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CASINO GAMING ON NATIVE AMERICAN RESERVATIONS:
THE USE OF GAMBLING AS A FORM OF ECONOMIC
DEVELOPMENT
submitted in partial fulfillment of the requirements for the degree of Bachelor of Arts in Liberal Studies in the School for Summer and Continuing Education of Georgetown University has been read and approved.

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Director, Liberal Studies Program

May 1, 1996
Date
CASINO GAMING ON NATIVE AMERICAN RESERVATIONS:
THE USE OF GAMBLING
AS A FORM OF
ECONOMIC DEVELOPMENT

A Thesis
submitted in partial fulfillment of the requirements for the
degree of
Bachelor of Arts in Liberal Studies

By

Heidi K. Rettig

School for Summer and Continuing Education
Georgetown University
Washington, D. C.
May 1, 1996
CASINO GAMING ON NATIVE AMERICAN RESERVATIONS:
The Use of Gambling
As a Form of
Economic Development
Heidi K. Rettig
Mentor: Marsha J. Darling, Ph.D.

ABSTRACT

The chronic underdevelopment on Native American reservations has its root in the sudden cultural changes that occurred following the arrival of Europeans in North America. Indian tribes have suffered greatly from disease, military aggression, forced assimilation, relocation and even genocide. In the years since European arrival, stifling legislation, poor education and social welfare facilities, and lands often infertile for cultivation have created deep poverty on Indian reservations. In an effort to alleviate this poverty, the United States government deregulated casino gambling on Indian reservations in 1988. Since that time, more than 100 Indian tribes have opened casinos on their reservations.

The income generated by Indian casinos has helped gaming tribes make significant changes on the reservation, but has also become a subject of considerable controversy. Opponents of Indian gambling say that the social costs of casinos, crime and "problem gambling", mitigate the economic benefits to Native American reservation communities. Private casino companies are trying to persuade Congress to change special tax provisions of the Indian Gaming Regulatory Act, thereby "leveling the playing field" in the gambling industry and making it "fair" for all the players. If the
pressure from big gambling states and commercial casinos becomes great enough, it is conceivable that Congress could change the Indian Gaming Regulatory Act to protect the states' interests and placing Indian political sovereignty and potential for economic development at risk.

Reservation-based casino gaming is a fairly recent phenomenon, and formal scholarship on the issue is limited. To compensate for these limits, I have utilized an interdisciplinary range of sources focusing on the historical, legal and social issues involved in Indian gaming. Casino gambling's true economic impact on reservation economies, however, is difficult to determine with any accuracy. Unlike commercial casino operations, Indian casinos are not required to provide financial statements to the general public, and some tribes have even been required to sign "secrecy agreements" with certain state governments. Many Indian tribes have published reports highlighting the positive economic impact Indian casinos are having on the local and state communities. While such reports cannot be considered impartial, they do outline the recent improvements in gaming reservations more completely than other sources.
ACKNOWLEDGMENTS

I would not have been able to complete this study without the assistance of many scholars, family and friends. I am truly grateful for their patience and enduring support. I am particularly grateful to Dr. Marsha J. Darling for her thoughtful direction and advice. At last, a special thank you to James. Without your love and encouragement, it might never have been written.
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CHAPTER ONE

THE HISTORICAL ORIGINS OF NATIVE AMERICAN ECONOMIC UNDERDEVELOPMENT

"...Europeans did not find a wilderness here; rather, however involuntarily, they
made one...."¹

---Francis Jennings

The European "discovery" and eventual domination of North America initiated a
physical and cultural decay amongst Native American tribes. To rationalize the cruelty of this
conquest, and affirm their cultural superiority, Europeans constructed a false view of Indians as
an inferior group. The view described Indians as "savages", and was rooted in the European
intolerance for the "otherness" of Native American culture. Calling Indians words like "heathen"
and "savage" made it possible for colonists to overlook their own "un-Christian" behavior toward
native peoples². European pathogens, also making first contact with Native Americans, played a
significant role in the destruction of Indian tribes. The Indians' vulnerability to these new
diseases upheld the white society's beliefs of superiority. Europeans would incorporate the image
of the "savage" into the next three centuries of "Indian Policy".

¹Francis Jennings, The Invasion of America: Indians, Colonialism, and the Cant of Conquest, (Chapel Hill: University
²Delores Bird Carpenter, Early Encounters: Native Americans and Europeans in New England: From the Papers of W.
Disease was the most effective weapon Europeans possessed in the war to conquer the "uncivilized" tribes of the Americas. When Europeans arrived in the New World, they unwittingly hosted pathogens they did not know would be extremely deadly for the indigenous peoples of North America. Although Europeans considered many of these illnesses typically confined to childhood, the impact on Indians was unusually severe. Native Americans had no opportunity to acquire immunity to European pathogens before first contact. North America was a "virgin soil"; the oral history of the Indians did not tell of any illness that even remotely resembled the deadly Smallpox, Diphtheria, Influenza or any others. Europe brought the deadliest of killers to North America: Smallpox, Measles, Typhoid, Bubonic Plague, Cholera, Pleurisy, Scarlet Fever, Diphtheria, Pneumonia, Typhus, Syphilis and Cancroid. Enslaved Africans arriving in North America were likely hosts to Malaria, Yellow Fever and Dysentery. Even into the twentieth century waves of fatal epidemics would revive themselves again and again wreaking havoc on surviving native populations. Russell Thornton estimates there were approximately 93 serious epidemics and pandemics in North America from the early sixteenth century to the twentieth century.

As early as 1634, Measles, Influenza, Bubonic Plague, and Diphtheria had reached epidemic status in the eastern region of North America. The disease most devastating to the North American Indian population was Smallpox, introduced to the continent in approximately 1516 A.D. Measles, the second largest killer was followed by Influenza and Bubonic Plague, tied for third, and Diphtheria, the fourth largest killer of the native population. Diphtheria alone

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3 Thornton, American Indian Holocaust and Survival, 44.
5 Thornton, American Indian Holocaust and Survival, 17.
6 Thornton, American Indian Holocaust and Survival, 11.
reached epidemic status a minimum of five times in a two hundred year period\textsuperscript{7}. Henry F.
Dobyns identifies the years 1520 A.D. to 1918 A.D. as the period during which Native
Americans were most significantly affected by European and African disease pathogens\textsuperscript{8}. The
diseases brought to North America had significantly thinned the native population on the eastern
seaboard even before the beginning of the sixteenth century.

There is a great deal of controversy surrounding Indian population estimates immediately
before European arrival. The numbers put forth by earlier scholars were more likely to reflect
the anti-Indian sentiments of their times than a realistic population estimate. For example, the
1894 U. S. Census estimated the Indian population in 1492 at no more than 500,000\textsuperscript{9}. Thirty
years later, Henry Dobyns offered a figure of 112.5 million\textsuperscript{10}. Russell Thornton has crafted a
more realistic estimate of the Indian population immediately before European arrival through the
employment of what he terms "ethnohistorical sources"\textsuperscript{11}. Based on this information, Thornton
believes that the Indian population of the coterminous United States was approximately 5 million
in 1492\textsuperscript{12}. Thornton's estimates of the North American Indian population from 1492 onward are
shown in Table 1.

\textsuperscript{7}Thornton, American Indian Holocaust and Survival, 19.
\textsuperscript{8}Henry F. Dobyns, Their Number Become Thinned - Native American Population Dynamics in Eastern North
\textsuperscript{9}Dobyns, Their Number, 17.
\textsuperscript{10}Dobyns, Their Number, 22.
\textsuperscript{11}The ethnohistorical sources Russell studied include the personal and business writings of Europeans in North
America; church records of births, marriages and deaths; records kept within the slave trade; and archaeological data.
Although the accuracy of this information cannot be absolutely verified, when studied together it can help create a
clearer estimate of pre-European population figures in North America, (Thornton, American Indian Holocaust and
Survival), 18.
\textsuperscript{12}Thornton, American Indian Holocaust and Survival, 42.
TABLE 1
NORTH AMERICAN INDIAN POPULATION ESTIMATES

<table>
<thead>
<tr>
<th>Year</th>
<th>Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1492*</td>
<td>5,000,000</td>
</tr>
<tr>
<td>1600*</td>
<td>2,500,000</td>
</tr>
<tr>
<td>1700*</td>
<td>1,500,000</td>
</tr>
<tr>
<td>1800*</td>
<td>600,000</td>
</tr>
<tr>
<td>1850*</td>
<td>339,000</td>
</tr>
<tr>
<td>1900</td>
<td>238,000</td>
</tr>
<tr>
<td>1950</td>
<td>1,360,000</td>
</tr>
<tr>
<td>1990</td>
<td>2,015,000</td>
</tr>
</tbody>
</table>

*Estimates based on ethnohistorical information.

Biological conditions among Indian populations were significantly altered by the destructive presence of European and African pathogens. Disease greatly diminished the existing Indian population, but also had a noticeable influence on Indian fertility across several generations. From 1492 - 1890, there is evidence of a significant decline in the number of births to Indian parents. This decline has several possible causes. During and after an epidemic, Indians might have delayed marriages, helping to reduce overall birth rates. Of those that survived an epidemic, most would have suffered serious sequelae for the duration of their lives.

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15 Thornton, *American Indian Holocaust and Survival*, 42.
lifetimes. Indians who had survived Tuberculosis, for example, would likely have experienced painful intercourse, spontaneous abortions and sterility\textsuperscript{16}. The destruction caused by European pathogens reached well beyond "the geographic limits of face-to-face contact" between Europeans and Indians\textsuperscript{17}. After the first generation of epidemics, immunities were likely to be passed on to the next generation of Indians, but only in areas that had suffered an epidemic. Indians often traded goods and foodstuffs with neighboring tribes. Acting as hosts, the Indians spread disease throughout areas of the country that had previously remained untouched.

Traditional tribal culture sometimes played a sinister role in the destruction of Native America as well. When an Indian fell ill, it was customary for friends and relatives to visit the sick for an extended period of time\textsuperscript{18}, unconsciously exposing themselves to the illness. Shortly after the visit began, it was likely that the visiting friends and relatives of the sick would be overcome with illness.

Traditional Indian medicine was overwhelmed by the cruelty of the unknown diseases. Medicine men treated smallpox with sweat baths or soaks in the rivers\textsuperscript{19}; methods that might have worsened or spread the disease. Many tribes believed that smallpox was a curse from an angry white god. The Pima Indians appealed to smallpox as if it were an angry spirit to appease, chanting "I like smallpox", or wrapping the bandages from smallpox vaccinations around a special tree\textsuperscript{20}. Government vaccination programs were disorganized and sporadic, and therefore limited in their effectiveness. Smallpox would remain a serious concern among Indians until the early twentieth century.

\textsuperscript{16}Thornton, American Indian Holocaust and Survival, 54.
\textsuperscript{17}Dobyns, Their Number, 25.
\textsuperscript{18}Dobyns, Their Number, 16.
\textsuperscript{19}Thornton, American Indian Holocaust and Survival, 102.
\textsuperscript{20}Thornton, American Indian Holocaust and Survival, 102.
The effects of disease and the subsequent population decline greatly hindered the Indians' ability to remain economically self-sufficient\textsuperscript{21}. The epidemic waves of disease made it difficult, if not impossible to participate in the fall hunt, or spring plantings\textsuperscript{22}. Weakened and thinned in number, Indians found it difficult to drive white settlers off their land. Disease also effected dramatic changes in the way Indians perceived their self-worth. Masses of Indians had died in epidemics while neighboring whites remained relatively untouched. Indians began to doubt the validity of their traditional cultural responses to the world around them\textsuperscript{23}. Embedded in this self-doubt was a reluctant legitimization of the culture and religious values of white society. As the elders succumbed to disease, the oral history of the Indian people was placed in jeopardy; the memory and values of Indian culture depended on these mortals for their very survival\textsuperscript{24}. James Axtell argues: "...Abnormally high death rates in one or more generations sever the links of knowledge that bind the culture together...."\textsuperscript{25}. The dramatic population decline and cultural vulnerability effected by disease epidemics paved the way for white conquest\textsuperscript{26}.

