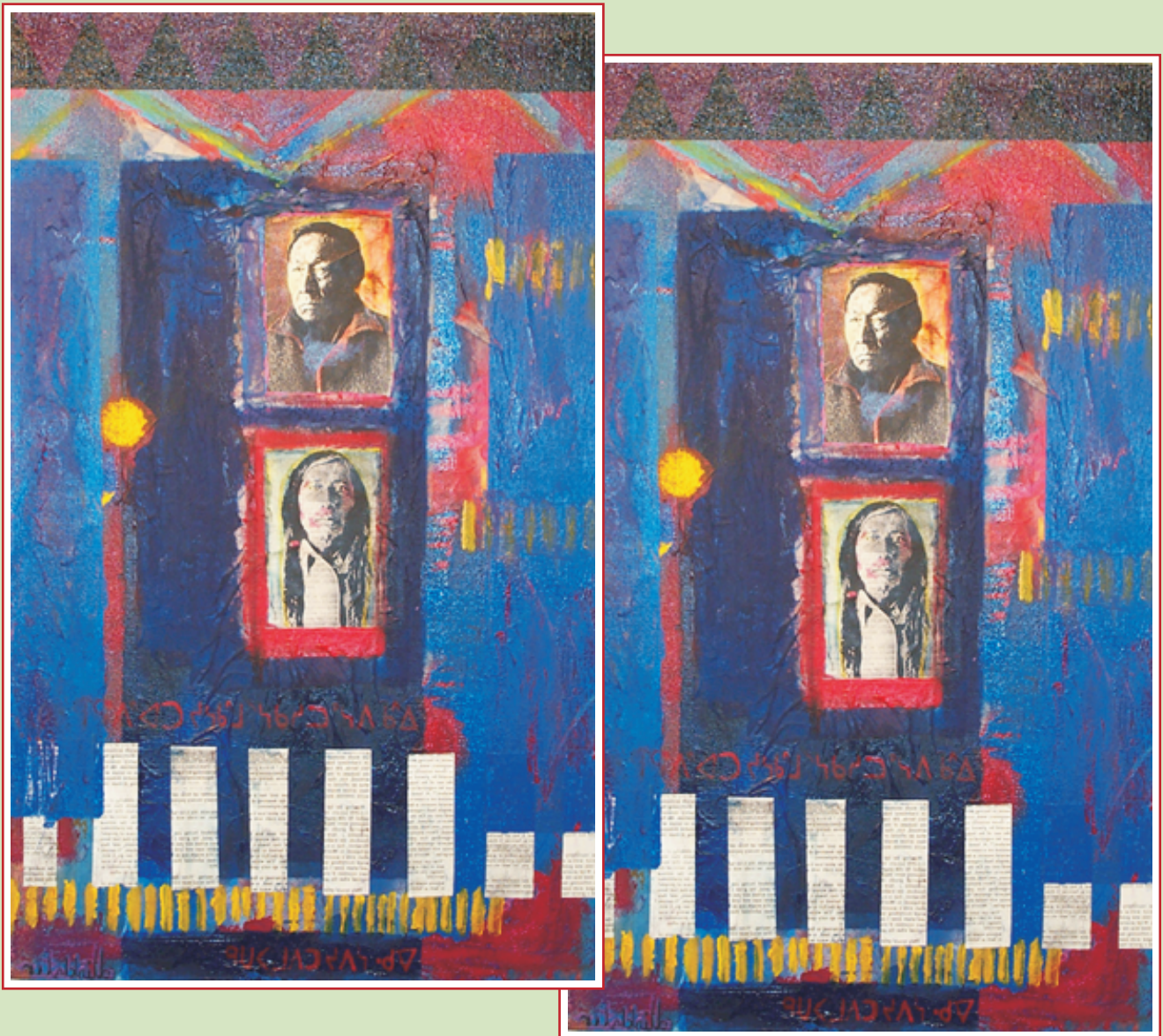


J o u r n a l o f  
**ABORIGINAL**  
ECONOMIC DEVELOPMENT

Volume 2, Number 2



Captus Press



CANDO



*Journal of  
Aboriginal Economic Development*

VOLUME 2, NUMBER 2

A SPECIAL ISSUE ON GAMING



**Captus Press**

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*The Journal of Aboriginal Economic Development* is the first journal devoted exclusively to issues and practices in the field of economic development and Aboriginal peoples' communities. The journal, published jointly by Captus Press and CANDO (Council for the Advancement of Native Development Officers), offers articles that are of interest to those who teach and those who work as officers in the field.

