

# THE MORALITY OF ABORIGINAL GAMING: *A Concept in the Process of Definition*

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Even though there is some ethical and moral questions behind gaming, I think that ultimately it is the answer for many First Nations' communities.<sup>1</sup>

Aboriginal<sup>2</sup> gaming in Canada is a recent trend. As a result, many of the exigencies involved with adopting gaming as an economic development tool are as yet unknown. It is apparent from recent events in Canada that one major obstacle the country's First Nations<sup>3</sup> leaders will need to overcome is outside concerns regarding the moral validity of gaming and whether community leaders are ethically precluded from embracing gaming as a tool to aid in economic renewal/revival. At a time when many Aboriginal communities now seek to expand gaming operations as an instrument of economic and social development, this concern is amplified as outside interests (i.e., provincial governments) possess the power to curtail these development plans. In light of the generous gaming revenues to be had, the question as to whether it is an ethical, sovereign act for Aboriginal leaders to construct self-governance through the exploitation of a social pathology that affects by and large more non-Native than Native people

must be examined. The growth of gaming and the corresponding increase in gaming revenues in Canada will also be reviewed, in addition to data from United States Indian gaming situation, offering insight as to why Aboriginal leaders gravitate so readily toward the gaming industry.

## Evolution of Gaming in Canada

It may come as a surprise to learn that gaming in Canada has been sanctioned for a little more than three decades and that between 1892–1969 gambling was in fact illegal. Although there were a few types of gambling permitted during this period, those being limited to charitable gambling, gambling events at agricultural fairs and exhibitions, and parimutuel betting on horse racing, the move to legalize gambling did not begin in earnest until the 1960s. By 1969, the Criminal Code of Canada was amended to allow for gambling by provincial and federal governments, charitable organizations and exhibition associations, according to federal authority (Canada West, 1999: 2). Immediately, provincial governments seized upon the opportunity to improve their own financial status by establishing ticket

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lotteries in return for a percentage of the revenues generated. Despite the significant monies being transferred to government coffers, by the early 1980s, the federal government had begun to distance itself significantly from conducting lottery schemes. In 1985, the Criminal Code was once again amended as Ottawa endeavoured to get out of the gaming business. These amendments effectively shifted licensing and regulatory authority over lotteries to provincial control, granting sole authority for gaming, slot machine operations and (VLTs) to the provinces.

This legislation empowered the provinces with the authority to choose what order of gaming establishments they could sanction, what the prize limits could be set at, while also gaining complete control over the number and nature of events to be held. At the same time, First Nations leaders who had until then been watching from the periphery as events unfolded, were beginning to see just how much money could be generated from gaming in Canada and began to assert that gaming was an acceptable cure for the economic and social ills that appeared to be proliferating within Aboriginal communities. Nevertheless, according to the Criminal Code, provinces had sole jurisdiction over all forms of gaming, and First Nations interests were forced to correspond to provincial authority. According to these guidelines, a band must first obtain a provincial license prior to commencing any gaming activities since legislation designated the province with the final say regarding the groups it chooses to grant licenses to (Ferguson, 1993: 5). This was for a brief period a contentious issue as first and foremost a First Nations organization had to be deemed "a charitable organization" to obtain a gaming license. Further, all proceeds had to then be allocated accordingly for charitable purposes. Starr (1987) notes that:

While it is acknowledged that most Indians and Indian Bands are poor, they are neither charitable nor religious organizations. Demonstrably, the statutory scheme regulating gambling activities in Canada was never intended to accommodate the Indian aspiration to raise Band funds by the use of lotteries. Consequently, bands have found themselves in a legislative void ... (10).

In light of the provinces' historical indifference toward Aboriginal concerns, this void resigned First Nations to a veritable legislative no-man's land as far as gaming was concerned. As a

result, many bands took a step back and ironically sought out the Indian Act as proof of their claims to jurisdiction over reserve gaming. Many leaders began to publicly state that section 81 of the Indian Act, which provided for band "control and prohibition of public games" and "other amusements," was the key to their future prosperity. A number of leaders then agreed, without provincial consent, to enact their own gaming guidelines while stating that, if the federal government recognized their right "to control public games" through the inclusion of section 81, then gaming activities should be able to proceed without provincial intervention.

