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Charles Trimble: Sovereignty for rent with payday loan business

MONDAY, MARCH 14, 2011

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I don't recall what Nevada tribe it was in the early 1970s that had submitted a proposal to the BIA for financial assistance to buy a bordello. The prospective business was a place akin to the infamous Chicken Ranch that inspired creation of the book and hit Broadway production "Best Little Whorehouse in Texas."

With the possible exception of some of the "civilized" tribes in the Bible belt, Indian Country was not scandalized about the prospect. At any rate, the blue-nosed bureaucrats at BIA declined the proposal.

The tribal Chicken Ranch business would not have caused too great a stir because it would have been legal in Nevada; and, paraphrasing the ad, "what happens in Nevada stays in Nevada."

But a new questionable prospect that concerns me these days involves some tribes that are engaged with loan sharks in check cashing and usurious lending businesses, allowing those non Native sleaze bags to circumvent state laws.

According to a NPR report, the states of California, New Mexico, West Virginia and Colorado, are in legal fights with Internet-based payday lenders who argue that they are immune from regulation because they are tribal enterprises. They flaunt sovereign immunity, although there are questions as to whether they are really in the ownership and control of their host tribes.

The question is are they merely renting immunity from the sovereign tribes that claim them as tribal businesses? If so, it is rotten to the core and taints and weakens the sovereignty of all tribes. Even if the tribes really do own the businesses, it still stinks. It's like having a pimp in the family; he shames everyone, but you can't disown him because he is family.

I'm not a blue-nosed bureaucrat, and I do understand sovereignty and the right of tribes to exercise it. And I do understand the poverty and powerlessness that tribes have endured over the past centuries. And I understand that now they are empowered – by their own confidence, mainly – to use their powers and immunities, they try by any means possible to make up for much time lost in poverty and powerlessness. And if they want to use their powers and immunities in reckless pursuit of money, it is the tribes' business and no outside interest can tell them what not to do. I respect that.

Nevertheless, this type of business is fodder for those forces that still argue that tribes are not up to the standards of discipline and law for sovereignty and self-governance. Instead they are seen by many as havens of corruption and lawlessness, and fronts for sleazy businesses. These are the things that could feed a backlash; and as I have written before, even if our sovereignty is secure, those forces could make it most difficult to exercise it for the good of our people.

For example, anti-tribal forces could push Congress to just extend the Indian Gaming Regulatory Act's requirement for state-tribal compacts for other non-gaming businesses. Or ultra-conservative budget cutters could use the excuse of not wanting to promote state law circumvention by subsidizing the payday lenders through the tribes.

In my keynote address to the National Congress of American Indians annual convention three years ago, I noted that NCAI should serve as "a family of nations" in which the tribes can talk candidly about sovereignty, for example: What it is and what it can be. And I noted "There is great

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dignity in sovereignty, and great discipline is needed for its preservation. The powers of sovereignty could bring arrogance and overconfidence on the part of our leaders, especially when they are promised great wealth by outside lawyers who want to use them. And sometimes, pursuant to greed, the envelope of sovereignty can be pushed to the limits of its destruction. These are things that can be broached, discussed, and perhaps even controlled in a family setting."

The dignity and decorum of tribal sovereignty should be carefully nurtured in the public eye.

There can be another anti-tribal backlash, and although our sovereignty will likely prevail ultimately, the fight can be very costly, in terms of policy, economies and rights of the tribes.

Charles "Chuck" Trimble, was born and raised on the Pine Ridge Indian Reservation, and is a member of the Oglala Lakota Nation. He was principal founder of the American Indian Press Association in 1970, and served as Executive Director of the National Congress of American Indians from 1972-1978. He is retired and lives in Omaha, NE. He can be contacted at cchuktrim@aol.com and his website is www.iktomisweb.com.

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