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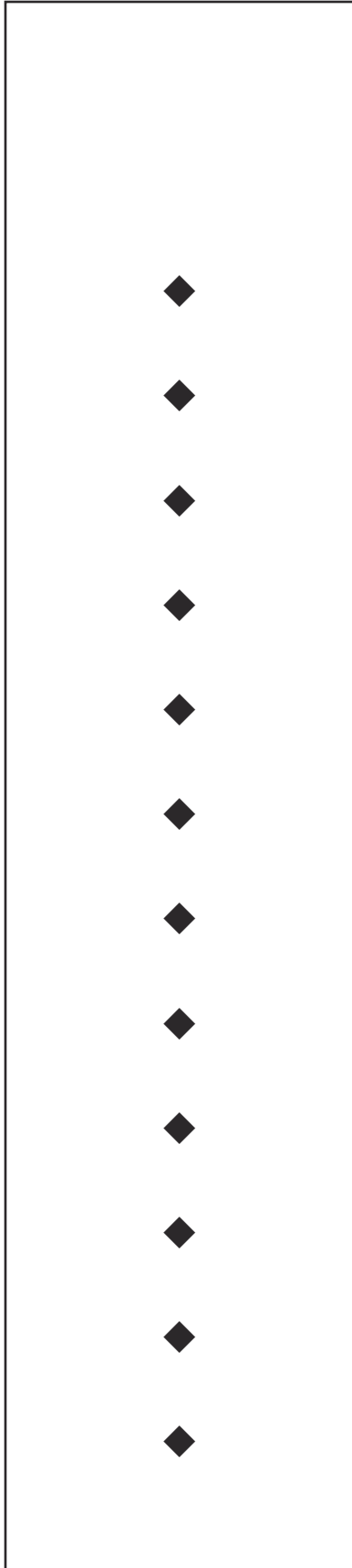
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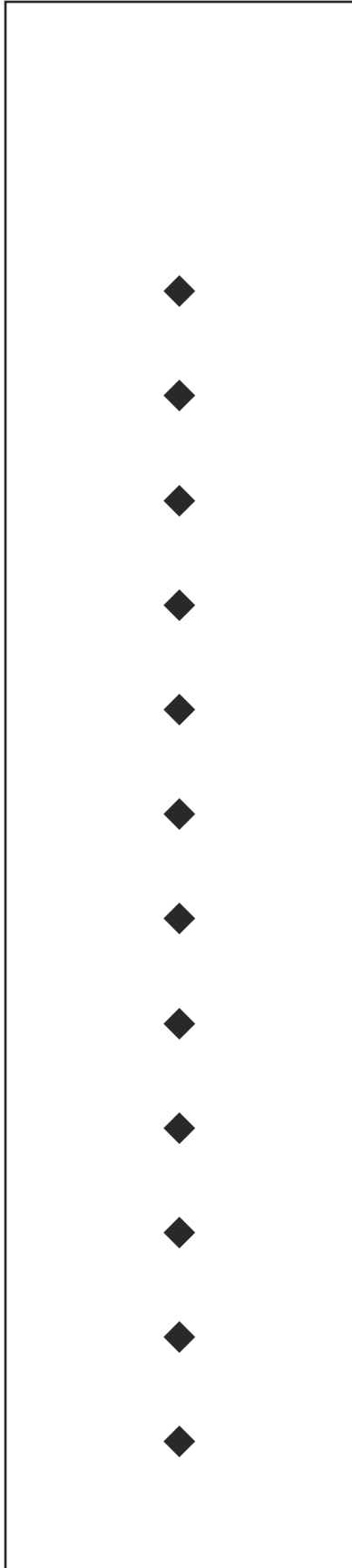
## The Artist

*Our grandfathers passed down the values to us to have strength and to care for ourselves and our extended families. Even in today's contemporary society we must extend those values and belief systems into new contemporary methods of sustainability.*

— Duane Linklater,  
University of Alberta Fine Arts Student

Duane Linklater is Mushkegowak Eninowak (Swampy Cree) from James Bay, Moose Factory, Ontario and is currently residing in the Edmonton area. He attends the University of Alberta completing a degree in Native Studies and Fine Arts. He has shown work in the Edmonton area in various venues since he moved there and continues to work at his paintings for future shows and galleries. This painting entitled “Honor Song: Kohkom’pan” is an expression of the values that the grandmothers hand down to us and the culture that they embody in their own artistic expressions, such as storytelling and beadwork. Duane can be reached via e-mail at [duanel@ualberta.ca](mailto:duanel@ualberta.ca).





