

| Sections and Divisions |

Government Contracts Section

Rep. Tom Davis (R-Va.), ranking member on the House Government Reform Committee, addressed members of the Government Contracts Section at the most recent installment of the Procurement Policy Leader Luncheon Series on May 15 in Washington, D.C. Davis spoke about critical federal procurement issues and discussed what a change in control of Congress would mean from the perspective of government contracts. According to Davis, many Republicans address potential procurement laws with anecdotal reforms based on incidents occurring in their districts, but with Democrats in charge, the focus is shifting toward the concerns of unions and those opposing the war. He also mentioned his own priority: the contracting workforce, which he considers the major problem. Among other policies, he supports “share in savings” contracts, which he found to be effective when he was a leader in the local government of Fairfax County, Va. He is also in favor of a transitional phase after a business outgrows small business set-aside contracting programs. Rep. Davis spent most of his visit taking questions from the audience. He addressed FBA members’ concerns about federal contract issues involving

small businesses, set-aside contracts for Alaska natives, Halliburton, the Base Realignment and Closure Commission, security clearances, consolidation of the Contract Appeals Board, bureaucracy in contracting, acquisition of services, and the idea of letting contract law stand still for a period of time and allowing the community to adjust to it before making additional changes. Lanmark Technology Inc. and International Development and Resources Inc. co-sponsored the event with the Government Contracts Section.

Indian Law Section

On April 19–20, the Indian Law Section held its 32nd Annual Indian Law Conference in Albuquerque, N.M. In terms of attendance, the conference—titled *The Real World: Indian Country*—was the section’s most successful yet, with well over 800 atten-

dees and 40 exhibitors from around the nation participating. FBA President William N. LaForge, Indian Law Section Chair D. Michael McBride III, and the senior chair of the conference, Professor Matthew Fletcher, kicked off the conference with opening remarks, which were followed by eight thought-provoking panel discussions.

Panels focused on timely and cutting-edge topics; titles included: *Federal Issues Impacting Tribal Governance*; *Tribal-State Cooperation and Agree-*

SECTIONS *continued on next page*



Government Contracts Section: At the Procurement Policy Leader Luncheon Series—(l to r) Jeffrey P. Hildebrant, section chair, and Rep. Tom Davis (R-Va.).



Indian Law Section: At the 32nd Annual Indian Law Conference—(left photo, l to r) Jack D. Lockridge, FBA executive director; Miguel R. Rivera, Wal-Mart Stores Inc.; Chief Judge Joseph Martin, Saginaw Chippewa Indian Tribe and National Native American Bar Association president; William LaForge, FBA president; Heather Dawn Thompson, National Native American Bar Association president-elect; and D. Michael McBride, FBA Indian Law Section chair; (right photo, l to r) Chief Judge Joseph Martin; Philip “Sam” Deloria, director of the American Indian Law Center; Vivian Deloria; and Steven Emery, attorney for the Standing Rock Sioux Tribe.

For Example

In my review of *Blind Side* in the May issue (page 58), I wrote that, on some National Football League teams, offensive left tackles are paid even more than the quarterbacks whom they are hired to protect. I can now provide an example. In this year's NFL draft, the Cleveland Browns chose an offensive left tackle (Joe Thomas from Wisconsin) as their third pick and chose a quarterback (Brady Quinn from Notre Dame) as their 22nd pick. It is projected that the tackle will be paid \$51 million over six years, whereas the quarterback will be paid \$8.5 million over five years. TFL

*Jon Sands
Phoenix, Ariz.*

Oliphant Decision

As a criminal public defender for a Native American tribal court, I read with interest the articles written by Hon. Troy A. Eid and Professor Elizabeth Ann Kronk regarding criminal justice reform (March/April 2007 issue of *TFL*).

While both writers advocate the appeal of the *Oliphant* decision, which deprived tribal courts of criminal jurisdiction over non-Indians, they do so for very different reasons. Eid contends that such action would increase support for tribal courts because it would "give non-Indians a far greater stake in the future of Indian country"

and thereby result in an increase in "law enforcement, prosecution, and adjudication resources." It would also, in his opinion, thwart nontribal members from committing their crimes on reservations in an effort to escape prosecution.

In contrast, Professor Kronk advocates a repeal of *Oliphant*, because she believes it would promote tribal sovereignty and self-determination and thus permit tribes to incorporate tribal traditions into their criminal justice systems.

Over the years, I have heard much talk about programs that would integrate tribal traditions into tribal courts. Some programs have been tried, but I have not seen any succeed. Likewise is true for redoubling efforts at law enforcement. In an age when it is generally acknowledged that our traditional criminal justice system is failing, I think Eid's solutions are dubious at best, which essentially advocate a "more of the same" approach.

Experience has shown that high crime rates are associated with poverty, substance abuse, and mental illness, the effects of which cut with equal force across all segments of our society. Thus, a successful criminal justice system addresses such problems. The drug court model, for example, couples requirements of personal responsibility, such as employment and safe housing, with treatment services for substance abuse and mental illness. Such courts show the most

promise of any of the new systems that have been developed to address the sky-rocketing rates of incarceration, and the diversion of limited criminal justice funding would be better spent if diverted into such programs.

Furthermore, while there are apparently instances in which nontribal members who commit crimes against Indians are not as consistently prosecuted as crimes committed off the reservations and against non-Indian victims, it is doubtful that the crime rate will decrease if *Oliphant* is repealed and tribal courts are granted jurisdiction over such cases. I have never perceived that any of my clients, either on or off the reservation, give even the slightest consideration to the particular jurisdiction in which they commit their crimes.

If there is to be a repeal of *Oliphant*, it should be done because the jurisdictional disparity it created is the result of simple racism. However, in light of my experiences, and Troy A. Eid's and Elizabeth Ann Kronk's assertions notwithstanding, I am unconvinced that bringing parity to the jurisdictional double standard created by *Oliphant* will contribute to the effort to alleviate the relatively high crime rates on Indian reservations.

*Ken Nagy
Genesee, Idaho*

SECTIONS *continued from previous page*

ment: Foundational Principles/Legal Basis for Cooperative Agreements; Trust Reform in the 21st Century; Commercial Litigation and Non-Indians in Indian Country; Expanding and Realizing Indigenous Property Rights; Climate Change; Indian Country and the Future; Ethics Panel—Conflicted Out: Federal, Tribal, and Private Lawyers in the Real World of Indian Law; and The Freedmen Cases: Tribal Sovereignty at the Tipping Point.

The Pre-Law Summer Institute

(PLSI) at the University of New Mexico School of Law celebrated its 40th anniversary in conjunction with the conference. For four decades, PLSI has provided a valuable head start to future Native American lawyers by training them on ways to succeed in law school. The Indian Law Section continues to contribute to the program every year. TFL

*Sections and Divisions is compiled by
Kristus Ratliff, FBA manager of sec-*

tions and divisions. Send your information to kratliff@fedbar.org or Sections and Divisions FBA, 2011 Crystal Drive, Ste. 400, Arlington, VA 22202.