The traditional economic structure of Native America was profoundly different from the highly specialized industries and established gender roles of Western Europe. Many Indian tribes, following the historical traditions of their people, were organized into clans, and placed women at the head of their economic household. The members of a clan are traced through the female line to a common ancestor. This kinship structure gave Indian women a great deal of

\textsuperscript{21}Dobyns, \textit{Their Number}, 10.
\textsuperscript{23}Dobyns, \textit{Their Number}, 10.
\textsuperscript{25}Axtell, \textit{The Invasion Within}, 15.
\textsuperscript{26}Dobyns, \textit{Their Number}, 10.
political power within the tribe. Indian women were the primary planters and harvesters. Indian women gathered roots, tended vegetable gardens and dressed hides. Indian men hunted and fished for food and crafted household utensils, tools, and traditional art from stone, wood, and animal bone. Men were also responsible for instructing the young in the traditional lore of the tribe and performed most tribal ceremonies.

European colonists struggled to understand the natural economies of Indian tribes. The traditional economy of colonial whites employed a highly organized agricultural system and depended on domesticated animals for meat. Most of the farm work was done by men, while colonial women tended the home and possibly some of the animals. To the Europeans, it seemed that Indian women should be slaves for their husbands, while Indian men lazily amused themselves at hunting and fishing. Indian men believed that the English should put their wives to work. Other Indian tribes, the "hunter-gatherers", moved habitat each season, burning fields and finding new hunting grounds. The English colonists, who stayed put in an "established village", saw nomadic behavior as an Indian failure to improve the land. William Cronon says this view contributed to the divide of how "the two peoples conceived of property, wealth and boundaries on the landscape", and later became the European ideology of conquest.

European colonists constructed a mythical view of North America. The colonists saw North America as a "virgin land; ready for the taking". Unlike the Indians, who respected and

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28 Cronon, Changes in the Land, 52.
29 Cronon, Changes in the Land, 55.
30 Cronon, Changes in the Land, 53.
cooperated with their environment, the colonists believed that God had provided the bounty of nature for man's use. Unused to the natural abundance of North America, the colonists began an endless cycle of environmental destruction. They cut down trees, plowed and planted, and then moved on, leaving the mess behind. This destruction, coupled with the rapidly increasing European population, began an insatiable hunger for more land. The nomadic habits of Indian tribes had proved to the colonists that Indians were not capable of "mastering" the land, and therefore, the land was free for the taking. The colonists scoffed at the traditional Indian communal land holding system; their cooperation and respect for nature. A hundred years later, Thomas Jefferson himself meant to "civilize" the Indians, and make them into farmers. In a speech to a group of Shawnee Chiefs, Jefferson emphasized that their poverty was a product of the Indian failure to master the land:

"When the white people first came to this land, they were few, and you were many; now we are many, and you few; and why? because, by cultivating the earth, we produce plenty to raise our children, while yours...suffer for want of food, are forced to eat unwholesome things, are exposed to the weather in your hunting camps, get diseases and die. Hence it is that your numbers lessen."

By 1887, the Dawes Act had nearly destroyed the Indian "collective land tenure" system so hated by whites. The General Allotment Act or Dawes Act, authorized the U. S. government to break up Indian reservation lands held in common and redistribute the land to

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33 Cronon, Changes in the Land, 56.
35 Thomas Jefferson to Chiefs of the Shawnee Nation, 19 February 1807, quoted in Takaki, Ronald, Iron Cages, 56.
individual Indians based on their blood quantum and family position. Dawes believed that individual land ownership would encourage Indians to assimilate themselves into white America. The head of an Indian family was entitled to 160 acres; unmarried Indians or orphans over eighteen years of age were entitled to receive 80 acres; while children living with their parents received 40 acres. The Dawes Act required Indians to identify themselves by a blood quantum code in order to qualify for a portion of their people’s land. The use of a blood quantum code defined who would be classified as an Indian, without taking into consideration the massive changes the population had undergone since European arrival. The dilution of the Indian population was, and is, a natural effect of European settler colonization and the recovery of the Indian population from disease, war, genocide, starvation and poverty. For Indians, the blood quantum was not an appropriate measure to determine eligibility for federal land allocations.

From 1887-1934, tribal land acreage fell from 138 million acres to 48 million; a 60% reduction in size. This sudden “surplus” of Indian land was then sold to white settlers by the federal government. The Dawes Act also stipulated that Indians who received a land allotment or moved off tribal lands in an otherwise voluntary manner would automatically become citizens of the United States. Indians found themselves suddenly subject to the laws of state and local territories and, as residents of these areas, they were required to pay tax on the allotted land. Land allocated to Indians was often not fit for cultivation and had little water available for irrigation purposes. As a result, many Indians who owned the barren land went bankrupt. In an attempt to protect Indians from such insolvency, the U. S. government began to hold the land in trust for 25 years, after which it was hoped the Indians would make their land profitable. At the

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end of the trust period, the Indians would be given a formal deed of ownership and have the same rights and obligations as other U.S. landholders.

As Indians were being forced onto reservations, programs targeted toward assimilating Indians became more systematic. The boarding school concept emerged in the nineteenth century as a solution to the Indian "problem". Until 1984, when Congress prohibited taking Indian children away from their families for schooling, Indian children were placed in white boarding schools far from the reservation. If an Indian parent refused to send their children to the boarding school, they would be jailed or would have had their food rations withheld on the authorization of Congress. Whites hoped that by learning to read and write English, and to dress and behave like whites, Indian children would absorb European cultural and religious values. Booker T. Washington observed:

"The things they dislike the most were to have their long hair cut, to give up wearing their blankets, and to cease smoking. But no white American ever thinks that any other race is wholly civilized until he wears the white man's clothes, eats the white man's food, speaks the white man's language, and professes the white man's religion."  

At the Hampton Institute, Indian children were taught to assume the traditional gender roles of whites. Young Indian women learned nutrition, cooking, laundering, and sewing, while young Indian men learned the responsibilities of the farm and skills of construction. Few Indian graduates of these white boarding schools were able to become contributing members of the
larger white society. Instead, they were forced to return to the reservations and lived in limbo between the culture they had been forcibly assimilated to and the culture they were consigned to by racism\textsuperscript{41}.

Attempts to "civilize" Indians have continued even into the twentieth century. The Honorable Malcolm McDowell prepared a report entitled \textit{The Condition of Reservation Indians} in 1920. McDowell defined "civilized" man as one who looks forward, beyond the mere immediacies of subsistence, while the "savage", a "primitive", was one who concerned only with the requirements for physical survival\textsuperscript{42}. McDowell believed that, since the treaties of Fort Laramie and Medicine Lodge in the late 1860's, the death of the old "buffalo hunters" had assisted whites with cultural assimilation. The younger generation of Indians, schooled by whites and dressed in European clothing were intermarrying and associating with white people more often. McDowell believed that:

"...The material progress of the Indian is very largely a question of eliminating the influence of the environment of the older generation. The few Indians who have left the reservations and gone to live among white people are not, as a rule, indolent, but usually demonstrate the advantages of the better environment, industrially speaking. In my way of thinking, the proper degree of patience and the teachings of the schools and of the missionaries will in time accomplish the desired and without measures which would partake of the nature of forceful restraint...The manifest destiny of the Indian, clearly enough, is to be bred out by, or, perhaps better stated, bred into, the white race..."\textsuperscript{43}

\textsuperscript{41}Time-Life Books eds., \textit{The Reservations}, 98.
\textsuperscript{42}Hon. Malcolm McDowell, \textit{The Condition of Reservation Indians}, (Washington: Board of Indian Commissioners, June 1920), 3.
\textsuperscript{43}McDowell, \textit{The Condition of Reservation Indians}, 9.
The image of the "noble savage" has helped the U. S. government continue to direct the economic, social, cultural and political interests of Native Americans. Jacqueline Goodman-Draper says that from the early twentieth century and onward, the "ideology of racism continued to give industry and government license to engage in...activities [of assimilation]. Natives were portrayed as uncivilized, pagan, and lazy for not adhering to the...Protestant ethic of individual gain". The laws and programs that comprise federal Indian policy have suffocated the natural economies of Indian reservations and solidified the dependent relationship of indigenous people on the U. S. government. It is the Indians who must struggle with the legacies of discriminatory policy, not the federal government. D'Arcy McNickle, a historian who dedicated his life to the study of Indian culture, characterized Indian tribes as "captive nations"; a people subject to the control of the U. S. government, living in isolated "enclaves" within American society.

CHAPTER TWO

UNDERSTANDING THE RESERVATION ECONOMY

Historical overview

Since the birth of this nation, every President has proposed a solution to the "Indian Problem". The last four decades have seen great changes in the direction of federal Indian policy. Legislative attempts to force Indians to assimilate to the dominant society have given way to policy directed at reservation economic conditions. The problem of economic underdevelopment on Indian reservations has dominated federal Indian policy for more than thirty years. During the 1950's, the U. S. government made the last open attempts to assimilate Indian tribes. The Termination Act of 1953 terminated federal recognition of and services provided to specific Indian tribes who possessed valuable natural and mineral resources on their reservations. The Act effectively returned these resources to the federal government. In 1956, the Indian Relocation Act funded job training centers in urban areas and provided funds for Indian families to encourage them to relocate. To participate in this program, the federal government required Indians to sign a document agreeing that they would not return to the reservation to live. The Indian Relocation Act was simultaneously undertaken with a reduction in funds for economic development on reservations. Many families were forced by poor economic conditions to leave their reservation homes for the cities.
The Termination and Relocation Acts were perfectly timed. Economic conditions on the 1950's reservation were poor. In 1957, the United States Government Public Health Service published a report on the reservation situation. The Public Health Service estimated the Indian population near 534,000; with 345,000 residing on 240 reservations. Waste disposal and the lack of clean drinking water were problems at all of the reservations surveyed. Health conditions were terrible. Indians on the Mille Lacs Reservation in east central Minnesota were living at the subsistence level in 1950. A typical home on the reservation had two rooms, with an average of five people sharing the household. Mille Lacs land was of little value, and work opportunities for Indian were limited to the nearby lumber industry, summer jobs in tourism, and selling birch bark crafts to tourists. The report noted that most homes on the Mille Lacs Reservation were equipped only with kerosene lamps and wood stoves to protect from the bitter winter cold. In 1950, the Chippewa of Leech Lake were the lowest income earners of all Indian groups in Minnesota. The average family income on Leech Lake was one third of all rural farm families in the State. Employment was limited to the wild rice harvest each September, day labor on roads, railroads and iron ore mines.

