

Sales tax vs. Indian sovereignty

By Maureen Nolan
Syracuse Post-Standard

SYRACUSE, N.Y. — Dueling protests crossed paths peacefully Saturday afternoon outside the Cayuga Indian Nation’s LakeSide Trading gas station in the town of Seneca Falls.

A motorcade organized by the Cayuga-Seneca Chapter of Upstate Citizens for Equality, was staged to push Gov. David Paterson to collect sales tax from Native American businesses. The motorcade drove past Lake-Side Trading where, in response, the Cayugas offered \$10 in free gas Saturday morning and hosted a counterdemonstration in support of Indian sovereignty.

The motorcade assembled in a field on Route 414. By 9 a.m., dozens of vehicles, many flying the U.S. flag, were lined up and ready to go. More pulled in by the minute, and by 10 a.m., when the motorcade hit the road, the Seneca County Sheriff’s Office said about 250 vehicles were in line.

Celebrating the day

“Come on, baby. It’s a great day for America,” said Rich Ricci, as he waved in cars and trucks. Patriotic music blasted from his nearby vehicle.

Organizer Brad Jones said the motorcade was a protest against Paterson’s failure to enforce a state law that requires the collection of sales tax from native businesses.

“We want him to enforce the law on the books and start collecting the sales tax,” Jones said. “(It’s) long overdue, especially with the deficit that we not only currently have but in the upcoming years.”

Tax free

UCE, which has a sister chapter in Madison and Oneida counties, has long opposed Indian businesses not paying state sales tax. The Cayugas sell tax-free cigarettes at their two stores the other is in Union Springs. The Oneida Indian Nation also sells cigarettes at its 12 stores in Madison and Oneida counties and does not collect sales tax on them for the state.

By the time the caravan wound through Seneca Falls and doubled back to Lake-Side Trading, the gas giveaway was over and Cayuga supporters were lined up along the road with signs.

A man offered a prayer of Thanksgiving, in the Mohawk language, a few minutes before the motorcade appeared.

Supporting protest

The crowd, which included many Senecas and Mohawks, numbered close to 200, based on a rough head count. Connie McAninch, a Cayuga who lives on the Tuscarora reservation, was there with her three children to support the Cayugas’ claim to their ancestral home.

“I wanted to bring my kids so they understand what’s going on. And their children, my grandchildren,” McAninch said.

Clint Halftown, the Cayugas’ federally recognized representative, said the nation organized Saturday’s actions after five years of UCE opposition to its economic development efforts.

“For five years, we have done nothing, and so you know, you get to the point where you’ve had enough,” Halftown said.

Jones said UCE’s issue is strictly equality and fair enforcement of state law, and “isn’t anything to do with LakeSide” or tribal enterprise by the Cayuga nation.

“This is strictly a message to our Governor Paterson,” he said.

Age-old tribal practice battles modern threat

Brian Peterson
Minneapolis Star Tribune

ONAMIA, Minn. — Fed up with a recent spate of chronic lawlessness, tribal lawyers for the Mille Lacs Band of Ojibwe are turning to a tool both new and ancient to rid their community of troublemakers.

Four band members were recently banished from the reservation -- excluded for five years based on myriad assaults and weapons violations.

Such punishment was at one time essentially a death sentence. Those ostracized were either left to the whims of enemy tribes or, more likely, starved or froze alone without the help of their community. The modern-day version, formally called exclusion, is less harsh.

For example, an excluded member is still entitled to the \$7,000 yearly share of Grand Casino gambling profits -- as long as the deposit is done automatically or a relative picks up the checks, because the excluded can’t set foot on the reservation and can be held in contempt or charged in state court with trespass for trying.

The four newly banished members can request reinstatement in 2013 if

they remain law-abiding and can show they’ve been working regularly.

“It’s an extreme way to deal with a problem and a little bit rare,” said Solicitor General Rjay Brunkow, the top lawyer for the Mille Lacs Band of 4,000 members, about 100 miles north of the Twin Cities.