## Editors' Comments

The issue of gaming within aboriginal communities is a highly contentious issue, sparking debate that encompasses issues from all of the four directions. Gaming for some is a gift from Creator expressing a fundamental part of creation. For others, it is a human expression that fulfills very human needs. And for some, it is visible evidence of the devil at play. For most of us, it presents enormous challenges.

Gaming offers immense opportunity for wealth, employment and self-government. The wealth that it brings provides means for advancing the self-government agenda and helping communities to support badly needed school and education systems, cultural and language retention activities, and can serve as a source of capital to pursue other economic activities. Gaming can provide a steady reliable source of funds free of government administrative regulation that gives people and local governments an enhanced sense of control over community destinies. For individuals, it can provide a job and a steady income close to home, perhaps for the first time. For entrepreneurs, it can provide an opportunity for service and product sales.

Yet I am reminded by the Iroquoian story of the twins: the good twin who created all that is beautiful and the evil twin that came behind and put the thorns on the roses, so to speak. Gaming can have deleterious effects on the lives of individuals who divert

scarce resources to it in the hope of a high return. Some commentators call it a tax on the poor. It can seduce people with its promise of instant wealth and happiness. If engaged in with alcohol and drugs, it can have extremely harmful effects on one's individual health and the health of families and communities. Gaming for some can be addictive with all the effects that any addiction carries with it. Gaming can contribute to family and community violence and some argue that it causes an increase the sex and drug trade. Gaming can require increases in support for policing and justice activities, add to the already overburdened health and social service systems. Ameliorating the effects requires the use of some of resources generated by gaming.

In this issue, we present a range of analytic views on gaming. We want to stimulate a reasoned informed discussion about the issue of gaming as a component of an economic development strategy. We hope that communities will debate these issues themselves in an open, democratic, deliberate, inclusive and reasoned manner. Gaming can be a rose with thorns or thorns with a rose.

The Editors

BEST PRACTICES  
*Learning from  
Experience*



## Editors' Introduction

Warren I. Weir & Wanda Wuttunee

First Nations, Metis and Inuit communities are unique and rich in culture and tradition. Individuals from every Aboriginal community in Canada have a vault of captivating stories to tell not only about their historic journeys, but also about their current political challenges and their visions for the future. The selections in this edition of *Best Practices: Learning from Experience* provide ample evidence that this diversity is alive and well in Aboriginal economies as well. The stories in this section remind us, that while Aboriginal economic strategies may differ, the collective vision of a strong and vibrant Aboriginal economy remains constant.

The first piece in this section, by Dr. Wanda Wuttunee, poses a reflective question: "*Who Are We? Reflections on Healthy Communities and Economies.*" Dr. Wuttunee addresses a fundamental aspect of the larger debate around the relationship between the development of healthy Aboriginal communities and economies and gaming — the topic of this Special Edition of the Journal of Aboriginal Economic Development.