In the 1960's and 1970's, the government turned to private industry for help with the "Indian problem". The Bureau of Indian Affairs (BIA), the Office of Economic Opportunity (OEO) and the Department of Labor encouraged industry to establish manufacturing sites on the reservations. By 1970, 3,465 Indians on 24 reservations were employed in durable and non-
durable manufacturing facilities. The primarily low-skill, low-wage jobs these companies brought to Indian reservations did little to improve the economic conditions for the tribes. One project, located on a Navajo reservation, earned a 1% return on the tribal investment required to bring the plant to the area. The physical isolation of most reservations proved difficult and costly for private industry, resulting in a significant increase in costs required to transport finished products to the market. Many of the manufacturing firms had suffered from financial and management problems before they began operating on Indian reservations. The companies had hoped the incentives offered by the U. S. government would help bring them out of financial distress. In the end, very few of these ventures proved profitable for either Indians or manufacturing companies.

Throughout the 1970's, reservation economies continued to suffocate under the ever-increasing bureaucracy of the BIA. Five years after Nixon's message on "The American Indians", the Indian Self-Determination and Education Assistance Act of 1975 was finally passed. The Act was designed to encourage Indians to manage their own affairs, and proposed to allow Indian tribes local decision making power. By the early 1980's, however, few organizational changes had been made within the BIA to allow these responsibilities to pass on to the tribes. In the 1970's and early 1980's, the federal government had spent, on a percentage basis, nearly double the funds for reservation development programs than in previous decades. Mysteriously, these additional billions in federal aid had little impact on the distressing economic conditions found on Indian reservations. By the early 1980's, the Reagan Administration recognized a need

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51 David L. Vinje, "Cultural Values and Economic Development on Reservations", 156.
52 David L. Vinje, "Cultural Values and Economic Development on Reservations", 156.
for private sector employment on Indian reservations, and began to direct Indian policy at increasing the self-sufficiency of the reservation economy.

The Reagan Administration wished to deal with Indian tribes on a government-to-government basis. The passage of the Indian Tribal Governmental Tax Status Act of 1982 extended Nixon's commitment to Indian self-determination. The Act allowed tribes the same tax status as a foreign government with regard to raising revenue and implementing saving mechanisms (see Appendix B). Frustrated by the ever deteriorating economic and social conditions on Indian reservations, Reagan commissioned two studies: the Presidential Commission on Indian Reservation Economies (1984), and the Task Force on Indian Economic Development (1986). The Task Force on Indian Economic Development found that the Bureau of Indian Affairs was spending approximately two thirds of its budget on its monstrous administrative costs and passing only 27% of government assistance on to the Indian tribes. The Report and Recommendations to the President of the United States, made by The Presidential Commission on Indian Reservation Economies in 1984, was an even darker snapshot of contemporary Indian life.

The report cited physical isolation and inadequate infrastructure as continuing obstacles to private sector development on Indian reservations. The Commission also found that the goals of tribal governments and private industry were often opposed to each other, making a cooperative manufacturing effort or other business project a risk. Table 2 summarizes some "key differences" between private sector management and tribal governments that were identified by the Presidential Commission.

TABLE 2
"KEY DIFFERENCES"

<table>
<thead>
<tr>
<th>Private Sector</th>
<th>Tribal Government</th>
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<tbody>
<tr>
<td>Profit Driven</td>
<td>Social Welfare Driven</td>
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<tr>
<td>Business Planning</td>
<td>Big Picture Planning</td>
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<tr>
<td>Cost Control</td>
<td>Budget based proposals</td>
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<tr>
<td>Entrepreneur, CEO</td>
<td>Tribal Bureaucracy</td>
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<tr>
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<td>Patronage System</td>
</tr>
<tr>
<td>Product Competition</td>
<td>Organization Competition</td>
</tr>
<tr>
<td>Focus on Needs</td>
<td>Focus on Rights</td>
</tr>
<tr>
<td>Independent</td>
<td>Dependent</td>
</tr>
</tbody>
</table>

Source: Presidential Commission on Indian Reservation Economies, Table 1. "Key Differences", Report and Recommendations to the President of the United States. (Washington, DC: U. S. GPO), 33.

Also reported were incidents of political instability and factionalism within tribal governments. The Commission characterized the tribal governments as having "...high turnover of politically elected council officials, factionalism among constituencies, in-fighting, and distrust...frequent changes in policy, direction, investment and commitment...[and the lack of] tribal commercial, corporate, revenue, or property laws...to fill the vacuum of uncertainty which political instability creates...". Many Indians and non-Indians complained to the Commission of discrimination by tribal courts and governments. In 1984, the majority of the reservation workforce was unskilled. Most reservations relied on the federal government to provide jobs for the local Indian community.

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54 Presidential Commission on Indian Reservation Economies, Report and Recommendations to the President of the United States, 34.
55 Presidential Commission on Indian Reservation Economies, Report and Recommendations to the President of the United States, 34.
The 1984 Report identified the Bureau of Indian Affairs (BIA) as a major obstacle to Indian economic development. The BIA structure and function, by definition, conflict: "...[the BIA] is charged with the responsibility of managing all Indian affairs and it is charged with Indian self-determination which seeks to place the management function at the local tribal level..."56. The BIA also contributes to the poor economic conditions on Indian reservations by maintaining an expensive administration held together by red tape. The American Indian Policy Review Commission found that for every dollar the federal government spends on Indian economic assistance, the BIA spent 80¢. Using those figures, approximately 48% of 1986's budget request was directed toward supporting the administrative costs of the BIA57.

The structure and organization of the BIA prevent Indian efforts to encourage economic growth on the reservation. Holding Indian land and assets in trust helps the BIA to effectively curtail tribal investment and denies the "property revenue base" that other local governments possess58. Private banks are usually unwilling to hold Indian land as collateral because the trust status makes it almost impossible to repossess that land should a borrower default59. At the time the study was released (1984), the BIA had not yet completed a promised study of Indian mineral and natural resource holdings. Without this knowledge, the best use of available Indian resources and environmental protection of reservation lands are at risk, budgets are inaccurate and management plans are ineffective. BIA management of tribal trust funds was also a major

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56 Presidential Commission on Indian Reservation Economies, Report and Recommendations to the President of the United States, 48.
57 Presidential Commission on Indian Reservation Economies, Report and Recommendations to the President of the United States, 48.
58 Presidential Commission on Indian Reservation Economies, Report and Recommendations to the President of the United States, 47.
59 Presidential Commission on Indian Reservation Economies, Report and Recommendations to the President of the United States, 47.
concern of the Presidential Commission. The BIA had refused, for more than six years, to follow GAO accounting procedural recommendations. Investment managers were not following the investment goals of the tribes, and 30-45 days might pass before an investment decision would be executed.\textsuperscript{60}

In an effort to understand reservation underdevelopment, scholars have compared the reservation economy to developing nations. Most have found that no single economic development model can account for the complex social, legal, and economic history of the Indians since the arrival of European settlers.\textsuperscript{61} The economies of Indian reservations often closely parallel those of developing countries. The colonized nations of the Third World:

"...face an inelastic demand (that is, demand is relatively constant regardless of price, and so expanding total output may not mean higher earnings). The international demonstration effect (the desire to consume the products enjoyed in wealthier nations) work to increase the quantity of foreign goods imported, putting pressure on the balance of payments as the value of imports exceeds the value of exports. Much of the small modern sector of the economy is owned by outsiders. Local entrepreneurship is limited, and in the absence of intergovernmental transfers, things might be still worse for the residents of these areas..."\textsuperscript{62}

In the case of the Indian reservation, the colonial model can represent the origins of entrenched poverty more accurately than other models because colonialism is able to incorporate the broad historical relationship between Native Americans and the U. S. government. 

\textsuperscript{60}Presidential Commission on Indian Reservation Economies, \textit{Report and Recommendations to the President of the United States}, 48.

\textsuperscript{61}Wilkins, "Modernization, Colonialism, Dependency", 411.

colonial relationship is typified by a great disparity in power between the colonizer and the colonized. The colonizer assumes the relationship by force, taking over the domestic economy "of a different race and culture...this domination is political and economic, and the colony exists subordinated to and dependent on the mother country."\textsuperscript{63} The colonizer often exploits the subordinate group for its land, labor, or mineral resources, and most often creates an administrative agency(s) to manage this political and economic relationship; all communication between the two will pass through this administrative body. The colonizer will often create other institutions to further its own goals for the subordinate group, like a land tenure program or an educational system\textsuperscript{64}. Low savings rates, low per-capita income, an unusual dependence on the external market, and a dependence on transfer payments to support the economy are all found on the Indian reservation. Because of their physical isolation, many small Indian businesses have found it difficult to establish a market away from the reservation. The BIA bureaucracy continues to be a considerable obstacle to Indian entrepreneurship and the trust status of Indian lands makes it difficult for individuals to borrow from private lenders for business development projects.

The Indian reservation functions as an "internal colony", a separate colony inside the borders of the dominant society in the United States. The concept of the "internal colony" disregards the "spatial separation" found in the colonial relationships of history\textsuperscript{65}. The "internal colony" can be typified by two key elements: "political subjugation and exploitation and

economic subjugation and exploitation. The dominant society has assumed control over the resources, be it land, labor or capital, of the subjugated people. Traditionally, U.S. government economic policy for Indian tribes has called for the "modernization" of Indian culture. The theory of modernization hinges on the assumption that the cultural values of groups, like Native Americans, could negatively affect economic development projects. Hence, the assumption is that cultural tradition must be left behind, as modernization theory cannot accommodate the cultural traditions that will be incorporated into the "changed" society in varying degrees.

Table 3 compares social and economic characteristics of traditional to modern societies.

TABLE 3

<table>
<thead>
<tr>
<th>Traditional Societies</th>
<th>Modern Societies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subsistence economy.</td>
<td>Industrial economy.</td>
</tr>
<tr>
<td>Family very important.</td>
<td>Impersonal social structure.</td>
</tr>
<tr>
<td>Social values focus on heredity, devotion, and mystery.</td>
<td>Social values focus on knowledge, achievement, technology.</td>
</tr>
<tr>
<td>Highly personalized political structure; familial.</td>
<td>Political system is highly bureaucratic; elected representatives.</td>
</tr>
</tbody>
</table>


67 Wilkins, "Modernization, Colonialism, Dependency", 396.
The decimation of tribal cultures\textsuperscript{68} at the hand of the "dominant nation" has historically been considered a necessary precursor to development\textsuperscript{69}. The traditional cultural values and structures of the subjugated group are seriously undermined by the colonizer, who rationalizes these actions with racism. Often, the path of such efforts brought an end to tribal economic self-sufficiency and exhausted the supply of natural resources, leaving tribal groups at the "lowest economic level of the national society"\textsuperscript{70}. Language barriers and the dominant society's misguided perceptions of cultural and technological superiority often mean that indigenous groups' knowledge of environmental conditions and land production capacity is ignored\textsuperscript{71}. The dominant society's perception of intellectual and technological superiority over the colonized group often cripples the ability of the subjugated group to integrate themselves into the dominant society\textsuperscript{72}. A tribe's knowledge of their environment presents a "significant economic opportunity for the nation; not a luxury"\textsuperscript{73} and should not be ignored. The incorporation of tribal traditions and cultures are a necessary precursor to economic development projects on Indian reservations. Stephen Cornell and Joseph Kalt believe that "...Culture legitimizes the conceptions of self, of social and political organization; of how the world works..."\textsuperscript{74}.

