Act of 1990 for being designated as sovereign Indian land, and that in any case, it does not meet the test spelled out in the Indian Gaming Regulatory Act of 1988 for authorization to conduct casino gambling, because it was acquired after 1988 and was not obtained as part of a settlement of a land dispute. Note that the Salamanca Settlement Act addressed a lease dispute; the ownership of the land was never a matter of dispute.

We do not know how the NIGC will rule, although the law would certainly seem to be on our side. If the ruling does go against us, we will be back in Federal Court to challenge it

on the same grounds put forward in our Motion for Summary Judgment. If the ruling is favorable, I can well imagine that the Seneca Nation may attempt to challenge it, so we could be back in court regardless.

Judge Skretny's order addressed some other issues. He allowed the Seneca Nation to file an amicus brief, but denied its claim to be a necessary party to the dispute, ruling that the Nation's interests are represented by the Federal Government.

Judges generally like to decide cases on the narrowest grounds possible, and in keeping with this tradition Judge Skretny dismissed some of our other claims on the grounds that they were premature. But of course, if the NIGC ruling is unfavorable, these issues will no longer be premature, and we will no doubt be pursuing those same claims once again.

Now, there is undoubtedly a political dimension to the NIGC decision-making process. In the course of the next few days, I will attempt to learn whether letters or other communications to the NIGC would be appropriate and helpful, and if so, where they should be sent. Please stay tuned.

But I'm getting ahead of where we are right now, and in terms of the legal interpretation of the decision, way over my head. If you'd like to know more, you can read the decision at

<http://nocasinoerie.org/other/SummaryJudgment/DecisionAndOrder20070112.pdf>

(The site is down at the moment, but keep trying). If you STILL want to know more, contact me and I'll put you in touch with one of our attorneys.

But for now, I'd like to express my appreciation to all of you for your persistence and enthusiasm in this long fight. And a special thanks to our hard-working and, if I am any judge, brilliant attorneys, and to all the folks who stepped forward as plaintiffs.

Our fight is not over, but we have won a major victory. It's time to remind the folks in our community who said it was a done deal that it's still our city, and it's not over until we say it's over.

Regards,
Joel Rose, co-Chairperson

OneidaDispatch.com

NATION TURNS AWAY COUNTY PUMP INSPECTORS

By LEEANNE ROOT, Dispatch Staff Ariter

WAMPSVILLE (New York)-

Managers of an Oneida Indian Nation owned SavOn gas station refused to let Madison County Weights and Measures inspectors inspect gasoline pumps Friday.

In a letter addressed to county Weights and Measures Director William Wilcox, OIN Commissioner of Public Safety Arthur Pierce said he was "astonished" that the "inspectors appeared unannounced".

"This unnecessary tactic undermines the government-to-government cooperative relations that Madison County has claimed publicly that it wishes to pursue," Pierce wrote. "It shows a desire to inflame the public at a time when the Nation has shown its willingness to enter into municipal compacts to resolve these issues."

A statement released by the county said the inspectors were simply following state law to inspect the SavOn pumps in the same manner as gas stations throughout the county.

Managers of the SavOn consulted superiors over the phone before telling the inspectors that they could not inspect the pumps because of sovereignty issues.

The county then cited the 2005 decision in City of Sherrill v. Oneida Indian Nation of New York that states the OIN hasn't sovereignty over land other than the tribe's 32-acre territory.

When contacted by The Dispatch Friday afternoon, county officials hadn't seen the letter; the newspaper faxed it to them.

In response, the county issued a written statement declaring that the letter is "replete with untruths and is a blatant attempt to orchestrate the very conflict and controversy the author professes to deplore."

County Attorney John Campanie said the statement was not the opinion of any one person, but reflects the opinion of the county.

It takes issue with the Nation's release of its letter to the news media before it had been received by the county.

"The county, upon being denied the ability to complete the inspections required by law, rather than putting out a press release announcing the fact... directed counsel to prepare a letter to the OIN addressing the problem," the statement continues.