A number of challenges to the provincial jurisdiction guidelines followed. One of the first included *R v. Furtney*, where in 1991 the Supreme Court of Canada concluded that the provinces were simply asserting their Constitutional powers according to section 91 of the British North America Act of 1867. Following this decision, leaders then argued that gambling had been practised historically among First Nations people, signifying its status as an Aboriginal right according to section 35(1) of the Constitution Act of 1982. In 1996, the Supreme Court struck down this petition, articulating in *R v. Pamajewon* that gaming was in fact *not* an Aboriginal right and that on-reserve gaming facilities were not exempt from provincial legislation according to section 35(1). Currently, even should reserve gaming activities and the corresponding by-laws receive federal consent, the provinces argue that the Criminal Code of Canada applies to all Canadians, including First Nations residents. And, since the Criminal Code gives regulatory power over gaming to the provinces, First Nations would have to observe provincial regulations and licensing provisions.

It was during this period that First Nations leaders began to fully comprehend how much money the provinces were obtaining from gaming revenues. Word later began to filter north from the United States describing how formerly destitute tribes were now reaping vast revenues from reservation-based gaming. Up until then, Canadian reserve economies for the most part were ineffectual and contributed little to reservation life. These stories of affluence motivated Canada's First Nations leaders to investigate the tribal gaming phenomenon and its potential as an economic tool. Canadian First Nations leaders realized that gaming revenues provided employment opportunities and the funding localized

governments needed to endure. As well, U.S. tribes were utilizing these monies for education and health initiatives, as well as for the upgrading, and in many cases the creation of, community infrastructure. Most importantly, not only had Indian self-government in the States become a reality, it had proven in many cases to be economically self-sufficient and gaming was viewed as the vehicle by which both could be achieved.

As is currently the case in Canada, U.S. tribes originally were limited to offering small-stakes bingos and raffles. Interestingly, reservation-based gaming was not permitted despite federal acknowledgement of tribes as "sovereign nations" within the American diaspora. It was during the 1970s that the push for reservation-based gaming began and by 1981, the Seminole Tribe of Florida was arguing before the federal court of appeals that as a tribe imbued with "sovereign status," they were not bound by the state's gaming regulations. A few years later in 1987, the Supreme Court in *California v. Cabazon* ruled that since California state laws were civil/regulatory in nature, they did not apply on Indian reservations (Starr, 1987; Cordeiro, 1992). *Cabazon* established that reservation-based gaming activities were permitted in states that had any legalized form of gambling. Indian leadership in the fourteen states that permitted gaming watched carefully, and following *Cabazon*, plans were immediately struck by many tribes for large-scale gaming operations (Desbrisay, 1996). Concerns about allowing tribal regulation of gaming followed, to which the U.S. Congress responded in 1988 by passing the Indian Gaming Regulatory Act (IGRA), which officially recognizes the right of Indian tribes in the United States to establish gaming facilities on their reservations, provided their home state had some form of legalized gambling. In addition, the IGRA required of those tribes who wished to offer casino-type gambling activities a negotiated agreement, or a state compact, prior to commencing operations.

### Financing Self-Governance in Canada

In the wake of the recent Royal Commission on Aboriginal Peoples recommendations that self-government within the Canadian federation be implemented, the push for Aboriginal self-governance in Canada continues to gain momentum as more leaders begin to view this as the "mechanism by which many of the practi-

cal problems facing their communities would be resolved" (Russell, 2000: 8). Despite slow progress, self-governance is now being realized throughout Canada as former First Nations communities renounce the Indian Act in return for a governing structure resembling a municipality.<sup>4</sup> Paramount to governing oneself is the need to establish an economic foundation to fund the day-to-day governing process, yet at the present time, the primary source of reliable funding available to Aboriginal communities is via federal and provincial government transfer payments. While these transfer payments will remain in one form or another after the establishment of self-governance, there are nevertheless those opponents who maintain that legitimate self-governance requires financial autonomy. The all important question then is how to finance this system, a primary reason many Native leaders gravitate toward gaming. Statistics from the expanding Indian gaming industry in the United States confirm tremendous gains to be had by opening on-reserve gaming establishment, further entrenching in the collective First Nations psyche the sentiment that gaming has the potential to be the economic panacea that Canada's community leaders' dreams are made of.

The term self-government is used to describe the how Aboriginal community leadership chooses to direct the policy, actions and affairs of their communities, whereas self-governance is the act of governing the stewardship of the structures and processes of everyday life. Simply put, self-government is product, self-governance process, both of which require a stable funding base from which to both operate and facilitate nation building. There are currently two schools of thought in regards to nation building, the first being that economic self-sufficiency must be attained prior to recognition of political autonomy; and second, that community economies flow from sovereignty.