\textsuperscript{68}Goodland defines "Tribal Groups" as a distinct population living in isolation or semi-isolation in a common area. They may be "acclimatized" to the dominant society, at different levels; and they are likely to be linguistically and ethnically distinct from the national society. Tribal groups considered to be in "permanent contact" with the dominant society will communicate regularly with many different representatives of that society; exhibit a growing dependence on manufactured goods and a subsequent deterioration of their natural economies. "Integrated" tribal groups are not fully assimilated to national society, but the cultural differences between the two groups may be virtually invisible, with the exception of those who choose to recognize their ethnic identity. Integrated" groups may also produce certain specialized commodities, or provide a labor force at the "lowest level of the national economy". (World Bank, "Tribal Peoples and Economic Development: Human Ecological Considerations")

\textsuperscript{69}Goodland, "Tribal Peoples", 2.

\textsuperscript{70}Goodland, "Tribal Peoples", 2.

\textsuperscript{71}Goodland, "Tribal Peoples", 15.


\textsuperscript{73}Goodland, "Tribal Peoples", 15.

The last thirty years of federal Indian policy have provided hasty and ineffective "solutions" to deeply depressed reservation economies. The "de-industrialization of America" has hit Native Americans and other minorities particularly hard\textsuperscript{75}. Over the past thirty years, Indian reservations have seen little improvement to reservation economies, while, overall, the rest of the United States has experienced strong growth. Employment and educational prospects for Native Americans living in rural reservation communities are bleak. The federal government has repeatedly failed to limit the bureaucratic barricades constructed by the BIA, and by this failure, maintains the Indian reservation as a group of "internal colonies". Today, Native Americans living on reservations are the poorest ethnic group in the United States. Approximately 20\% of reservation households have an annual income below $5,000, compared with 6\% for the United States overall. Not more than 8\% of reservation households earn above $35,000, compared to 18\% of households across the entire United States\textsuperscript{76}. In 1980, 41\% of Indians living on reservations were living below the poverty level in comparison with 12\% of the United States as a whole (Task Force on Indian Economic Development 1986). The 1989 Senate Select Committee on Indian Affairs reported to the U. S. Senate that 16\% of reservation homes were without electricity, 21\% have no indoor toilet, and 56\% do not have telephones\textsuperscript{77}. Native Americans are an isolated minority in their own land. Unlike formerly dependent nations in the Third World, however, Indians have little hope that the U. S. government will grant them political and economic independence\textsuperscript{78}.

\textsuperscript{75} Takaki, Iron Cages, 302.
CHAPTER THREE

THE SOCIAL AND ECONOMIC IMPACT
OF INDIAN CASINO GAMBLING

Reservation-based Indian gambling first emerged in the mid-1970's as a way to bring additional income to reservations. Historically, the U. S. government has assumed the responsibility for Indian programs, but miles of red tape and government apathy have prevented any real economic growth or physical improvements on the reservations. In 1975, after two members of the tribe were killed in a fire, members of the Oneida Nation of New York hosted a series of local bingo games to raise money for their first fire department. In order to draw non-Indians to the reservation, the Oneida offered a bingo pot that was larger than New York state law allowed, claiming that as a sovereign nation, they were not required to comply with state laws on charitable bingo. Although the games were popular among locals, the Oneida bingo nights were soon shut down by the Madison County district attorney's office. In 1979, the Seminoles of Florida created their own high stakes bingo operation to bring additional money to the reservation community. After their bingo operation was closed by local officials, the Seminoles took the authorities to court. The 1981 decision in Seminole Tribe v. Butterworth was the first significant victory for Indian casino gaming. The ruling upheld the tribes' rights to "set their own prize structure."

In the years that followed, many Indian tribes began to offer high stakes bingo on reservation lands. In 1987, the Supreme Court completely opened up Indian reservations to casino gambling, saying that such ventures furthered existing federal government policy encouraging economic self-sufficiency for Indians. In the decision, the Supreme Court also upheld the sovereignty of Indian tribes, thereby prohibiting state and local governments from taxing Indian profits or wealth gained from casino gaming. Before the decision, the games had made only small-time wins at bingo and operated in the virtual obscurity of the reservation communities.

By 1988, Indian gambling was expanding so rapidly that the federal government moved to "create a balance between the tribe's right to conduct gaming on their reservations and the public interests of the states in which the tribes are located." The Indian Gaming Regulatory Act (IGRA), signed in 1988 by President Ronald Reagan, was an effort to articulate a "fair system" by which Indians were to conduct casino operations. The Act was also a response to the increasing political pressure on the federal government from gaming states like Nevada and New Jersey who wanted to limit Indian casino gambling. IGRA classified casino games into three categories (See Appendix C), and required Indians to work with state governments to negotiate gaming compacts; once again limiting the sovereignty of Indian tribes. The Act also established jurisdiction for each game class. A state is required by IGRA to negotiate with Indian tribes in "good faith" once the request has been made. Several lawsuits have since been filed by

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81 Epifanio, "How Indian Casinos Have Helped Impoverished Tribes", 32.
84 Epifanio, "How Indian Casinos Have Helped Impoverished Tribes", 32.
85 McAuliffe, "Casinos Deal Indians a Winning Hand", Sec. A:8.
Indian tribes after a state government unfairly delayed or completely stalled negotiations on gaming compacts.

IGRA is structured to allow for Indian economic development and to protect self-determination. IGRA requires that Indians retain a minimum of 60% of casino revenue on the reservation. By incorporating this provision into IGRA, Congress hoped to deter criminal activity at reservation casinos and protect Indian profits from the Mafia and unscrupulous casino management companies. IGRA requires that these Indian gaming profits, unlike non-Indian gambling revenues, must be spent on economic development projects, general welfare of the tribe, governmental projects or charitable activity in the community. On some reservations, casino revenues are substantial enough to replace government assistance for housing, education, and social services. Since their casino, Turning Stone, opened in 1993, the Oneida have added a second meal a week for the elderly, a 5,000 square foot clinic for the Indian Health Service, funded 38 college scholarships for Oneida youth, built a 32,000 sq. foot elder/child day care center, and constructed a center for the study of Oneida culture. The Oneida have also built a new elementary school, a police station, and 150 new apartments. In addition to its casino, the Oneida reservation now operates many businesses: a computer-assembly corporation, a high-technology industrial park, a Radisson Hotel, 150,000 square foot shopping center, a festival hall, a 28-acre office park, a printing company and a 300-head cattle ranch, all financed with casino revenue. For the last six years, the Sycuan, a small Indian tribe near San Diego, have not had to

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87 McAuliffe, "Casinos Deal Indians a Winning Hand", Sec. A:8.
88 Rick Hill, "Indian Gaming is a Ray of Hope", Casino Player, (December 1995): 36.
89 McAuliffe, "Casinos Deal Indians a Winning Hand", Sec. A:8.
90 Green Bay Press Gazette, quoted in Thompson, Gazel, and Rickman, The Economic Impact of Native American Gaming in Wisconsin, 40.
91 Green Bay Press Gazette, quoted in Thompson, Gazel, and Rickman, The Economic Impact of Native American Gaming in Wisconsin, 40.
rely on federal assistance. Their 67,000 square foot casino has funded a reservation pharmacy, day care center, ambulance service, library, police and fire departments, and a medical and dental clinic for both Indians and non-Indians. Foxwoods, the mega-casino of the Mashantucket Pequot of Connecticut, was a major financier of the new Native American wing of the Smithsonian. The Pequot’s contribution is said to be as high as $10 million. Since its opening in 1992, Foxwoods High Stakes Bingo and Casino has hired 9,500 workers at an average wage of $25,000 a year, plus benefits.

Supporters of Indian casinos believe that gambling revenues reach beyond the immediate community on the Indian reservation. Rick Hill, Chairman of the National Indian Gaming Association, points out that infrastructural improvements on Indian reservations can now be financed without any assistance from local, state, or federal taxpayers. In addition, Hill says that revenues from Indian casinos are “recycled” in the local communities, both on the reservation and off the reservation, up to seven times. Casinos have brought employment to non-Indians living in isolated reservation communities. Of 140,000 Indian casino employees nationwide, Hill says that 85% are non-Indian. In a survey of seven gaming tribes in the state of Michigan, University Associates determined that the business of Indian gambling supported 275 jobs outside the casinos. Some of the positions created outside of Michigan casinos are listed in Table 4.

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93 Epifanio, "How Indian Casinos Have Helped Impoverished Tribes", 33.
95 Hill, "Indian Gaming is a Ray of Hope", 36.
96 Hill, "Indian Gaming is a Ray of Hope", 36.
97 Hill, "Indian Gaming is a Ray of Hope", 36.
State governments directly benefit from increased payroll taxes and an influx of tourism dollars\textsuperscript{98} generated by Indian gaming. In a report prepared for the New Mexico Indian Gaming Association, the Center for Applied Research says that the benefits to state and local governments from Indian casinos often go unpublishized or are protected by privacy agreements, making it difficult to quantify the benefit Indian reservation casinos to state and local governments\textsuperscript{99}. Some tribes have negotiated special "compacts" with state governments, allowing the states to share in the stream of casino revenues. Gaming tribes in Michigan contribute 2\% of gross revenues from electronic games to local communities, and an additional 8\% to the state. The State of Michigan earned $14,365,038 from Indian casinos in 1994\textsuperscript{100}. Foxwoods, the mega-casino of the Mashantucket Pequot of Connecticut, has negotiated a special compact with the state that allows slot machines at the casino (gambling is illegal under Connecticut law). In return, the state of Connecticut receives a 25\% cut of slot machine revenue\textsuperscript{101}; making Foxwoods the largest single contributor to the state budget\textsuperscript{102}.

In 1995, the Wisconsin Policy Research Institute published a report on the economic impact of Indian gaming in the state of Wisconsin, the fifth largest casino gaming state in the country. The report found that casinos, overall, are a good source of revenue for the reservation economy. There is strong evidence that casinos are creating business for local non-Indian

\textsuperscript{98}Epifanio, "How Indian Casinos Have Helped Impoverished Tribes", 33.
\textsuperscript{101}Epifanio, "How Indian Casinos Have Helped Impoverished Tribes", 33.
\textsuperscript{102}Foxwoods operates approximately 3,875 slot machines. With an average annual win of $155,000, the casino would be contributing approximately $150 million per year to Connecticut. Slot machine wins vary widely from state to state. On the Las Vegas strip, each slot machine wins $34,000 annually; $90,000 in Atlantic City, $73,000 at Mystic Lake, up to an industry high of $155,000 annually at Foxwoods. The average annual win, nationwide, per machine is estimated to be $50,000. (Thompson, Gazell, and Rickman, The Economic Impact of Native American Gaming in Wisconsin, 27.
TABLE 4
JOBS CREATED OUTSIDE MICHIGAN CASINOS

<table>
<thead>
<tr>
<th>Type of Position</th>
<th>% of Jobs Created</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accounting/Bookkeeping</td>
<td>7.0%</td>
</tr>
<tr>
<td>Administrative</td>
<td>11.3%</td>
</tr>
<tr>
<td>Construction</td>
<td>0.7%</td>
</tr>
<tr>
<td>Economic Development</td>
<td>1.5%</td>
</tr>
<tr>
<td>Education</td>
<td>4.7%</td>
</tr>
<tr>
<td>Elder Programs</td>
<td>1.5%</td>
</tr>
<tr>
<td>Culture/Language</td>
<td>0.7%</td>
</tr>
<tr>
<td>Health</td>
<td>34.5%</td>
</tr>
<tr>
<td>Housing</td>
<td>1.1%</td>
</tr>
<tr>
<td>Law Enforcement</td>
<td>4.4%</td>
</tr>
<tr>
<td>Public Works</td>
<td>10.5%</td>
</tr>
<tr>
<td>Clerical Support</td>
<td>5.8%</td>
</tr>
<tr>
<td>Social Services</td>
<td>2.9%</td>
</tr>
<tr>
<td>Youth Workers</td>
<td>12.7%</td>
</tr>
<tr>
<td>Other</td>
<td>0.7%</td>
</tr>
</tbody>
</table>


retailers as well. The Institute report estimated that the seventeen Indian casinos in the state of Wisconsin generate nearly $605,400,000 in revenue each year\textsuperscript{103}. Of the 20,037 Indians living on Wisconsin reservations, 6,932 are employed in the casinos\textsuperscript{104}. The Wisconsin Policy Research Institute estimates that, in 1994, residents of Wisconsin\textsuperscript{105} gambled $387.38 million,

\textsuperscript{103} Thompson, Gazel, and Rickman, The Economic Impact of Native American Gaming in Wisconsin, 26.
\textsuperscript{104} Thompson, Gazel, and Rickman, The Economic Impact of Native American Gaming in Wisconsin, 3.
\textsuperscript{105} The typical gambler at Indian casinos in Wisconsin is 50-70 years old, and likely to be retired. Employed gamblers at the Wisconsin Indian casinos are usually blue-collar, with annual household incomes between $20,000-30,000. (Thompson, Gazel, and Rickman, The Economic Impact of Native American Gaming in Wisconsin, 1).
$38.74 million in Indian casino shops, and spent another $11.99 million on food and lodging in areas in or near the casinos.