In its statement the county says that the OIN is precluded "...from unilaterally reviving its ancient sovereignty, in whole or in part, over the parcels at issue. The Oneidas long ago relinquished governmental reins and cannot regain them through open-market purchases from current titleholders."

Pierce said that the Nation has offered to cooperate with the county by paying an independent third-party inspector acceptable to both parties to check its fuel pumps.

He said that even though the county has refused the Nation's offer he invites the county inspectors to conduct "legitimate, non-discriminatory inspections."

"This is the same invitation I would have given if you had simply called or visited me to talk about the matter. I will be present to oversee the inspection," Pierce stated in the letter to Wilcox. "We want the general public to be completely satisfied about the accuracy of our pumps. There is no need to manufacture conflict for political purposes."

Pierce states in his letter that the Nation imposes standards that exceed those of the county and has its fuel pumps inspected more frequently than is required by the county.

"Using a certified independent inspector would remove the possibility of political harassment or personal vendettas by county leaders through their officials," he wrote in his letter.

The county's statement did not mention the possibility of an independent inspector.

"It defies both common sense and the law to leave control of the regulations to those who are to be regulated," according to the county's statement. "Madison County is committed to fulfilling its statutory duty, which includes the inspection of devices and facilities to assure the public is protected."

<http://www.oneidadispatch.com/site/news.cfm?newsid=17736355>

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SENATOR ALEXANDER OPPOSES NATIVE HAWAIIAN LEGISLATION

Press release and floor speech by U.S. Senator Lamar Alexander (R, TN) opposing the Akaka bill.
<http://www.alexander.senate.gov/>

January 17th, 2007 - WASHINGTON, D.C. –

Senator Lamar Alexander (R-TN), responding to the reintroduction of the Native Hawaiian Reorganization Act by Senator Daniel Akaka (D-HI), announced his opposition and placed the following statement in the Congressional Record:

On the Introduction of the Native Hawaiian Reorganization Act

Mr. ALEXANDER.

Mr. President, today the Senator from Hawaii reintroduced the Native Hawaiian Reorganization Act, a bill that would create a new, race-based government within the borders of the United States. I strongly oppose this bill. This legislation was considered and rejected by the Senate last year; we ought not waste one moment of the Senate's time on it this year. Instead, we should consider legislation that unites us all as Americans. Our nation must remain 'one nation, under God, indivisible, with liberty and justice for all' - not many nations, divided by race, with special privileges for some. Here are four reasons this bill should be stopped in its tracks:

1. It would create a new, sovereign government within our borders.
2. As noted by the U.S. Civil Rights Commission, the bill "would discriminate on the basis of race or national origin."
3. The bill is really about transferring control over "land" and "other assets" to this new, race-based government.
4. Native Hawaiians are not just "another Indian tribe" since they do not meet the requirements under current law of being sovereign for the last 100 years, living as a separate and distinct community, and having a preexisting political organization.

I hope my colleagues will join me in opposing this dangerous piece of legislation.

A PERNICIOUS PERVERSION OF THE LAW

Former Rep. John LaFalce blasted the federal government's rationale for a casino in Buffalo as a "perversion of the law" and predicted Monday that a federal court will eventually agree.

LaFalce made his comments as he announced a leadership role with Citizens for a Better Buffalo, an anti-casino organization. The Seneca Nation of Indians is planning a casino on a 9-acre site near the downtown Cobblestone District.

"I'm doing this because I consider what the Interior Department has done, and the Seneca Nation has done, to be a very pernicious perversion of the law, and it cannot stand," LaFalce said.

"I think this is an open-and-shut case. I do not think we will see casino gambling in Buffalo."

The Baird Foundation also announced it is pledging financial support for the anti-casino efforts, joining an earlier decision by the Margaret L. Wendt Foundation.

"The Baird Foundation seeks to identify and support initiatives that improve quality of life in our community; a casino is not consistent with this goal," the foundation said in a statement.