Proponents of the first idea clearly state that "band and tribal political autonomy depends upon achieving economic self-sufficiency and independence" (Boldt, 1993: 235) and that this self-sufficiency is the key to successful self-government. Nation building from a contemporary First Nations leadership standpoint encompasses the development of "parallel social, economic, cultural, and political institutions run by and for the benefit" of their constituents (Hylton, 1994: 10). To ensure successful self-governance a continual and consistent funding base must first be in place (Maslove, 1994: 145-

62). Conversely, Cornell and Kalt (1993, 1998) claim that Aboriginal communities must first become sovereign to allow for sound, non-dependent economies to develop, and that only once the ability to govern oneself has been established, can economies accordingly flow (Harvey, 1996: 149). At present, this discussion is too polarized for there is inadequate attention being paid to the middle ground, where economy and sovereignty are recognized as more intertwined than either of the previous two arguments provide for.

In Canada, the prevailing trend has the federal government only recognizing a First Nation's right to self-government after it has been sufficiently demonstrated that established federal criteria have been met, the foremost being a stable economy (see Indian and Northern Affairs Canada, 2000). Economic development is in this case not to be confused with community development. From a First Nations perspective, economic and community development are two different ideas. Economic development, for example, is the creation and application of business initiatives at the community level designed to stimulate economic growth, whereas community development is not synonymous with economic growth. Often it is more focussed on community well-being and where emergent economic initiatives fit into the local aspirations. To date, Canadian reserve-based economic ventures have rarely succeeded, in general, and "play a minor or insignificant role as a source of personal incomes and general revenue for all but a handful of bands/tribes" (Boldt, 1993: 223). As First Nations advance their self-governance aspirations, a variety of revenue generating endeavours can be anticipated, which includes resource sharing agreements, revenue sharing of tax bases generated from sales and income taxes and gaming revenue, and specific compensation settlements and transfers of land, all of which could contribute to an Aboriginal government's independent revenue base. An emerging factor many consider will begin to play an integral role in this evolving self-governance process is gaming.

### **Aboriginal Gaming in Canada: The 'New Buffalo'?**

The current First Nations gaming situation is in its introductory stages, with most Aboriginal gaming activities in Canada limited to bingos and high stakes raffles (Desbrisay, 1996). Massive

reservation gaming operations similar to those in the United States do not exist in Canada, although there are smaller gaming establishments emerging. In Manitoba alone, the Opaskwayak Cree Nation at The Pas currently operates a small gaming establishment and there are now five other First Nations negotiating with the provincial government for licenses. In Ontario, Casino Rama is located at the Mnjikaning First Nation and opened in 1996; to date more than \$400 million has been allocated for dispersal to all of the province's First Nations communities. In spite of federal indifference and overriding provincial jurisdiction, many First Nations communities across the country persist in drafting proposals to build casinos or larger casino/resort complexes in the hope that provinces will ease up and grant licenses (see Desbrisay, 1996). There is, however, mounting pressure on the provinces to follow suit and grant licenses in light of how much revenue can be obtained through licensing agreements and revenue sharing compacts. Looking to the State of Connecticut as an example, the Mashantucket Pequot Tribe's Foxwoods High Stakes Bingo and Casino agreed in the early 1990s to pay the state 25 per cent, or a minimum of \$100 million of its overall slot revenues annually (Harvey, 1996: 150; Bordewich, 1996: 110). In 1999/2000, this total amounted to a little more than \$189 million being transferred to the state of Connecticut (State of Connecticut, 2001). Similar agreements in Canada will become intrinsic to Aboriginal gaming, as evidenced by the province of Ontario's 20 per cent take from of all revenue generated at Rama (Mandel, 2000: 41).

This is simply good business sense as economic indicators from Canada demonstrate that gambling became a major source of income for Canada's governments in the 1990s. A recent Statistics Canada study indicates that net revenue from gaming increased by more than 100 per cent between 1990-98. This resulted in gambling revenue in 1998 amounting to \$7.4 billion, up from \$2.7 billion in 1992 (Statistics Canada, 2000), of which \$2.8 billion is net revenue (income after prizes) (Gombu, 2000). Of this total, casinos accounted for 38 per cent of all gambling revenue, lotteries 35 per cent and 28 per cent for VLTs (Statistics Canada, 2000). There are now more than 50 permanent casinos in seven provinces, 21,000 slot machines, 38,000 video lottery terminals, 20,000 annual bingo events and 44 permanent horse race tracks in



Canada (Azmer, 2000). More Canadians are gambling as well, wagering upwards of \$6.8 billion annually on some form of government-run gambling activity. Statistics also show that there has been a two-and-a-half per cent increase in the numbers of people gambling from 1992 levels, with casinos and video lottery terminals listed as their preferred gambling activity. These two activities alone accounted for almost 60 per cent of government revenue from gambling, and during the same period, profits for provincial governments from this source also rose dramatically (Korn, 2000). In 1997, for instance, gambling accounted for at least three per cent of total government revenue in all provinces (Marshall, 1998). This is an impressive figure and the primary reason why Aboriginal communities looking to establish local economies focus on casinos.