Changes like these, taking place on or near many gaming reservations, will have long-term benefits for Indian people and their communities. To ensure financial success, Indian casinos must be located in or near heavily populated areas so they will be able to draw non-Indians in large numbers. Reservation casinos in more isolated areas may become primarily dependent on profits earned from other Indians, doing little to truly develop the reservation economy106. Foxwoods, Mystic Lake and Turning Stone are all located only minutes away from major metropolitan areas and have relatively small tribal rolls to support107. Turning Stone, the Verona, New York casino owned by the Oneida Nation, is host to nearly 8,000 gamblers each day108. Nearly 1,500 people are employed by the Oneida casino, with a monthly payroll of $4 million109.

The unparalleled success of gaming tribes like the Pequot, Shakopee and Oneida tribes have non-Indians suddenly interested in the political sovereignty and tax status of federally recognized Indian tribes. At times, their "interest" has taken the form of hostile ignorance. Tim Giago, Editor of Indian Country Today commented on the recent decision on Sylvia Cohen's lawsuit against the Mystic Lake Casino in Shakopee, Minnesota110. Sylvia Cohen, 83, sued Mystic Lake after she fell off a chair in front of a slot machine and broke her hip. Mystic Lake, 

107 Epifanio, "How Indian Casinos Have Helped Impoverished Tribes", 34.
one of Minnesota's most popular Indian casinos, claimed immunity from such a lawsuit, because the Shakopee tribe are a sovereign nation. Although two of the three appellate judges concurred, the dissenting justice, R. A. Randall, offered what appeared to be a "...personal statement on what public policy ought to be, [rather] than a legal opinion on what the law is..."\textsuperscript{111}. In his case opinion, Judge R. A. Randall stated that:

"...Indian reservations and their inhabitants are semi-dependent or totally dependent wards of the federal government. This is reality. It is not sovereignty...Indians have been drafted into the armed forces, vote in state and federal elections, and receive federal money...Sovereignty is a phrase we have mouthed for over 200 years, but this country has never, at any time, treated Indian tribes with any of the courtesy nor respect accorded a true sovereign state or nation, such as Canada, Mexico, or Great Britain...Why are we tolerating segregating out the American Indians by race and allowing them to maintain a parallel court system and further subjecting non-Indians to it? We do not have African-American courts, Hispanic courts, Chinese courts. This is red apartheid..."\textsuperscript{112}

The most striking aspect of this judicial opinion is Judge Randall's nearly unqualified ignorance of the historical relationship between Indians and the federal government and the major factors behind Indian dependence on the federal government. Giago senses increasing danger from non-Indians like Judge Randall, believing that political sovereignty for Indians is at real risk\textsuperscript{113}. It is the threat of an opposition like Randall's that causes Giago to advise tribal leaders against paying out a portion of casino revenues to their tribe members (as a per capita payment).

Instead, Giago believes that tribes must "build a powerful financial reserve", creating

scholarships, improving schools, hospitals and contributing to retirement plans on behalf of members\textsuperscript{114}. Giago says: "...if Indian tribes are to claim true sovereignty, they must be prepared to carry their own financial burdens....that way, when the well eventually goes dry - and it will - they will have built a strong, water-filled dam to replace it..."\textsuperscript{115}.

The Mille Lacs Band has instituted a formal policy prohibiting per capita payments to members. Marge Anderson, Chief Executive of the Mille Lacs Band of Minnesota Chippewa, believes, without question, that casino revenue should be returned to the reservation community. Ms. Anderson feels that the future of the 3000+ member tribe will be found in the educational, social, and infrastructural improvements the Mille Lacs are making as a direct result of casino gaming revenue\textsuperscript{116}. In \textit{Casino Player}, Anderson proudly talks about the "two new schools, a state-of-the-art medical clinic with new doctors that serve both Indians and non-Indians, a community center and much-needed housing" that have come from these profits\textsuperscript{117}. The Oneida of Wisconsin have decided to make a per capita payment to tribe members in the amount of $675 for three years\textsuperscript{118}. The Oneida Nation, owners of the Turning Stone casino in Verona, New York, make small per capita payments, but direct the majority of profits into a general tribal fund\textsuperscript{119}.

Many tribes are making dedicated efforts to repurchase land that formerly belonged to their tribes. The Oneida of New York have purchased 4,000 acres. The Oneida of Wisconsin have purchased 8,000 acres of land near the reservation. The Mille Lacs Band, whose land base was reduced to 80 acres, has "repurchased" 11,000 acres of the 61,000 acres originally allotted to

\textsuperscript{116}Epifanio, "How Indian Casinos Have Helped Impoverished Tribes", 34.
\textsuperscript{117}Epifanio, "How Indian Casinos Have Helped Impoverished Tribes", 34.
\textsuperscript{118}Thompson, Gazel, and Rickman, \textit{The Economic Impact of Native American Gaming in Wisconsin}, 41.
\textsuperscript{119}Epifanio, "How Indian Casinos Have Helped Impoverished Tribes", 36.
the tribe\textsuperscript{120}. The infamous $450,000 per capita payment to each member of the Shakopee tribe, owners of Mystic Lake Casino, has the nation buzzing about the need for tighter federal control over Indian gambling. The threat of stricter federal regulations covering Indian gaming has encouraged many tribes to use casino revenues to finance other business ventures. The Mille Lacs Bank of Chippewa purchased First State Bank of Onamia, the Santee Sioux Tribe opened First American Mart, a large convenience store, and the Ak-Chin of Arizona own a hardware store and a profitable 1,600 acre farm\textsuperscript{121}. The Wisconsin Policy Research Institute report found that casino revenue allowed tribal governments more political and financial independence from the BIA, making such diversification possible. Saved from BIA red tape entanglements, the gaming tribes in Wisconsin have made considerable progress with reservation development projects and commercial diversification\textsuperscript{122}.

Most of the controversy surrounding Indian gaming that is discussed in the media focuses on Indian tribes' exemption from a tax on gross gaming revenues. Commercial casino operations like Harrah's, Inc. or Trump are required to pay an annual tax on gross gaming revenues of up to 20%, depending on the state in which they are located\textsuperscript{123}. Big casino companies feel that tax-exempt Indian casino revenues give the tribes an unfair advantage\textsuperscript{124}. In the fall of 1995, the House Ways and Means Committee attempted to force Indian casinos to pay the 34% corporate tax rate on gambling revenues\textsuperscript{125}. The New York Times quoted an anonymous source who said Indian casino revenues are "a low-hanging fruit" that budget-cutting Republicans are eager to

\textsuperscript{120}Epifanio, "How Indian Casinos Have Helped Impoverished Tribes", 38.
\textsuperscript{121}Epifanio, "How Indian Casinos Have Helped Impoverished Tribes", 38.
\textsuperscript{122}Thompson, Gazel, and Rickman, The Economic Impact of Native American Gaming in Wisconsin, 41.
\textsuperscript{123}Epifanio, "How Indian Casinos Have Helped Impoverished Tribes", 38.
\textsuperscript{124}McAuliffe, "Casinos Deal Indians a Winning Hand", Sec. A:8.
munch on. Representatives in big gambling states like New Jersey and Nevada are making noise about creating a new system "fair" to everyone. Tim Wapato of the National Indian Gaming Association contradicted that unlike Indian casinos, who earmark earnings for reservation improvements, private casino profits are used for "private ends". A tax on Indian gaming revenues would seriously undermine the tribes' ability to sustain economic growth and community improvement on the reservation.

The benefit of Indian gaming falls not just to the employees of the casino, or to the tribal government, but to all of the people (Indians and non-Indians) who use the social welfare programs and facilities the casinos are financing. Unlike privately owned casinos, Indian casinos must, under IGRA, distribute the wealth for the benefit of the tribe in the form of economic development and/or public improvement programs. These public improvements have meant a better lifestyle for thousands of Indians throughout the United States who are entrenched in poverty. Of the nearly one hundred Class III Indian gaming facilities across the U.S., only a handful have had problems with corruption. Casino gaming has provided Indian tribes with an economic opportunity that is the first of its kind. No other federal Indian economic policy in history has allowed Indians the same freedom of choice and protection of Indian political sovereignty as the Indian Gaming Regulatory Act.

CHAPTER FOUR

THE PROBLEM OF USING CASINOS
AS A FORM OF ECONOMIC DEVELOPMENT

Since the opening of Foxwoods, Robert Allen Warrior has heard the concerned voices of Indians and non-Indians who question the use of casinos as a form of economic development. Warrior says, "Many people inside and outside Indian country worry that corruption, organized crime, and social deterioration follow these enterprises like a shadow"127. The Akwesasne Indian casinos of upper New York State and Quebec, were linked with organized crime in the late 1980's. Warrior attributes that link to the recklessness and irresponsibility of the Akwesasne tribal council, saying the council opened the casino against the protests of the Akwesasne people128. Several Indian tribes have expressed concern about the morality of gambling. The Navajo have completely rejected it. Ray Halbritter, Ononda Nation Representative, admits that gambling is an activity known to be addictive129. The Hopi of Arizona voted 986 against opening a casino and 714 in favor. The proposed casino would have been located nearly sixty miles from their reservation and provided an estimated 500 jobs and $15 million a year in revenue for the tribe. Hopi Chairman Ivan Sidney believes that preserving the tribe's values and traditions are more important than money. Sidney believes that casino gambling will only

127 Warrior, "Indian Country Crap Shoot", 142-143.
128 Warrior, "Indian Country Crap Shoot", 142-143.
129 McAuliffe, "Casinos Deal Indians a Winning Hand", A:8
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\(^{128}\) Warrior, "Indian Country Crap Shoot", 142-143.
\(^{129}\) McAuliffe, "Casinos Deal Indians a Winning Hand", A:8
become another form of dependence; a replacement for government assistance, but not a solution to the economic problems on the reservations. Nearly 50% of the Hopi's $28 million annual budget is made up of federal funds. Herschel Talashoma, a Hopi spiritual leader, did not believe the tribal council could be trusted to manage and distribute gaming revenues fairly.\(^{130}\)