LaFalce and then-Rep. Amo Houghton, R-Corning, were co-authors of the Seneca Nation Settlement Act of 1990 to right a wrong over a lease claim in Salamanca. LaFalce said neither of them ever dreamed the law would later be used to promote gambling in Buffalo.

"We never contemplated the lease claims of the Senecas, which we felt were very valid, would be used to promote casino gambling in the heart of the second-largest city of New York. I think it's ludicrous to make that suggestion or interpretation."

The Settlement Act is one of three laws the lawsuit, filed by the citizens group in January 2006 in U.S. District Court, claims were improperly applied.

In 2002, then-Interior Secretary Gale Norton said the Settlement Act prevented her from rejecting the Senecas' casino deal with the state. The casino was allowed under terms of the Indian Gambling Regulatory Act, but LaFalce

believes Norton's refusal to take action will make it easier for the court to challenge the ruling.

"It was a nondecision result. Since [Norton] punted, the court owes little to no deference whatsoever," LaFalce said.

LaFalce cited congressional testimony in September by the department's inspector general, Earl DeVaney, as supporting the department's legacy of incompetence and corruption under Norton's stewardship. The inspector general painted a picture of gross managerial irresponsibility and lack of accountability.

"Simply stated, short of a crime, anything goes in the highest levels of the Department of the Interior," DeVaney said. He cited "complex efforts to hide the true nature of agreements with outside parties [and] intricate deviations from statutory, regulatory and policy requirements to reach a predetermined end."

HeraldNet

The Herald - Everett, Wash. - www.HeraldNet.com February 4, 2007

PROTESTS STALL PUSH FOR TRIBAL TAX BREAK

By Jerry Cornfield, Herald Columnist

Legislation allowing American Indian tribes to stop paying taxes on property they own and buy outside reservation boundaries caused quite a stir this week.

And the stirring is not over yet.

Tribes are seeking the same tax exemption applied to land bought by cities, counties, fire districts and public schools.

It's an issue of equality. Governments don't tax governments and the 29 federally recognized tribes in the state are recognized governments, say tribal leaders, lobbyists and legislators.

Bills to make the change were introduced with little notice by Sen. Margarita Prentice, D-Renton, and Rep. Steve Conway, D-Tacoma.

But when Prentice scheduled a hearing on Senate Bill 5500 last Wednesday in the Ways and Means Committee that she runs, a small firestorm broke out.

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County officials expressed their worry of losing tax dollars. Citizens e-mailed their frets about tribes snatching up prime properties.

All the questions and emotion led Prentice to cancel the hearing.

“When it was presented to me it seemed very narrow in scope and now it is clear it is much more complicated and far-reaching. I just don’t see it getting done in 105 days,” she said Wednesday.

Its fate is not sealed. A House hearing is very possible and would spotlight opponents’ concerns.

Money is one. This law would exempt from taxation hundreds of parcels worth an estimated \$224 million and shift the burden of making up those tax dollars onto the shoulders of other landowners. The total includes nearly \$6 million worth of Snohomish County land owned by the Tulalip Tribes and the Stillaguamish Tribe.

Fairness is another. Kim Halvorson of Priest Point, who’s tried to unseat Rep. John McCoy, D-Tulalip, the last two elections, said taxpayer rights are not protected.

When a city buys land, the public can hold elected leaders accountable for its use. She said this bill does nothing to ensure the public has a say on use of land acquired by a tribe. This could prompt a spree of acquisitions of high-value land, she said.

The Bulletin

Tribal Casinos: No Tax Relief, Destroy Neighborhoods
By: JENNY DeHUFF, The Bulletin
02/06/2007

Philadelphia - By merely mentioning the word “bankrupt,” a quiet Old St. Joseph’s Church basement stirred with displeasure at the thought of Foxwoods and Sugarhouse gorging itself with Philadelphia’s money. Author Jeff Benedict was responsible for the murmuring.