### **Economic Potential of Gaming**

Examining the current U.S. situation provides insight into why Canada's First Nations leaders so willingly gravitate towards gaming despite jurisdictional issues which render direct application ineffective. Since 1988, for instance, it is reported that 130 of the United States' 300 federally recognized tribes have gambling operations of some sort (Desbrisay, 1996). Gambling revenues on Indian reservations for 1996 reached an estimated \$1.5 billion, a total that is expected to increase yearly by approximately 25 per cent (Wilmer, 1997: 89). The Pequot's Foxwoods Casino is the most celebrated example of a true 'rags to riches' story that many First Nations leaders point to as evidence of what gaming can accomplish. Originally one of the most powerful tribes along the Connecticut coast, the Pequot had through disease and the colonial/Indian wars seen their numbers reduced to the point where by the end of the nineteenth century they had lost tribal status according to federal guidelines. During the next eight decades, the Pequot reservation was managed by the State of Connecticut, which sold off the land base as required to pay for the Pequot's upkeep as the already low population numbers continued to diminish (Bordewich, 1996: 111).

In the 1970s, under the leadership of Richard Hayward, the Pequot began their tribal renewal first by establishing grassroots businesses such as a maple syrup production company and by harvesting timber resources. Once a small

economic base was established, combined with the \$900,000 in federal compensation following recognition of Pequot tribal status in 1983, tribal leaders opened a small bingo hall in 1986, which netted \$2.6 million profit the first year (Harvey, 1996: 181). Reinvestment into tribal ventures followed and by 1992, a \$60 million gaming facility was opened that included an expanded 250,000-square-foot bingo hall, and a 46,000-square-foot gaming area with 170 table games that employed 2,300 people (Harvey, 1996: 181). During its first year of operations alone, \$4.5 billion was wagered, which increased proportionally each year until 1999/2000 when more than \$9 billion was wagered, with Pequot revenue estimated at \$8.3 billion (State of Connecticut, 2001).

In addition to Foxwoods, gaming has been adopted by many Indian reservation governments in the United States. The Sault Ste. Marie Tribe of Chippewa Indians in Michigan owns the largest casino in Michigan, and as of May 1993, government leaders boasted an additional 14 spin-off businesses, and plans for nine others. In all, more than 1,500 employees and annual profits of about \$30 million have resulted from their gaming ventures (Desbrisay, 1996). At about the same time, two studies were undertaken examining the economic impact of reservation-based casinos in Minnesota. Statistical analysis indicated that the existing thirteen such casinos employed 5,700 people were employed, of which 1,350 were Native Americans (in Desbrisay, 1996). The second study focussed on six of the operations, and found that together they generated \$143-million in revenues and \$54-million in profit (Minnesota Indian Gaming Association, 1992). It is vital to also recognize that while reservation economies may become revitalized, neighbouring economies are also positively affected. For example, construction costs for the gaming industry in 1992/93 were tagged at \$69-million, with more than \$78-million spent annually on wages (in Desbrisay, 1996).

### **Anticipated Jobs and Revenues: The Mnjikaning Example**

The Mnjikaning (Rama) First Nation is located in central Ontario just outside of Orillia. The community occupies about 2,350 acres of land divided into eight separate parcels and claims a total membership of 1,266 people, of which 505 live on reserve. The written history of Mnjikaning First Nation can be traced back

to 1690, when at the request of the Huron-Wendat people living near present-day Midland, Chippewa leaders agreed to assist in a war against the Iroquois. The Chippewa remained and they shared their generous supply of food provided by local fishing weirs. In 1818, as part of its policy to open Ontario to settlement, colonial administrators obtained from Chief Musquakie (William Yellowhead) 1,592,000 acres in return for a perpetual annuity of 1,200 pounds in currency and goods (Dickason, 1994: 191, 253; Surtees, 1994: 161).

By 1829, the Indian department had established two settlements at Coldwater and the Narrows (near Orillia) in accordance with Lieutenant-Governor Colborne's plan for gathering "nomadic tribes" and settling them on reserves. Upon arriving at the Narrows, community members led by Chief Musquakie were ensured they would not be forced to relocate and were thereby encouraged to take up subsistence farming; however, by 1836 significant pressure from encroaching settlers resulted in the government relocating the community to Ramara Township, where the Mnjikaning then purchased 1,600 acres for a reserve they still occupy. As of 1846, they had 300 acres under cultivation and their settlement contained 20 houses, four barns and a school house. The federal government in the 1870s came to recognize the community as the Chippewas of Rama, a name which stuck until 1993 when a community-generated assertion resulted in the name Mnjikaning being reinstated.