A few gaming tribes have had incidents of corruption among the tribal leaders. The leader Chippewa of White Earth, Minnesota, Darrell Wadena, received a federal grand jury indictment last year with some charges alleging corruption at the tribes' Shooting Star Casino. The Shooting Star, located in Mahnomen, Minnesota, earned approximately $125 million in revenue last year. Wadena allegedly took part in a deal that would have stolen more than $400,000 money earmarked for the tribe. Darrell "Chip" Wadena says he has done nothing wrong. Allegations also surround three council members of the White Earth Band who may have made illicit profits on the casino building contract. David Lillehaug, the U. S. Attorney in Minneapolis who is prosecutor of the Chippewa case, believes that casinos are vulnerable to crime and corruption because they are a cash intensive business.\(^{131}\) Members of the White Earth Band have been dissatisfied with Wadena since the 1986 White Earth Land Settlement Act (WELSA). Under WELSA, Congress paid $16.5 million for 100,000 acres of property under dispute, thereby extinguishing all remaining land claims filed by the White Earth Band. Last year's federal indictment also alleged that some funds received from the WELSA settlement were used to build the casino, not returned to the tribe.\(^{132}\)


\(^{132}\)Helmick"Minnesota Case Tests Who Polices Indian Gaming", 1.
In an acidic op-ed essay in the *New York Times*, William Safire gives voice to the growing hostility toward casinos and supporters of Indian gambling:

"...Connecticut's Senate firmly rejected the bid by a phony aboriginal tribe [the Pequot] to extend its glitzy casino empire beyond the confines of its "reservation"...casino operators have been trying to...rig the [gambling] commission, using American Indians as a front...Sonny Bono passed along casino-generated amendments that would stop the commission from looking into any illegal gambling or the computerized type that hooks teenagers...A Bono amendment especially important to the crapshooting crowd would have deleted the provision "to make an assessment and review of the political contributions and influence of gambling businesses and promoters on the development of public policy regulating gambling"...What's going on here is organized gambling's attempted manipulation of politicians to pull the teeth of any investigation."^{133}

The increasing popularity and growth of casinos in the United States is cause for concern among law enforcement agencies fighting organized crime. In *Money Laundering: Rapid Growth of Casinos Makes Them Vulnerable*, the GAO examined the effectiveness of current transaction controls used commercial casino operations, riverboat casino gaming and Indian gaming operation to prevent money laundering activity^{134}. The GAO report quotes law enforcement estimates of $300 billion currently being laundered in the United States each year^{135}.

The IRS believes that casinos are attractive to money laundering criminals because they are cash-

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intensive, transient businesses\textsuperscript{136}. In addition, many casinos offer financial services almost identical to those of private banks\textsuperscript{137}. Thus, the nature of the gaming industry makes it an easy victim during the initial "placement stage" of money laundering, when cash is "introduced to the financial system"\textsuperscript{138}.

Currency transaction reporting is law enforcement's most powerful weapon against money laundering activity, but not all casinos are required to comply with the same guidelines\textsuperscript{139}. The rapid growth of tribal casinos, which currently represent approximately 16\% of all casino revenue earned in the United States\textsuperscript{140}, has sparked new debate about the anti-money laundering financial controls currently utilized by casino operations. Under the Bank Secrecy Act of 1970, (BSA), U. S. casinos, with the exception of Nevada and Indian casinos, are considered financial institutions, and are required to comply with BSA reporting regulations for security purposes\textsuperscript{141}. Under BSA, a cash transaction(s) over $10,000 executed at a BSA casino operation must be reported to the IRS. This customer information helps federal law enforcement agencies identify individuals who may be involved in money laundering activity. BSA casinos are also required to keep detailed currency transaction reporting and record keeping systems\textsuperscript{142}.

Nevada casinos have broad and explicit reporting requirements on cash transactions and keep a detailed record keeping system, but file these transactions under the Nevada Gaming Control Board Audit Division, not the BSA\textsuperscript{143}. Nevada also prohibits certain cash transactions

\textsuperscript{137}U. S. General Accounting Office, "Money Laundering", 16.
\textsuperscript{139}U. S. General Accounting Office, "Money Laundering", 11.
\textsuperscript{140}U. S. General Accounting Office, "Money Laundering", 10.
\textsuperscript{141}U. S. General Accounting Office, "Money Laundering", 1.
\textsuperscript{142}U. S. General Accounting Office, "Money Laundering", 19.
\textsuperscript{143}U. S. General Accounting Office, "Money Laundering", 18.
believed to encourage money laundering\textsuperscript{144}; transactions BSA and Indian casinos do not report. For example, Nevada casinos would not execute a "cash for cash" transaction over $2,500, a "cash for casino check" transaction over $2,500, or a "cash for wire transfer" over $2,500 in any situation. Nevada casinos are also not required to report transactions above $10,000 if the casino can verify that transaction is the result of winnings earned at the casino\textsuperscript{145}. BSA and Indian casinos have no formal guidelines pertaining to such transactions\textsuperscript{146}.

Indian casinos with gross annual gaming revenues (GAGR) exceeding $1 million fall under BSA's definition of "financial institution", and are therefore required to comply with BSA reporting requirements\textsuperscript{147}. Indian casinos not subject to BSA would report incoming cash transactions exceeding $10,000, but unlike Nevada and BSA casinos, are not required to report "cash out" transactions exceeding that same amount\textsuperscript{148}. The incoming transactions are reported on IRS Form 8300, Report of Cash Payments Over $10,000 Received in a Trade or Business\textsuperscript{149}. Because Form 8300 contains individual tax information, it is "generally not available" to law enforcement for money laundering investigations\textsuperscript{150}. In addition, there are no federal guidelines for Indian casino record keeping systems\textsuperscript{151} in existence. The 1994 Money Laundering Suppression Act will amend BSA to broaden reporting requirements for Indian casinos\textsuperscript{152}.

\textsuperscript{144}U. S. General Accounting Office, "Money Laundering", 19.  
\textsuperscript{146}U. S. General Accounting Office, "Money Laundering", 19.  
\textsuperscript{149}U. S. General Accounting Office, "Money Laundering", 23.  
\textsuperscript{150}U. S. General Accounting Office, "Money Laundering", 23.  
\textsuperscript{151}U. S. General Accounting Office, "Money Laundering", 23.  
\textsuperscript{152}U. S. General Accounting Office, "Money Laundering", 25.
The IRS is responsible for auditing tribal casinos' compliance to anti-criminal security measures such as BSA. As of March 1995, however, the IRS had not made any compliance reviews of tribal gaming operations. The IRS faulted the lack of formal policy concerning compliance reviews on tribal lands, saying that it was necessary to establish such a policy before beginning any examination. The current political environment has placed a new financial strain on the IRS, and will likely delay any examinations of Indian casinos until a later date. The GAO recommended to the U. S. Senate's Permanent Subcommittee on Investigations the implementation of uniform currency transaction reporting requirements across the gaming industry for both Indian and non-Indian casinos. In addition to these proposed requirements, the GAO believes that the provisions of Money Laundering Suppression Act of 1994 and its amendments will be effective deterrents to money laundering activity. In conclusion, the GAO notes that IRS' limited funds require BSA and non-BSA casinos to become more willing and involved with the transaction reporting and record keeping system. The GAO does not state at any time, that Indian casinos are more vulnerable than non-Indian casinos to money laundering activity.

Since 1988, seventeen Indian casinos have opened in the State of Minnesota. Nearly $4.1 billion is wagered in Minnesota casinos each year, amounting to one percent of the bets being placed across the nation. Opponents of gambling believe that Indian casinos have caused an increase in crime and bankruptcy and suicide in Minnesota. Chris Ison and Dennis McGrath claim that Indian casinos are burdening local police forces at an estimated cost of $200 million per year to the state taxpayer. In the six years since the first Indian casino opened, Minnesota

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counties with Indian gambling saw the "crime rate rise twice as fast as those without casinos....the increase was the greatest for crimes linked to gambling, such as fraud, theft and forgery/counterfeiting." In 1991, the county police responded to "twice as many incidents of crime or people seeking help" on the Mille Lacs Band Reservation, location of the Grand Casino Mille Lacs. Ison and McGrath cite a Center for Addiction Studies/University of Minnesota-Duluth research study that identifies 38,000 Minnesotans as "probable pathological gamblers", noting that among problem gamblers, "teens" are the most susceptible to addiction. The article tells the story of Catherine Avina, mother and problem gambler:

"Through the ringing of slot machines and chattering of coins dropping into tin trays, Catherine Avina heard her name paged. "Are you coming home tonight?"
It was her 21-year-old son Joaquin, on the phone. "Probably not," she answered. Avina didn't go to Mystic Lake Casino in Prior Lake Minnesota as much as she escaped to it. On Monday--her fourth straight day at the casino--she dragged herself back to her St. Paul home, broke and more depressed than ever. Two days later, Joaquin confronted his mother about her gambling, and they argued. The next morning, when she didn't come out of her bedroom, he peeked in. Two empty bottles of anti-depressants and a suicide note were near her body. Later her family found debts of more than $7000, and Avina was still making payments for gambling-addiction therapy received a year earlier."

Ison and McGrath say Avina is one of the "hidden suicides" caused by Indian gambling in Minnesota. The Minneapolis Star Tribune has confirmed five gambling related suicides since 1993 and Ison and McGrath believe that "this is only a fraction of the total".159

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McGrath cite nationwide increases in bankruptcy filings and burgeoning levels of credit card debt and infer that this phenomenon can be directly tied to the expansion of casino gambling. The authors call for better research and funding for public and casino employee education about the problems of gambling. They believe that the evils of gambling are "emerging in vivid and tragic detail" in Minnesota, and should be brought to a halt.\(^{160}\)

The compulsive gambling problem is growing along with the United States casino gaming industry. A 1975 study identified 0.7% of the U.S. population as "problem gamblers."\(^{161}\) Since that time, several hundred casinos have opened across the country and on riverboats. The Wisconsin Policy Research Institute suggests that the number of "problem gamblers" has increased approximately four percent over the last twenty years.\(^{162}\) Problem gamblers pass on social costs to their communities that may mitigate the economic benefits of Indian casinos. Counseling, treatment programs, the cost of the criminal justice system, and the loss of a gambler's productive work time are only a few ways that problem gamblers can hurt their communities.\(^{163}\) In a survey of gamblers at Indian casinos in Wisconsin, 10% of local gamblers reported that, if there was no casino nearby, they would likely spend more money on groceries or clothing.\(^{164}\) At least 36% of survey respondents said their savings had been reduced since the casino opened, but only 23% believed they would save more if the casino closed.\(^{165}\)

The exact costs passed on to communities by problem gamblers cannot be determined. Several


\(^{161}\)Commission for the Study of National Policy on Gambling, quoted in Thompson, Gazel, and Rickman, The Economic Impact of Native American Gaming in Wisconsin, 41.

\(^{162}\)Thompson, Gazel, and Rickman, The Economic Impact of Native American Gaming in Wisconsin, 41.

\(^{163}\)Thompson, Gazel, and Rickman, The Economic Impact of Native American Gaming in Wisconsin, 42.

\(^{164}\)Thompson, Gazel, and Rickman, The Economic Impact of Native American Gaming in Wisconsin, 25.