“I think you’re going to see it more and more as gangs and criminal elements start to make their way on to the reservations, especially those closer to metro areas.”

Still rare in Minnesota

Six of Minnesota’s 11 tribal bands have banishment provisions on their books. The Grand Portage Band of Ojibwe on Lake Superior brought back the old practice five years ago. About 40 people met to discuss possible banishments in serious criminal cases recently at the Fond du Lac Reservation in Cloquet. And the Bois Forte Band of Ojibwe in northern Minnesota has banished a few people, including a non-Indian accused of bringing drugs on the reservation in 2003.

Banishment laws cover band members and other residents of the

lands under tribal jurisdiction, one of the few rights tribes have over non-Indians.

“Someone has to be a threat to the entire community and if they cross that line and the community says we’ve had enough, it’s a process we can use,” Grand Portage Chairman Norman Deschampe said.

Tribes in Canada, Arizona, New York and Washington state also have turned to the old practice in recent years.

Several California banishment cases have included stripping members from tribal rolls, often for political reasons, according to David Wilkins, a University of Minnesota professor of American Indian studies.

He said the Mille Lacs cases, which allow excluded members a chance to return, is more in keeping with one of the world’s oldest constitutions, created by the Iroquois around 1400.

“If you rectify your ways, it allows you to come back in,” Wilkins said.

A last-resort option

Federal government limits on tribal courts -- which can only levy fines

or hold an offender in jail for a year -- prompted Mille Lacs to resort to the banishments last month. Two more cases are pending, and tribal lawyers say they’re posed to proceed with more cases if the violent outbursts continue.

“Our only option is to remove them from the community by keeping them off the reservation,” Brunkow said. “We are left with banishment or exclusion as the sole means of dealing with individuals where one year in jail is not enough.”

Three of the Mille Lacs members excluded last month -- Patrick Provo Jr., 24; Benjamin Garbow, 27, and Zachary Nayquonabe, 20 -- were accused of stopping cars July 8 and holding drivers at gunpoint.

“That was the straw that broke the camel’s back,” Brunkow said.

They also are accused of other assaults and weapons violations. Nicholas R. Benjamin, 25, the fourth man banished, is already locked up at the Stillwater state prison for assault, but is due out next year. He’s accused of firing a gun at a house in 2006, assaulting a juvenile in 2007 and other offenses. None of those four attended the banishment hearings.

La Center responds to Cowlitz tribe offer

By Jeffrey Mize
The Columbian

VANCOUVER, Wash. — A sketch shows the proposed Cowlitz casino resort near La Center. The federal government says the Cowlitz Indian Tribe needs to compensate La Center for projected losses to the city’s gambling revenue.

But attorneys for both the city and the tribe say the federal government has no way to compel payment without a La Center-Cowlitz agreement covering the tribe’s proposed casino complex along Interstate 5.

The city’s yes-no dance with the tribe continued this week when Mayor Jim Irish sent Cowlitz Chairman Bill Iyall a five-page letter pointing out deficiencies the city sees in the proposed agreement the tribe offered two-and-a-half years ago.

The tribe’s proposal, presented in February 2006, includes an offer to compensate La Center up to \$3 million annually for 10 years for lost gambling taxes from its four nontribal cardrooms.

Irish’s response included a revised version of the proposal the tribe submitted reflecting changes the city wants. Despite what appears to be a legitimate counteroffer, three members of the five-person city council insist they aren’t ready to negotiate.

“The majority of the council has said that’s not what we wanted to do,” Councilman Troy Van Dinter said. “We are giving a response to their offer.”

Van Dinter, along with Bob Smith and Linda Tracy, has repeatedly shunned overtures to negotiate a formal agreement, often referred to as a memorandum of understanding, with the tribe.

Earlier this year, the three rejected placing an advisory measure before La Center voters to find out if they favor negotiations. That council majority opposing negotiations appears to be solidly intact.

“This is not any way, shape or form a counteroffer to what the Cowlitz Tribe put forth to us several years ago,” Smith said. “This may shed some

light on Mayor Irish’s agenda, but it doesn’t reflect what the council’s position is.”