With the exception of subsistence farming and the local fisheries, there was little economic activity in the community, a trend that persisted until the late 1960s at which time a convenience store, a trailer park, and some independent fishing guides comprised the local economy (Mnjikaning, 2001). The chief and council, in conjunction with the community's economic development team, took it upon themselves and began to encourage community investment in new economic initiatives (Mnjikaning, 2001). It was 1994 when the Mnjikaning leadership decided that their community was perfectly suited to open a gaming establishment. Located a short 45-minute drive from Toronto and millions of potential customers, band manager Ted Williams and current cultural advisor Mark Douglas entered into discussions with then-Ontario Premier Bob Rae, who had called for applications from Ontario First Nations to host a Native casino that would

benefit First Nations people (Mandel, 2000). The Mnjikaning proposal beat out bids submitted from 13 neighbouring First Nations communities, and following these talks it was concluded that gaming could become the new and badly needed source of self-sufficiency these leaders had long been seeking. The obstacles, it seemed, were minimal as a 65 per cent community unemployment rate combined with the potential revenues that could be generated by exploiting a virtually untapped gaming market were enough to persuade leaders of the industry's possibilities. The "new buffalo" gaming represented to many Mnjikaning leaders a potential economic panacea, from which the anticipated windfall was viewed as the vehicle by which social and economic hardships could be dealt with.

From a community standpoint, this most often means jobs. This was one of the motivating factors at Mnjikaning in the early 1990s when the casino idea was first proposed. At the time, approximately two-thirds of band members were not regularly working. And with the exception of a small band-owned business making portable toilets, the economic forecast was grim. And even though Rae's government was convinced of the casino's validity, the next step for Williams and Douglas was to convince community members of its potential. A referendum was eventually held at Mnjikaning at which time the casino plan was approved by 72 per cent of community residents (Mandel, 2000). Construction began prior to a provincial election, which was followed by the NDP and Bob Rae being replaced by the Progressive Conservatives under the leadership of Mike Harris. Originally, Rae anticipated the casino as a cash source for Ontario's impoverished First Nations. Harris, on the other hand, realized immediately the potential revenue that Rama could generate and summarily dictated that his government would secure 20 per cent of all revenues.

Following negotiations and the establishment of the Rama Casino Corporation in 1996, things changed drastically. Metis representatives came forward claiming they should also be included in the profits which were to be shared among the First Nations, the Harris government, and manager Carnival Hotels and Casinos. The First Nations and the Conservatives then began haggling over the details of the revenue-sharing compact. The assets were frozen following a Metis petition to the Supreme Court asking for a ruling regarding their claims to a share of the

revenue on the basis of their federal recognition of one of Canada's Aboriginal groups according to section 35(1). Following a three-year legal challenge, a ruling was issued in June 2000, which stated that the Metis, in addition to other non-status Indians, were not entitled to inclusion in the revenue sharing agreement.<sup>5</sup> Shortly thereafter, revenue sharing negotiations with the government were concluded, where it was decided that the province would get 20 per cent off the top, with the provinces First Nations and Mnjikaning required to split the remaining 80 per cent 65/35, respectively. Following resolution of the many issues that plagued the endeavour from the outset, more than 80 buses arrive daily with anxious consumers ready to spend their money. As a result, unemployment at Mnjikaning is down to eight per cent, band staff has jumped from 50 to 230, and 656 of the casino's 3,000 employees are First Nations members, with 80 currently living at Mnjikaning (Mandel, 2000: 38).

According to the revenue-sharing agreement, Casino Rama profits may only be used to benefit the reserve in education, culture, health, economic development, and social programs. Recently, the province of Ontario doled out the first payment according to the revenue-sharing agreement from an accumulated total of \$400 million that has been generated since Rama first opened its doors in 1996. Rama's share is \$140 million — or 35 per cent. As mentioned, Ontario's other 133 First Nations are also part of the agreement, and each community can count on close to a \$1 million payout. The Mnjikaning Band also receives an additional \$8 million yearly from the casino lease and liquor, restaurant, and parking revenues.

Today, there are about 25 private and band-owned businesses at Mnjikaning, and in 1998 the Mnjikaning Kendaaswin Elementary school opened for community and neighbouring children. The community also operates its own fire department and first response emergency unit as well as a police department in cooperation with the Ontario Provincial Police. Mnjikaning now also has a state of the art water treatment centre and sewage treatment plant that services both the community and the needs of the other businesses. Casino Rama has also begun a program for Awards for Excellence for Aboriginal Students and eight \$5,000 scholarships were awarded to Native post-secondary students, honouring their personal involvement in both aca-

ademic and community settings. In the past year, Casino Rama has assisted more than 150 community groups in various wellness initiatives.