\(^{165}\)Thompson, Gazel, and Rickman, The Economic Impact of Native American Gaming in Wisconsin, 25.
studies have established a useful range of $6,500 (low); to $13,000 (median); to $18,500 (high) to articulate the social cost of each problem gambler per year.\footnote{Statement of John W. Kindt to Committee on Small Business, U. S. House of Representatives, 21 September 1994, quoted in Thompson, Gazel, and Rickman, \textit{The Economic Impact of Native American Gaming in Wisconsin}, 42.}
CHAPTER FIVE

CONCLUSIONS

"...Reservation-based tribal groups...exist in a paradoxical world: recognized sovereigns, with rights that can be systematically quashed..."167.

---David Wilkins

There is considerable evidence that Indian casinos are creating some degree of economic growth in local reservation communities. The great strength of IGRA is that it has allowed Indians a greater degree of independence from the BIA bureaucracy, making them free to make the best use of casino revenue for their reservation's needs. Most gaming tribes have chosen to dedicate their earnings toward the improvement of healthcare, education, and housing for their members. There have been noticeable declines in local unemployment, and significant improvements to the social and welfare programs in Indian gambling communities. Several Indian tribes have stated that they have been able to eliminate their dependence on federal assistance. In 1979, 53% of the Oneida Nation of New York were living below the poverty level, the Nation had a per capita income of $2935 per year168. Today, the Oneida say they are almost entirely self-sufficient.

Real growth in reservation economies is difficult to determine with any accuracy, data collected by the U. S. government for the 1990 census would not yet reflect the economic impact IGRA has had on the Native American community. Other economic figures are published by the

167 Wilkins, "Modernization, Colonialism, Dependency", 391.
gaming tribes themselves and cannot be considered wholly unbiased. Most of the economic impact studies assembled by Indian tribes are prepared to reassure the states; Indians want to show state and local governments that the economic benefits of casino gambling outweigh the increasing social costs to the communities. A group of researchers studying the impact of Indian gaming complained that several Wisconsin tribes had refused to cooperate unless they would be allowed to control the outcome of the study\textsuperscript{169}. There is an urgent need for a more impartial party to collect and analyze data on Indian casino gambling.

Perhaps the most accurate barometer of Indian gambling's success is the recent swell of media attention to the issue. Not since manifest destiny have the eyes of so many newspapers been riveted on Native Americans. For decades, Native Americans have suffered in poverty and isolation; unnoticed by a nation living in relative wealth and economic opportunity. Most journalists, however, have chosen to focus on the "enormous" wealth being generated by Indian casinos within the last couple of years. Few, if any, have acknowledged the depth of Indian economic underdevelopment. Unfortunately, the wealthy tribes featured in newspapers represent only a handful of Indians operating Class III gaming facilities. Larger tribes in more isolated parts of the nation, although they too have seen some economic improvements, must distribute casino revenues to benefit hundreds of members. For them, the casinos can provide a source of additional income, but it is unlikely casinos will be able to replace federal assistance in the foreseeable future. The wealthy tribes have relatively small tribal rolls, usually less than 50 members, and operate casinos on reservations near major metropolitan areas like New York City, Boston, or Minneapolis.

\textsuperscript{169} Thompson, Gazel, Rickman, \textit{The Economic Impact of Native American Gaming in Wisconsin}. 1.
A steady string of law suits following IGRA (see Chronology) has kept the federal government interested in Indian gaming. In March 1996, the Supreme Court upheld a 11th Circuit U. S. Court of Appeals ruling in *Seminole Tribe of Florida v. Florida*, No. 94-12, allowing that states would not be forced to negotiate gambling compacts with Indian tribes. The Seminole were suing the state for failing to negotiate in 1991. The Supreme Court decision takes away the right to bring the state to federal court when the state refuses to negotiate in good faith on gambling compacts. The ruling does not give the states the right to "ban or regulate" gaming on Indian reservations. The Indian tribes may continue to appeal to the Secretary of Interior to arbitrate such disputes and obtain authorization to open casinos directly from the federal government. This aspect of the ruling will make it easier for tribes to open casinos, at least until the next round of controversy over Indian gaming. The next IGRA-related case, *Oklahoma vs. Ponca Tribe*, No. 94-1029, has yet to be heard by the Supreme Court.

Congress has been deafened this year by the shouts of big gaming states like Nevada and New Jersey. New Jersey Representative Robert Torricelli, a vocal opponent of Indian gaming has stated since the ruling that Congress "must enact comprehensive reform to redefine the playing field." In 1995, New Jersey's U. S. representative Frank Lobiondo co-sponsored the Fair Indian Gaming Act, H. R. 1512 in an effort to level the competition. The Act would have given state governments permission to specify what games will be permitted in casinos, and also would permit states to regulate Indian gaming according to their standards. Lobiondo says, "Clearly, when one business can use slot machines when they are illegal for any other business,

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172 Lobiondo, "States Should Have Say in Indian Gaming", *Casino Player*, December 1995, 34.
the playing field is not level. Competing against a tribal casino would be like playing in a baseball game where the opposing team gets six strikes and four outs when they are at bat.\textsuperscript{173}

Lobiondo suggests that Indian casinos should be required to pay taxes to the state government, along with an additional levy dedicated to \textit{statewide} economic development\textsuperscript{174}. Lobiondo's greedy proposal would have taken between eight and twenty percent of Indian gambling revenues (depending on the state in which the casino is located) and redistributed it according to the wishes of the state. Indian gambling currently represents approximately 16\% of the $407 billion casino industry\textsuperscript{175}. Of the 119 Indian casinos, only a handful are getting rich. Under the "Fair" Indian Gaming Act, Indians would have funded state services from which they are unable to benefit (due to Indian political sovereignty).

In 1995 and 1996, the federal government and the Supreme Court have become more supportive of the states' interests. It is more than likely that Indian casinos will face tighter federal regulation in the near future. Vine Deloria, Jr. believes that "...there is just too much income coming in from these casinos...[the money] will entice other political entities to try and tax [them] or take them over..."\textsuperscript{176}. Although he personally feels that gambling is degrading, Deloria acknowledges that there is no other immediate source of income for many Indian tribes, and believes tighter federal regulations would seriously undermine the economic progress gaming tribes have made\textsuperscript{177}. If Lobiondo and others successfully "level the playing field" in the gaming industry, Indian casinos will be required to operate as private, commercial casino enterprises. In

\textsuperscript{173}Lobiondo, "States Should Have Say", 34.
\textsuperscript{174}Lobiondo, "States Should Have Say", 34.
\textsuperscript{175}GAO, "Money Laundering", 10.
\textsuperscript{176}Vine Deloria, Jr., personal correspondence to author, 5 March 1996.
\textsuperscript{177}Vine Deloria, Jr., personal correspondence to author, 5 March 1996.
most instances, running a strictly profit-driven casino operation would be incompatible with the immediate economic goals of Indian tribes. Most reservations still exist as "internal colonies" within the United States; their economic goals concern the improvement of poor social and economic conditions on the reservation and decreasing their dependence on the federal government. The Commission's "key differences" table is once again a helpful illustration of the differences between the management of the private sector and tribal government.

No longer confined to a handful of states, the crime and social problems associated with casino gambling have begun to proliferate across the nation. Congress has become increasingly concerned about the social costs of legalized gambling and wants a study done on the social and economic impact of casino gambling on local communities. In April of 1996, Representative Frank Wolf of Virginia introduced a bill to create a federal gambling commission.

"KEY DIFFERENCES"

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<thead>
<tr>
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<th>Tribal Government</th>
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<tr>
<td>Profit Driven</td>
<td>Social Welfare Driven</td>
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<td>Business Planning</td>
<td>Big Picture Planning</td>
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<td>Cost Control</td>
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<td>Entrepreneur, CEO</td>
<td>Tribal Bureaucracy</td>
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<td>Reward System</td>
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<td>Focus on Needs</td>
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<td>Independent</td>
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Source: Presidential Commission on Indian Reservation Economies, Table 1. "Key Differences", Report and Recommendations to the President of the United States, (Washington, DC: U. S. GPO), 35.
A companion bill, sponsored by Senator Paul Simon, was blocked by Nevada
representative Richard H. Bryan, whose state receives 40% of its annual revenue from casinos\footnote{Washington Post Editorial, "Gambler's Fingerprints", (21 April 1995), C:6.}.

The bill was later reintroduced; redesigned to further the interests of private casino companies. The bill would have "denied the proposed [federal gambling] commission power to subpoena
documents, to convene any investigative hearings, to conduct independent research or make any
recommendations that would affect the commercial casino industry. The proposed commission
would be allowed to make recommendations only concerning Native American casinos and
gambling on the internet [emphasis added]"\footnote{Washington Post, "Gambler's Fingerprints", C:6.}.

Casino gambling has unwittingly created a hostile political environment for Native Americans. The federal government's next move on this issue will be of unusual significance. Casino gambling has placed the political sovereignty of Indian tribes at considerable risk. Indian political sovereignty is not protected by an untouchable law; Congress is authorized to take away sovereignty at any time. If the pressure from big gambling states becomes great enough, it is conceivable that Congress could dissolve the Indian tax-exemption to benefit state budgets. Coupled with the government's shrinking funding for Department of Interior's Indian budget, even the richest gaming tribes could be driven back into hopeless poverty. It is clear that Indian gambling's opponents are clearing a trail for great change. Should Congress decide to tighten its control over Indian gambling it will, if only by default, acknowledge the role it plays in the economic underdevelopment on Indian reservations; it will have agreed that it prefers to keep Indians entrenched in poverty.
APPENDIX A

CHRONOLOGY

1492 Western Europe's discovery of the "New World".

1524 The accounts of Explorer Giovanni da Verrazzano state that there was no evidence that Indian culture included any practice of Christian religion or formal law, agreeing with other explorers that Indians were indeed "savages".

1637 The Pequot War erupted after the Massachusetts Bay Colony began a westward expansion onto Pequot territory.

1638 Treaty of Hartford dissolved the Pequot Nation.

1775 The newly formed Continental Congress committee responsible for Indian policy recommended the creation of three departments to manage Indians in (1) the northern section; (2) the southern section; and (3) the middle colonies of the country, with each section assigned a commissioner to act on behalf of the colonies.

1781 The Articles of Confederation permit the new government to trade with Indians living from Appalachia to the Mississippi River.

1786 The three "Indian" departments created by the Continental Congress in 1775 are merged into a single Indian department. The new department governed two districts; all Indian nations west of the Hudson River, and all Indian nations south of the Ohio River.

1801 Thomas Jefferson encourages Indians to move further west.

1802 Trade and Intercourse Act is passed to regulate non-Indian trade with Indians.

1803 The Louisiana Purchase gives the U. S. government control of the Mississippi area.

1807 Congress regulates the sale of alcohol to Indians.

1812 The white victory of the War of 1812 forced Indians to sign their land over to the United States government; many Indians were then relocated to the Louisiana territory.

1810-1860 Period of Indian Removal

1824 John C. Calhoun, Secretary of War, organizes the Bureau of Indian Affairs.
1828  Andrew Jackson is elected President of the United States. As a major supporter of westward expansion, Jackson is a significant player in Indian history.

1830  President Jackson's Indian Removal Act is successfully passed. This legislation would forcibly relocate all Indians in the eastern United States to the western side of the Mississippi River. This action would now come under the United Nation's definition of genocide.

1831  Over the objections of President Jackson, The Cherokee Nation wins a Supreme Court lawsuit against the State of Georgia and is declared a domestic nation, dependent on the United States government.

1832  In a second Indian victory, Worcester v. Georgia, the Indians are assured that they will not be subjects of state law.