The second selection entitled *CANDO Aboriginal Economic Development Recognition Awards* by Wanda Wuttunee and Warren Weir features the accomplishments of the four recipients recognized at CANDO's 7th Annual Conference in Yellowknife (October 2000). First, we hear how Darrell Beaulieu, President of Deton'Cho Corporation in the North West Territories, has manoeuvred the community-based corporation to become a successful business player internationally. Deton'Cho's investments are varied and include a diamond cutting and polishing operation, among other services that meet local needs. Darrell Beaulieu is pleased to share his management philosophy with our readers in this edition. Second, as we move south, we hear about Chief John Thunder a man who is recognized for his work in his community of Buffalo Point, Manitoba. His community operates a successful marina and vacation cabin development. The community has recently begun work on a golf course and intend to build a hotel at the resort in the near future. They are a small community, yet under Chief Thunder's guidance, they have capitalized on their resources without compromising the environment or their culture. The third recipient comes from the west. Clarence Louie, who has been the Chief of the Osoyoos Indian Band for over 15 years, has played a major role in the creation of eight profitable businesses under the Osoyoos Indian Band Development Corporation. These businesses have not only provided employment for his band and surrounding communities, they have also ensured zero unemployment for the Osoyoos Indian Band community. We discover that these economic advances were based on solid leadership techniques and a unique management philosophy, which includes the minimization of political interference in band business endeavours. Fourth, we travel to the heart of the Prairies—to Saskatoon, Saskatchewan—where we learn about a new and exciting initiative that is bringing together Aboriginal and non-Aboriginal partners to train and employ First Nations people, while meeting the needs of Saskatchewan's corporate players.

The third part of the *Best Practices* section highlights the *Economic Developer of the Year Award* speech given by Chief Clarence Louie after he received the award. This speech is as motivating as it is revealing. It clarifies, in no uncertain terms, the views and philosophies of this successful leader in Aboriginal economic development.

The section ends with an interview given by the Casino-Rama Director of First Nations Affairs, Keven Wassegijig, who leads us back into the discussion of this Special Issue on Gaming. In *Rama Five Years Later: A Discussion on the Advantages and Pitfalls of Aboriginal Gaming in Ontario*, guest editor, Yale D. Belanger brings us back to Dr. Wuttunee's initial question: Who are We? Readers should address this and other philosophical, ethical and practical questions as they delve into the various discussions around Aboriginal gaming that make up the rest of the journal.

# WHO ARE WE? REFLECTIONS ON HEALTHY COMMUNITIES AND ECONOMIES

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Wanda Wuttunee

More than 500 people attended the Tribal Governance Symposium: Compacts, Contracts and Agreements which has held in March, 2001 at the University of Oklahoma. The main topic was gaming and speakers from across the states addressed issues ranging from jurisdiction to testimonials from groups involved in gaming in the state of Oklahoma.

I would like to share the perspectives of one of the presenters, Kevin Gover. The rest of the relevant American material is covered extensively across the articles from Lessons of Research in this issue. Kevin asked questions that every individual and community might consider regularly as it determines the kind of community and the type of activities it wants to support. These are governance issues no less.

Kevin is an Indian (“Aboriginal person” in Canada) lawyer with extensive experience in federal law relating to Indians and Indian Tribal law. He was the former Assistant Secretary for Indian Affairs and has testified extensively before Congress. He has written and spoken on issues of law and policy involving Indian tribes.

Kevin asked questions about our image as Indians within society and the kind of communities that we want to have. These kinds of questions demand time, discussion and personal reflection before they can be adequately addressed. Yet they are critical because they

form the essence for a governance vision held by Indigenous communities around the world.

For many communities, part of a governance vision means retaking our identity by renaming our tribes and bands. Examples abound in Canada — Sarcee in Alberta are now Tsuu T’ina and Cross Lake First Nations which is now called Pimicikimak Cree Nation or however it best fits. The consequences of misconceptions for us individually and general society cannot be underestimated. Kevin related a story about a young Indian boy who sat beside him on a recent flight. The boy spent the flight drawing the Cleveland Indian logo. This was upsetting since the battles around inappropriate sports logos and mascots that batter the Indian image are regular as Indians voice their displeasure around such things. Kevin was troubled that the logo unduly coloured the young man’s image of himself and his community.

Misconceptions lead to poor policy since no one is immune to prejudgement and assumption. For example, Kevin noted that some policy-makers think that every Indian owns a casino and Indians are happier being poor. Misconceptions are not the basis for good policy that supports the drive for healthy communities. This type of behaviour affects self-esteem and attacks the fibre of community life in insidious ways.

Indian schools use Indian mascots without a second thought. Coors Light uses an Indian logo

and the connection to drunken Indians is not a far reach. Suicide in young people is tied to their self-esteem. Their self-esteem is battered with these misconceptions and suicide becomes incorporated into young people's psyche. It is a siren's call to steer away from certain disaster that must be heeded.