In Ontario, the Rama Casino deal and the corporation created to benefit all First Nations makes gaming a viable economic prospect. With millions of dollars generated annually, First Nations communities now have access to the funding required to establish a more dynamic economic base without first seeking approval of the Minister of Indian Affairs. The agreement works in part because success in gaming is directly proportionate to location to large centres, such as Mnjikaning is to Toronto. This concern had been previously voiced by the Department of Indian Affairs Task Force on Gaming on Reserves in 1987, which reported that there was a prevalent view among provincial authorities "that the provincial population, including natives, represents essentially one market. It is seen as disruptive for unlicensed reserve-based high stakes bingos to draw upon that market thereby "emptying the church basements" of nearby communities" (Canada, 1987: 22). Despite provincial concerns over the potential effects of unregulated competition in the gaming industry, these same governments are also charged with the responsibility to regulate the industry, consequently market saturation could only evolve through mismanagement or naivete on the part of those who grant licenses according to economic forecasts. The boom in Indian gaming in the United States is expected to peak in the next decade (Wilmer, 1997: 98), and the major concern is that of market saturation.

The Rama Casino agreement allocates revenue generated at Mnjikaning to all of Ontario's 134 First Nations and is an excellent example of self-regulation. This policy of inclusion is also proactive for it anticipates other bands one day striving to establish casinos should the Rama Casino experiment be deemed successful. It was reasoned that by including all First Nations communities in the revenue sharing agreement, the gaming market could be sustained by limiting market entry of competing First Nations that would undoubtedly take away from the existing players profits. By making everyone a player, all First Nations who may also be in the position of being located nearby Toronto and that population base which currently fuels Casino-Rama's engine are satisfied.

### The Morality of Aboriginal Gaming?

Many reserves have but one industry as the prime source of revenue from which self-governance can be funded. In Mnjikaning, this one industry happens to be Casino-Rama. This often means that an entire reserve economy is based upon a social pathology. Gambling is, however, an integral part of many micro-economies Canada-wide, and even though it does not provide their primary foundation, it is an important contributing factor. But why does the word morality arise when the issue of gaming and Aboriginal communities is discussed? In a presentation to RCAP at Roseau River in 1992, Carl Roberts stated that when Aboriginal gaming is mentioned, "it all of a sudden becomes a moral issue. When it is done by governments, it is an economic venture to provide employment." He goes on to further state that legislators need to look beyond gaming as the economic foundation, but rather to embrace it as a solid beginning of what can become a diverse and dynamic economy:

I think people have to understand that gaming is only a kick-start to a lot of the economic viability that can be established in this community. I think it would be foolhardy on anyone to establish an economic base on one industry. There has to be diversification and so on. Gaming may last 10 or 15 years. Beyond that, there has to be other forms of economic rejuvenation or development within our communities. (RCAP, 1996)

The Canadian and provincial governing bodies currently use casino profits to aid in their day-to-day operations. In Ontario alone, 20 per cent of Casino Rama's revenue end up in the provincial coffers that is later distributed to the various ministries for social programs operations. Rather than reacting to an issue where none exists, are First Nations leaders not simply acting appropriately in initiating whatever type of economic revitalization they see fit in light of the near constant level of poverty and social maladies that have affected the majority of their communities for so long?

The simple answer is yes: these leaders are seizing upon an idea that could generate tremendous amounts of revenue that could provide a solid economic foundation at the reserve level. Snipp (2000) raises similar questions regarding outsider contentions of moral inefficacy, although

he is more concerned with why non-Native opposition to Native run casinos is prevalent at a time when many non-Natives reap significant benefits from these enterprises. He further expands his commentary to state that opposition to reserve casinos would dwindle if these outfits were run by non-Natives, suggesting that it is not a moral dilemma on the part of Native leaders but rather "the unpleasant spectre of racism" that requires examination on the part of dominant society (29). An example of this resistance occurred in 1999 in Headingley, Manitoba, located a short drive from Winnipeg. The Swan Lake First Nation of Manitoba sought to build a \$90 million, 22,000 square-foot casino on land awarded through Treaty Land Entitlement negotiations. Swan Lake leaders chose Headingley due to its proximity to Winnipeg. Headingley community members were quick to object, claiming higher crime rates and social problems such as alcoholism would accompany the complex due in part to it being Native run. At a time when only one per cent of Canadians believe that First Nations should operate gaming establishments (Azmer, 2000: 10), it should come as no surprise that as of December 2000, the Swan Lake casino bid had been quashed, with those who resisted claiming a moral victory. In light of these events, it should be clarified that the casinos such as Rama are located on reserves, but are managed by the provincial government and professional management firms such as Penn Gaming.