1834  The Bureau of Indian Affairs (BIA) is made independent of the War Department.

1834  A revised Trade and Intercourse Act identifies Indian territory as those lands west of the Mississippi with the exception of the Arkansas, Missouri and Louisiana territories.

1846  Manifest Destiny ushers in new hostility between Indians, white settlers, and the U.S. government.

1848  Mexican War

1849  Gold Rush

1854  The Railroad Compromise gives half of all Indian territory to the Confederation.

1860  For the next decade, Indians and whites fought over Indian land as homesteaders ignored Indian rights to western land parcels.

1862  General James H. Carleton suggests the formation of the reservation, and the idea is quickly approved by Congress. The Navajo, forced into poverty by barren reservation lands, are among the first tribes to become dependent on the government for food aid.

Bureau of Indian Affairs is placed under the control of the Department of Interior.

1868  Fort Laramie Treaty forced the abandonment of several forts in the Dakotas and Montana.
1869 President Ulysses S. Grant's Peace Policy established the Board of Indian Commissioners. The Board's primary responsibility was to ensure that the government's treaties with Indian nations were enforced. Later, the Board would be responsible for terminating the Indian's traditional communal land holding system. The Board of Indian Commissioners called for legal recognition of Indians as wards of the U.S. government. Members of the Board were nominated by large white churches.

1871 Congress declares that it will no longer negotiate treaties with Indians.

1874 Custer became the first white man in the Black Hills. Indians in this region were very hostile to whites.

1875 The Department of Interior and War made plans to purchase the Black Hills.

1876 That summer, Custer went into Little Bighorn Valley with plans to surprise the enemy. Custer and his twelve companies were overwhelmed by the Indians. Within 36 hours, most of Custer's troops were dead.

1884 The Fourteenth Amendment to the United States Constitution freed enslaved Africans, but did not apply to Indians, as Indians were not citizens of the United States.

1885 Major Crimes Act gives the U.S. government unlimited authority over the traditional system of tribal governments.

1887 The General Allotment Act or Dawes Act, authorized the U.S. government to break up Indian reservation lands held in common and redistribute it to individual Indians based on their blood quantum and family position. Dawes believed that individual land ownership would encourage Indians to assimilate themselves to white America.

1890 The Dawes Act is amended to permit land allotments to Indian women as well as men.

1891 The Dawes Act is amended to allow Indians to lease their land allotments to non-Indians for up to ten years. Upon death, the amendment would permit heirs to sell the Indian's land to a white buyer and distributed the profits among themselves. Over time, this amendment would also play a significant role in the reduction of Indian land.

1894 Congress passes a measure that prohibited moving Indian children off the reservation for schooling; ending the boarding school practice.

1903 *Lone Wolf v. Hitchcock* reached the Supreme Court. Lone Wolf's case concerned the sale of Kiowa land that had been effected with the approval of only a few tribe members, therefore violating U.S. treaty agreements. The Court ruled that Congress had unlimited authority over Indians, and could void treaties without the permission of tribes if Congress felt it was appropriate for all those concerned.
1903 The U. S. government orders a mandatory health survey of Indian communities.

1905 Because Indians are now landholders, the Supreme Court feels it is appropriate to remove the prohibition against the sale of liquor to Indians.

1906 The Burke Act, an amendment to the Dawes Act, stipulates that Indians will not become citizens until the end of the twenty-five year trust period on their land. Indians will remain under federal, but not state authority, managed by the Bureau of Indian Affairs. If they are deemed competent to do so, some Indians might be issued their land title before the end of the 25 year trust period.

1915 The Bureau of Indian Affairs amended the Dawes Act, shortening the trust period for "competent" Indians. A "competent" Indian was defined as an individual, twenty-one years of age or older who had graduated from the sixth grade or whose ancestry was less than 50% Indian.

1924 The Citizenship Act awards all Indians citizenship in the United States.

1926 The Department of Interior orders a review of the Bureau of Indian Affairs.

1928 The Department of Interior study releases its findings in "Problems of Indian Administration", commonly known as the Merriam Report. The Merriam Report recommended that the BIA hire more Indians, raise pay levels, fund health and education more aggressively, provide vocational assistance, and end boarding school and land allotment programs.

1933 President Roosevelt selects John Collier to head the BIA. Collier's main goals were to end allotment, protect and rejuvenate Indian lands, to fund economic development projects on the reservations, encourage the preservation of tribal culture, and protect the civil and religious freedom of Indians.

1934 The Wheeler-Howard Act, known as the Indian Reorganization Act (IRA) was a significant piece of legislation in Indian history. The Act repealed the allotment program begun by the Dawes Act, and pledged the U. S. government would return all land that had once been within reservation boundaries that had not yet been sold to white homesteaders. The Act came at the height of the Depression; land prices were at their lowest. The IRA extended the trust period on Indian land indefinitely, so land could never be sold to whites. The IRA also created a $2 million per annum fund to buy additional land for Indians and fund conservation programs.

The IRA granted tribes the right to organize themselves for political and economic activities, contingent on the approval of the Secretary of the Interior. The Act also stipulated that Indians would be given employment preference within the BIA, and created a $250,000 fund for student loans.
1945 John Collier resigns his position as head of the BIA. Indians returning from World War II had new knowledge of the quality of life off the reservation. Collier and the BIA were attacked for encouraging the separation of Indians on reservations from whites. Congress took the opportunity to slash funding for the BIA and other Indian programs. Soon after, tribal termination programs begin.

1953 The Termination Act of 1953 terminated federal recognition of and services provided to certain specific Indian tribes. Each of the tribes affected was chosen because their land held valuable natural resources.

1956 The Indian Relocation Act funded job training centers for Indians in urban areas and financed the relocation of Indian families to these cities. The Act was simultaneously undertaken with a reduction in funds for economic development on reservations. Indian families leaving the reservation with the job training program were required to sign a paper for the U. S. government stating that they understood they could not return to the reservation to live.

1958 President Eisenhower states that no further tribal termination would occur unless the Indians themselves requested it.

1968 President Johnson established the National Council on Indian Opportunity, to be chaired by Vice President Hubert H. Humphrey. The Council's priority was to evaluate current Indian programs and develop strategies for including Indians in further policy making.

1968 The American Indian Civil Rights Act, passed without the consent of Indians, intended to free Indians from some of the bureaucracy of the federal government. The Act would allow Indians more, but not complete, freedom to reject lawyers chosen for them by the federal government, gave more power to traditional tribal justice systems and governments.

1968 In Minneapolis, the American Indian Movement (AIM) group is created. AIM demanded that the U. S. government make amends to Indian people, and called for a return to a treaty relationship between Indians and non-Indians.

1970 Nixon's message on "The American Indians" is the true birth of Indian self-determination. Nixon wanted Indians to be able to assume responsibility for their schools, change the role of the BIA to one of "service" to Indians, rather than "supervision", and increase federal funds for economic development on reservations.

1975 Public Law 93-638, Indian Self-Determination and Education Assistance Act of 1975 is passed.

1980's President Reagan slashes many social programs crucial to Indian people.
Indian Mineral Development Act of 1982 encourages Indian mining on reservations in cooperation with private corporations. The federal government exempted many corporations from current environmental laws, permitting antiquated, exploitative mining techniques at great cost to the reservation environment.

The Indian Tribal Governmental Tax Status Act gives tribal governments the same privileges as states or political subdivisions of states for tax exemption purposes.

The Supreme Court opinion in *Cabazon v. California* stated that Indian casinos encouraged Indian self-reliance. The decision ruled that if states regulate any form of gambling, then gambling fell under civil laws which Indians cannot be prosecuted under. The Court obliged the states to negotiate special compacts with Indian tribes wishing to open casinos. If a specific game was prohibited by the state, the state could not be forced to negotiate for that particular game.

Congress passed the Indian Gaming Regulatory Act (IGRA), establishing a legislative framework for Indian gaming that protects the interests of both the tribes and the states. IGRA articulates goals for Indian economic development and self-sufficiency, organized games into three classes, and established a regulatory framework for Indian casinos and directs how revenue may be used. IGRA requires tribes to negotiate compacts with states; compacts will be ultimately approved by the Secretary of Interior.

*Mashantucket Pequot Tribe v. State of Connecticut* is the first interpretation of the Indian Gaming Regulatory Act. The State of Connecticut had refused to negotiate a casino with the Pequot, as the only gambling allowed in the state was "Las Vegas Nights" operated by non-profit organizations. The court ultimately ruled that games permitted at such charity events was "within the meaning of IGRA", and therefore Connecticut was required to enter negotiations with the Pequot.

*Lac Du Flambeau Band of Lake Superior Chippewa Indians v. Wisconsin* In this case, the state of Wisconsin also refused to enter into compact negotiations with the tribe. Because video, slot machines and blackjack were all legal in the state of Wisconsin, the court ruled that Wisconsin was required to negotiate with the tribe.

*Seminole Tribe of Florida v. Lawton Chiles, Governor of the State of Florida.* In the original 1991 lawsuit, the Seminole had alleged that the state of Florida had failed to negotiate "in good faith". The suit was dismissed because the casino games at issue were not legal in Florida, and Congress, under the Eleventh Amendment, could not enforce the "good faith" requirement in a legal proceeding against the State. In a later appeal, it was decided to involve Secretary of Interior in cases of "bad faith".

Governor Wicker, Jr. of Connecticut, settled the land claims of the Mohegan Indians in exchange for permission to open a casino gaming facility shared with the Pequot. The compact includes all games, in return for $160 million in payments from the tribes.
1996 Supreme Court rules in *Seminole Tribe of Florida v. Florida* that a State cannot be forced to negotiate Indian casino deals. The ruling keeps open the IGRA decision allowing Indian tribes to appeal directly to the Department of Interior if a state refuses to negotiate.
APPENDIX B

SELECTED PROVISIONS OF THE
INDIAN TRIBAL GOVERNMENTAL
TAX STATUS ACT OF 1982

1) Those paying taxes imposed by tribes would be entitled to deduct the tribal taxes in computing their federal tax liability;

2) Gifts of cash and other property to tribal governments will be deductible for federal income, estate and gift tax purposes;

3) Tribal governments will be exempt from a number of excise taxes, including those on manufactures, special fuels, highway use, and telephone service;

4) Tribal governments will be able to offer tax-deferred annuities and public retirement benefits to certain employees;

5) Tribal governments will be able to issue certain tax-exempt revenue bonds, although the exemption does not extend to private activity bonds, including certain industrial, scholarship and mortgage subsidy bonds.
APPENDIX C

CLASSES OF INDIAN GAMING

<table>
<thead>
<tr>
<th>Class</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>1. Strictly social games, or games incorporated into traditional ceremonies, played by members of the Indian tribe for small prizes. Subject to tribal regulatory jurisdiction.</td>
</tr>
<tr>
<td>II</td>
<td>2. &quot;Non-banked&quot; games that are authorized by the state and could be played anywhere in that same state. Bingo, pull-tabs and poker, lotto, punch boards and tip jars are examples of Class II games. Subject to tribal regulatory jurisdiction, with oversight from the National Indian Gaming Commission.</td>
</tr>
<tr>
<td>III</td>
<td>3. &quot;Banked&quot; casino games like slot machines, blackjack, Sports betting for horse racing, dog racing, Jai Alai, pari-mutuels, lotteries, roulette, craps, keno, baccarat, Pai Gow and any house banking games. Class III games are subject to the jurisdiction outlined in the compact negotiated by the tribe and state governments.</td>
</tr>
</tbody>
</table>

Note: Under IGRA, Class II and Class III gaming is permitted only when the state offers the same game.

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