He is an award-winning investigative journalist, lawyer and author of seven books, including *Without Reservation: How a Controversial Indian Tribe Rose to Power and Built the World’s Largest Casino*, which focus on exposing injustices and travesties of social issues in the public eye. He believes

businesses and individuals are going bankrupt all over the U.S. because of (tribal) gambling. Old St. Joseph’s Church opened up to members of the public last night at Casino-Free Philadelphia’s welcoming of Benedict, who shared his experiences of the impact on communities.

Among his most upsetting news was the lack of property and wage tax relief that has been promised to residents by casino-backing legislators. Benedict said, forget it.

“Unless Philadelphia tribal casinos do something that has never been done before, your legislators will wipe their hands and give you a sad excuse as to why you won’t see tax relief. There will be no new tax revenue,” he said.

Instead of generating new money for tax relief, Benedict said tribal casinos will take money from surrounding competing businesses, and rather than bringing more money into the city, other areas of commerce would take the hit. He gave an example of the service industry.

Restaurant owners and retail shops would be at risk of losing business because casino complexes will offer it all at a lot less, he said. ... tribal casinos would suck dining, drinking and entertainment spending from local businesses and would funnel it right into the casino.

Benedict is past president of the Connecticut Alliance Against Casino Expansion, Inc., a statewide nonprofit organization that squashed the expansion plans of owners of Foxwoods Resort Casino in the Connecticut area. Comprised of civic, religious and business leaders from Connecticut, the alliance was successful in halting additional casino development in the Connecticut backwoods, and led efforts to get a bill through the legislature banning such projects.

Casino-Free Philadelphia has been distributing a petition asking for a buffer zone between casinos and nearby neighborhoods for the past few weeks. The petition calls for a charter change, whereby the city would refuse to zone any casinos within 1,500 feet of any residential neighborhood.

“We are working day and night to recruit new volunteers, ...” Heiko said. “If hundreds maintain opposition, we can defeat both casinos.”

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As a County Official, we have a fiduciary responsibility to our entire constituency. When you begin the transfer of wealth from taxpaying entities, to non-taxpaying entities, your ability to provide county services (like police, fire, sanitation, roads) is greatly diminished. We must continue to speak out against this taking of lands from fee-to-trust for casino development.

Wally Leimgruber, Imperial County (California) Supervisor

CALIFORNIA: BALLOT WINS

In the town of Cloverdale city council candidates who strongly opposed expansion of tax-free tribal businesses were elected on November 7, 2006, ousting two incumbents in the process. Joe Palla, Carol Russell, and incumbent Bob Jehn are the new city council majority for Cloverdale, which is facing two tribal casinos. This shift in power will help the efforts of No Cloverdale Casino, the local grassroots pro-community group.

The City of Rohnert Park ousted one of the chief architects of the Rohnert Park tribal casino project, 18 year incumbent Armando Flores, and put Pam Stafford, who held opposing views, in his place. Flores himself acknowledged the role of the casino in his defeat. He and his fellow Council members ignored the letters to City Hall that ran 20 to 1 against the tribal casino, opting instead to enter into an agreement with the Graton Rancheria without allowing Rohnert Park residents to vote on the issue.

Petaluma's Measure H, passed by a staggering 13,102 to 3,539. The measure was authored by Petaluma Councilman Mike Healy, in response to the fact that the Dry Creek Band of Pomo Indians - - who currently operate the County's only casino - - submitted an application to have several acres of land near Petaluma taken into trust for gambling purposes.

State Assemblyman Jared Huffman, who now represents the district that includes Petaluma and Rohnert Park, has vowed to fight the proposed Indian casinos. ONU member group "Stop the Casino 101" is in a much stronger position than they were, with ever-growing opposition to these tribal

projects. These election results dispel the myth that being opposed to tribal casinos is the kiss of death in politics.

The majority of citizens have decided that, whatever their wish for the well being of Native Americans may be, it doesn't include having tribes' impose huge Las Vegas-style, tax-exempt casinos on local communities.