What the literature fails to acknowledge once the issue of gaming arises is the moral responsibility to the community that is inherent with the job of chief or councillor. In other words, each community must determine what is morally acceptable prior to proceeding. According to Assembly of First Nations Grand Chief Matthew Coon Come, "First Nations are responsible to our constituents," (Assembly of First Nations, 2001). This implies that Native community principles and standards outweigh those projected from Canada's political elite, and should gaming be recognized at the community level as a legitimate economic initiative, that should be the leadership's primary motivating factor in facilitating its implementation. To simply desire legitimacy is not sufficient for a government must actively strive for legitimacy, and this is done by stimulating economic growth through the initiation of profitable initiatives. Community leaders would be negligent in their duties to



acquiesce to the argument that acceptance of gaming as an economic venture was a morally reprehensible act. Quite the contrary. These leaders would be accused of moral ineptitude for ignoring a revenue generator such as gaming due to the popular 'morality' arguments being promoted.

The suggestion that the introduction of gaming to reserve communities has the potential to increase problem gambling amongst community members is a question worthy of consideration. Unfortunately, a tremendous gap exists in the literature pertaining to the adverse effects gaming could potentially have upon an Aboriginal community, and what has been written paints an ambiguous picture at best. Jorgensen (1997) states that many of the social problems associated with Indian gaming are similar to those associated with non-Indian gaming. At the same time, Cozzetto and Larocque (1996) determined compulsive gambling to be higher among North Dakota state residents due to the abundance of casinos. Zitgow's (1992) study of Indian and non-Indian gamblers in Montana suggested gambling among adolescents to be higher than in any other group.

In Canada, there have been no government sponsored federal studies about the potential social impacts of gaming among Aboriginal people. To date, only one study, The Alberta Alcohol and Drug Abuse Commission on Aboriginal Adolescent Gambling, has been conducted. The study involved 961 students from grades five to twelve in 28 schools across the province. The results of the Aboriginal study indicate that almost half of the sample (49 per cent) were either problem gamblers or were at risk of becoming problem gamblers. What was disconcerting yet not unexpected was that this was a learned behaviour—the gambling behaviour of parents influenced their children's gambling behaviour. The report indicated also that many of the study participants had suffered the loss of family members or friends. It was concluded that "that gambling is not the result of lack of opportunity or lack of interest in other activities; thus providing more activities will not likely solve the problem," adding that "given the current high levels of participation, these activities may provide the medium through which problem prevention could occur" (Nechi Training, 1995: 28).

Another common perception about Aboriginal gaming is that it can lead to political conflict

within host communities, as evidenced by recent events at Mnjikaning. At the centre of the growing controversy is the Looking Far Ahead trust fund established for the benefit of community members. Accumulating since 1996, a faction in the community believed that it was time to open the \$32 million fund and distribute \$10,000 to each community member and so a referendum was called.<sup>6</sup> Supporting this position was Chief Sharon Henry, who was elected on the platform of breaking the trust fund and establishing a per capita annuity culled from accrued interest, without touching the principal. Opposing Chief Henry was the band's addiction coordinator, Byron Stiles, who feared members had yet to learn effective finance skills necessary to handle such a large sum of money. Professor Leroy Little Bear has observed bands in similar situations, stating that it can be a dangerous situation for people who are not prepared for the sudden influx of money, indicating that this question should command more discussion (York, 1991: 91). And, while no comparison can be made to the public confrontations that occurred at Akwesasne in 1989 and 1990 between the Mohawks opposed to casino gambling and those in support, this trust-fund issue has the potential to become divisive as demonstrated by the diametric beliefs that have since emerged within the community.

Finally, gaming as an economic enterprise is a risky venture, for according to J. Rick Ponting (1993: 8) "casino gambling is an undertaking with very high stakes. The very fact that the stakes are so high—that individuals and the community as a whole stand to lose so much and hope to gain so much—could make it extremely difficult to resolve conflict around this issue." Joseph Kalt, co-director of the Harvard Project on American Indian Economic Development is equally as concerned. In a statement to the National Gambling Impact Study Commission in 1998, Kalt stated his amazement at how the success of a handful of tribes had coloured the public's perception, noting that in 1996, "more than half of all Indian gaming revenues were generated by only eight tribes' operations" (Kalt, 1998: 1). Due to the long history of economic depression or lack of concrete ideas to establish firm economic foundations, gaming for Canada's Aboriginal communities is worth a try, simply put. Nelson Rose states that the United States "Indian Gaming Regulatory Act was one of the greatest things that has ever happened to Native

Americans ... we have seen an economic revitalization on reservations unequalled at any time in American history” (Rose, 1992: 398). Denise Birdstone concurs, going on to state during her presentation to the RCAP commissioners in 1992 that she anticipates the day when Canadian Aboriginal gaming can reproduce the positive effects she sees occurring in the United States:

Even though there is some ethical (sic) and moral questions behind gaming, I think that ultimately it is the answer for many First Nations’ communities. We have seen examples in the United States where First Nations’ communities were able to build schools, cultural facilities and recreational facilities solely on the revenues from gaming. It has become the employment basis, the economic base for communities that were destitute. I think the jurisdiction question has to be settled, so that’s another avenue of economic potential.