Upon reflection, what kind of culture do we have? Kevin notes, in fact, we have many cultures. On the negative side, we have a drinking culture. We have a culture of violence. We have a culture of violence against women. We have a suicide culture. We have a culture of vicious Indian politics. We have a culture of family breakdown. Which of these cultures do we want to support in perpetuity?

On the positive side, we have a culture of sharing and a culture of being close to the land. We have a culture that values art, music, literature and graphic arts. Those are only some of our strengths. We need to realize that we must shape the culture that we want for our children and we must do it ourselves. Kevin notes that

the responsibility lies on us to build strong communities. No one will do it for us. We have to understand our past and let it go. We have to reexamine our communities, traditions and ceremonies. Some might say, hunting is our past tradition and casinos are today's tradition. We have to take a stand.

- Stop bad mouthing each other.
- Boycott products which misuse our culture and images.
- Support our artists.
- Support our cultural institutions.
- Police our own authenticity.
- Attack stereotypes.

It does not stop there states Kevin. And so begins a hero's journey. It is a journey of self-discovery. It is a journey for personal sovereignty. It is a search for the values that make sense in today's world. Integrity is part of that new world and it must be integrated into the things we do.



# CANDO ABORIGINAL ECONOMIC DEVELOPMENT RECOGNITION AWARDS

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## Wanda Wuttunee and Warren Weir

Every year the Council for the Advancement of Native Development Officers (CANDO) recognizes four outstanding individuals or communities involved in successful Aboriginal economic development initiatives. At the Annual CANDO Conference, delegates vote and select the Economic Developer of the Year. Previous Economic Developer of the Year recipients include the: Eskasoni Fish and Wildlife Commission (1999); Campbell River Indian Band (1998); the Kitsaki Development Corporation (1997); Shuswap Nation Tribal Council (1996); and the Meadow Lake Tribal Council (1995).

In 2000, at the 7th Annual CANDO Conference held in Yellowknife, NWT, three individuals and one organization were recognized. These were:

1. Darrell Beaulieu, CEO of Deton'Cho Corporation (NWT);
2. Chief John Thunder of Buffalo Point, Manitoba;
3. Chief Clarence Louie of the Osoyoos Indian Band, British Columbia; and
4. The Federation of Saskatchewan Indian Nations (FSIN) Corporate Circle.

### Darrell Beaulieu, CEO of Deton'Cho Corporation (NWT)



Since 1988, Darrell Beaulieu has worked to further the goals of economic development for the Yellowknives Dene First Nation that has benefited the people of Ndilo and Dettah, communities that are located outside of Yellowknife, Northwest Territories. His vision and dedication inspired fellow band members in successfully operating a number of ventures that earn annual revenues of \$7 million while employing 80–150 people throughout the year.

Currently, Darrell is president of Deton'Cho Diamonds Inc, a wholly owned business arm of Deton'Cho Corporation. Beaulieu draws on his experience in the mining industry to direct the business of the company. Employees received European training in cutting and polishing NWT diamonds. His international marketing efforts take him to Europe, Africa, Asia and the United States. For Darrell, business challenges include building human and financial capacity. He states, "It takes time and it's all the small details that count in business. The big things will follow." Other efforts include government contracts, construction, health care projects, catering and housing. He sits on a number of NWT boards and regularly partners with Denendeh Development Corporation.

Darrell is known for his diligence and commitment as a hard-working leader who makes time for employees and band members. He recognizes the need for an economic development officer (EDO) in their communities. The government EDO arrived two years ago and is not involved in Deton'Cho Corporation investments. Instead the EDO focuses on educating people in starting local businesses. He notes:

From a community perspective, I see an EDO being established right in the community. The EDO starts an educational process on what business is, how to start a business and the various elements of business planning including the markets and competition. If people want to pursue a business, that EDO would help them do that. It's important that individuals participate as much as possible in developing their own business plans because that will be the guide that they are going to be using as they manage their business.

Any type of business development involves people of all ages. This is one of the important elements of Darrell's work that highlights the uniquely Aboriginal approach to business. Darrell explains:

One of the things that I am proud of is that we utilize our people in our businesses. We do not set them up to fail but instead try to encourage them in all aspects of our businesses: including financial management, human resources management and general management. Many of our staff are very young. We start them under the age of twenty-five years and give them a lot of responsibility. This gives everybody the experience of jumping in, knowing what our business is and the steps we take in maintaining a foothold in the business world. We encourage them to take training and even give them a few hours off to study so long as the business in the office is completed.