My apologies to Mr. Walter Olson of The Manhattan Institute and Mr. Mike Hardiman of Hardiman Consulting for getting their pictures confused in the January 2007 Newsletter. I ran Mr. Hardiman's photo with the quote from Mr. Olson. Here's the corrected quote and photo from Mr Olson. Vic Lindsay

“For the most part, the law schools and elite circles within the legal profession generally have been sympathetic toward tribal land claims, and this stance has persisted even as the injustice and destructiveness of that litigation has become obvious to the rest of us. One reason, I think, is that they think of themselves as siding with the underdog — which is not really a good way to figure out who's right and who's wrong in legal controversies, especially since yesterday's underdog so often emerges as today's overdog.”



Walter Olson of The Manhattan Institute, speaking at the One Nation United Leadership Conference on Nov. 13, 2006

YAKAMAS WILL LOSE CIGARETTE DEAL

The Associated Press Published: February 9th, 2007

State officials say they intend to terminate a cigarette tax agreement with the Yakama Indian Nation because the tribe has failed to adhere to the compact. The state Department of Revenue is taking the action after finding that cigarettes continued to be sold on the reservation without valid tribal tax stamps, in violation of the agreement, Director Cindi Holmstrom said in a news release Thursday.

Under terms of the agreement in effect since November 2004, the tribe was to impose its own cigarette tax in lieu of state tax on cigarettes sold to non-Indians. The tribal tax was to begin at 80 percent of the state tax and increase to 100 percent over three years.

Under federal law, cigarettes sold to Indians on tribal land are not subject to the tax, but cigarettes sold to non-Indians are supposed to be taxed fully.

Once the Yakama compact is terminated, sales of cigarettes without state stamps to non-Indians will again be considered contraband sales subject to state and federal enforcement.

“We regret that we have no other choice than to initiate termination proceedings,” Holmstrom said. “It’s clear to us that the tribe has struggled with working within the regulatory framework established by the agreement.”

Executive members of the Yakama tribe were in meetings Thursday and did not immediately return telephone calls for comment.

Under the agreement, the tribe was allowed to keep all the revenues generated from the tax, and the state considered purchases of tribally stamped cigarettes by non-Indians to be legitimate.

Similar agreements have been signed with 17 other tribes, while the Puyallup tribe signed a separate agreement that permitted a lower tax rate in return for sharing some of its profits with the state. Similar agreements are pending with several other tribes.

Under the agreement, the tribe can request a mediator to review the basis of the termination.

The department will notify the federal Bureau of Alcohol, Tobacco, Firearms and Explosives and the state Liquor Control Board, which enforce federal and state cigarette tax laws.

Holmstrom said the Yakamas might need a compact similar to one negotiated with the Puyallup tribe, as both tribes have smokeshops owned by tribal members, not the tribe.

Revenue sharing and a lower tax rate were trade-offs that protected the state’s interest while meeting the Puyallup tribe’s needs, she said.

“We stand ready to work with the tribe to develop a workable agreement,” Holmstrom said.

“Our goal is to resolve this issue on a government-to-government basis rather than through enforcement and confrontation,” she said. “We hope we can achieve that.”

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Excerpt from speech by Tom Grey, National Spokesman for The National Coalition Against Gambling Expansion (NCAGE) at the 7th Annual Commercial Real Estate Deal Maker Forum in Cleveland, Ohio, on October 24, 2006:

“Did anyone here notice that ALL of the corrupt activities of Washington lobbyist Jack Abramoff were directly related to (tribal) gambling?”

The money came from tribal gambling. Right here in Ohio the 18th Congressional District’s Congressman pleaded guilty in that scandal. Bob Ney was planting testimony into the Congressional Record to support Jack Abramoff’s scam... That hardly qualifies as good will and better friendships... The Agua Caliente Tribe in California just gave their COUNTY Republican Party \$450,000.

They openly admit they did that to defeat candidates who opposed their casino expansions. That’s not the way to build clean politics and civic friendships. Are you sure you want that kind of pressure influencing your elections?”