## Conclusion

Gaming in Canada is a multi-billion dollar industry, and one that is being considered seriously by First Nations communities looking to establish an economic foundation to fund further economic ventures. To do so is to plant the seed for self-governance that, once established, community members can consider legitimate due simply to economic self-sufficiency. As suggested, gaming in First Nations communities is not a moral issue for leaders to consider, since theoretically they are guided by their constituents. In fact, the morality of gaming in Aboriginal communities is an evolving concept and community-specific that should not be influenced by outside concerns. Should the community choose to allow gaming, as is the case at Mnjikaning, then outside ethical concerns should cease to play a role as these new self-governing bodies begin to assert their sovereignty. As well, revenues can now be applied directly to improve water systems and sewer systems, roads, communications infrastructure, schools, and libraries. Day care, senior centres, available medical services and recreations centres would also become norms at the reserve level resulting from gaming revenues (Antell, Blevins & Jensen, 2000: 4). Asserting sovereignty and being able to claim these advantages is also beneficial to the confidence of these leaders who are venturing into the uncharted territory of First Nations self-governance.

As also suggested, racism could play an integral role in the constant emergence of Aboriginal leaders viewed as morally precluded from instituting gaming establishments for the purposes economic growth to facilitate nation building. In turn, this could result in provincial resistance to allowing further gaming establishments from opening. This could also lead the provinces to adopt a more proactive approach to prevent social maladies, whether inherent to gaming establishments or socially produced, for those individuals who do not have the power to police themselves, by limiting the numbers of gaming parlours that feed their desires. It is a slippery slope for government officials, for gaming in Ontario is a provincially mandated initiative the First Nations chose to adopt, and the bulk of revenues generated are from non-Native gamblers. Should the pressure prove too great, government officials may seize the opportunity to make political headway by arbitrarily legislating ‘on behalf’ of Native casinos, a policy that strikes of paternalism and colonial mentality. The money to be made at this juncture appears too great and appears to be the best independent funding source available to First Nations leaders at this time. And, more importantly, it appears that the issue of the morality of gaming can be dealt with at the community level.

## NOTES

1. Denise Birdstone speaking to Royal Commission on Aboriginal Peoples commissioners during public consultation phase at Cranbrook, B.C., 3 November 1992.
2. First Nation refers to status Indians that fall under the Indian Act, Aboriginal refers to non-status Indians, and Indian refers specifically to North American Indians in the United States.
3. First Nations gaming is examined within the context of how the revenue generated can be utilized as an economic foundation for funding self-governance. Since First Nations are the only Aboriginal communities currently engaged in negotiations with the federal government to establish self-governance, the issues of non-Status Indians and the Metis will not be dealt with in this paper.
4. The Sechelt are the most prominent example of a First Nations community whose population decided to forgo Indian Act protection and venture out as a self-governing municipality within the province of British Columbia.
5. In June 2000, the Court of Ontario stated in its Lovelace (S.C.C. 37) decision that the Metis and other non-Status Aboriginal groups were not

being discriminated against as a result of not being included in the revenue sharing compact, and therefore were not subject to a portion of the revenue generated at Rama Casino:

Does the exclusion of the appellant aboriginal groups from the First Nations Fund, and from the negotiations on the establishment and operation of the Fund, set up pursuant to s. 15(1) of the Ontario Casino Corporation Act, 1993, S.O. 1993, c. 25, on the grounds that they are not aboriginal groups registered as Indian Act bands under the Indian Act, R.S.C., 1985, c. I-5, violate s. 15 of the Canadian Charter of Rights and Freedoms?

Answer: No.

Is the exclusion of the appellant aboriginal groups from the First Nations Fund of the Casino Rama Project, and from the negotiations on the establishment and operation of the Fund on the grounds that they are not aboriginal groups registered as Indian Act bands under the Indian Act, R.S.C., 1985, c. I-5, ultra vires the power of the province under the Constitution Act, 1867?

Answer: No

6. The Mnjikaning First Nations referendum of December 2000 resulted in the majority of community members voting to open up the trust and to immediately begin distributing the money to the community members.

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