“For whatever reason,” Tracy said, “the final product that went out to the tribe wasn’t what the city council thought they were getting.”

“If you put that amount of information in there, it begs a response,” she said. “That, to me, smacks of a negotiation. ... The city is not negotiating.”

Irish’s letter makes it clear the city continues to oppose the casino because of its projected effect on city revenues.

In 2007, La Center collected \$3.48 million from its 10 percent gambling tax. ECONorthwest, a Portland consulting firm that has done work for both La Center and its cardrooms, predicted two years ago that city gambling taxes would drop by 66 percent if the Cowlitz build a 134,150-square-foot casino as planned.

Although the mayor’s letter and revised agreement doesn’t say La Center is ready to negotiate, it does provide a series of suggested changes, including:

- Increasing the tribe’s revenue guarantee to \$3.5 million annually and stipulating that it will remain in force as long as the Cowlitz casino operates.
- Allowing the guarantee to be reduced only if there were changes to state, county or city laws affecting the cardrooms or reductions in the city’s gambling tax rate.
- Requiring the tribe to pay the entire cost for a feasibility study to extend sewer service to the casino site.

Phil Harju, the Cowlitz Tribe’s vice chairman and spokesman, said the tribe hasn’t had time to review Irish’s letter and revised agreement, but the tribe remains willing to have government-to-government discussions with La Center.

Irish said his hope is the tribe will improve its offer, thereby winning a necessary third city council vote.

“I don’t think that Bob Smith will change his mind,” Irish said. “I’m not sure, but I don’t think Troy will, either. But maybe Linda will look at reason and change her mind, if things change.”

Indian gaming



Associated Press

The Wind Creek Casino and Resort, a development effort by the Poarch Band of Creek Indians aimed at drawing tourists and boosting the area’s economy, is shown under construction, on July 25, in Atmore, Ala. The 17-story casino hotel rises above the interchange of Interstate 65 and Alabama Highway 21, taller than any building between Montgomery and Mobile along the north-south corridor.

Federal judge orders Shinnecocks’ case reviewed

By Mitchell Freedman
Newsday

NEW YORK — A federal judge has ruled that the Shinnecocks’ claim that the federal Department of Interior has “unreasonably delayed” making a decision on whether they should be a federally recognized tribe should be reviewed in court.

Eastern District Judge Joseph F. Bianco set a conference for Tuesday with attorneys for the tribe and for the federal government to deter-

mine how the tribe’s claim of unreasonable delay should be pursued.

Beverly Jensen, a spokeswoman for the tribe, said there would be no immediate comment on the court ruling.

The tribe, which has a 750-acre reservation in Southampton, sued the Department of Interior in 2006, arguing both that its rights were violated because of the delay and also that it should immediately be recognized by the federal government because of those delays.

Bianco dismissed other claims by the tribe that the federal government had violated its constitutional rights in failing to add the Shinnecock tribe to the list of federally recognized tribes.

The Shinnecocks were recognized as a tribe by New York State in 2005 but need federal recognition to qualify for a number of programs, including economic assistance and health care aid that is provided through a \$6-billion fund allocated to federally recognized tribes each year. The Shin-

necock tribe also needs federal recognition to move ahead on its planned casino.

In 2005, responding to decades of complaints in Congress about delays in the federal recognition process, a federal Government Accountability Office official testified before Congress that the Bureau of Indian Affairs tribal recognition process was “hampered by limited resources, a lack of time frames and ineffective procedures” and was building a growing backlog of completed applications to review.

Robin Nazzaro, director of Natural Resources and Environment for the GAO, testified that in 2001 the bureau estimated it would take 15 years just to review all the completed petitions it had on file.

In February 2005, the Bureau of Indian Affairs had seven petitions for recognition in active consideration and 12 more waiting for active consideration. Eight of those 12 had been waiting for seven years or more, and the other four had been ready and waiting since 2003, Nazzaro testified.