The community is concerned about the impact of development on their environment, and this is an important factor taken into decisions by the corporation. Darrell recognizes the fine line that political leaders and businesspeople walk in pursuing development while protecting the environment. Darrell notes:

There is a fine line where are we are moving from a hunter-gathering society to a contemporary work force. Our Elders remind us on numerous occasions that if there are no more jobs then we have to have backup so we can continue to live off the land to feed our families, provide heat for homes, and provide clothing in the traditional way. They warn us to be careful with the environment because that is where life comes from.

With concern for the people, the environment is balanced with a focus on longevity of

the corporation. Darrell describes their strategy as one where they focus on setting up a lasting corporation regardless of who are the corporate executives. It does not depend on one person to move things. They have established a core ideology and vision that will be maintained as the corporation moves ahead. This corporate philosophy is in keeping with Darrell's philosophy on the larger issue of self-government. He notes that economic development generates wealth that must be managed by the nation and helps build a strong nation for the future.

### **Chief John Thunder of Buffalo Point, Manitoba**



Recognition Award winner, Chief John Thunder, is proud of the many strides his tiny community of Buffalo Point, Manitoba is making towards independence from government funding as a result of economic development. In the early seventies, chief and council developed a master business plan that included a marina, cabin development, a hotel and golf course. They chose to capitalize on the natural assets of their land that borders on Lake of the Woods in Ontario and Minnesota. Many tourists visit their tiny community and enjoy the fishing and boating experience.

Chief Thunder notes:

We are almost finished following the master plan. The hotel and golf course are our final steps so we are pretty excited about the partnership that we are creating with the Wapiti First Nation. I will say that we are open to any First Nation that would love to come and visit or take a tour of our community. I have done this for many First Nations across the country and basically we give a free tour of our

projects. We also put together all of our leases and regulations, bylaws and all the legal documents that we have spent over the years developing. We can send them home with you so that you can perhaps take bits and pieces of it and learn from what we went through. We have broken a lot of ground here. I have always been a firm believer that we want to help by sending people home with knowledge that has already been developed.

Until recently, Chief Thunder worked with his father, past chief, Jim Thunder, and his council members on these projects. Now he has a business manager whose duties include those held by an economic development officer. The details of the feasibility analysis and the nuances of developing and implementing a business plan are critical elements of the business manager's responsibilities. The community can take comfort in knowing that their investments are profitable.

According to Chief Thunder, a master community plan is essential. He states:

Unfortunately, I think a lot of First Nations don't have that master plan and they tend to take the shotgun approach and end up all over the place. I think there can be success with an Economic Development Officer that knows and understands the First Nation lands and the requirements affecting the designation of various land holdings. It is quite a diverse situation in an Indian community than it is in the non-Indian community. We take a step further from just being a business by also looking at the community, resources, land and human resources. As an Economic Developer Officer, you really need to wear numerous hats and focus in on areas that a normal businessperson would not necessarily deal with.

As was mentioned, Buffalo Point developments must balance the needs of business with the needs of the community. This includes being sensitive to the proper place that tradition and culture play in their projects. The community and elders guide the development of projects in this regard. There are some opportunities to share aspects of their culture with tourists, but there are other aspects including ceremonies that have no place in the public domain. They are not something to be sold.

The connection to the land is also respected. Regarding the hotel and golf course project, Chief Thunder notes that their first priority is

safeguarding the environment as it has been with their other projects.

The environment really was our biggest priority from day one. Mother Nature tells us what we can and what we can't do and there is a lot of common sense to that. Our intention has been to develop a world-class destination resort in a wilderness setting and to retain the wildlife. We want to preserve the wilderness setting and I think we have done a really good job at it. We continue to take that approach. To me, we can get the best of both worlds. We can proceed with our development and at the same time be able to enjoy the environment without destroying it.

While there have been disagreements with some band members on the route to take concerning economic development, Chief Thunder and his council have consistently worked to improve the community and to distance itself from government funding. It is a far cry from the community that was closed down due to flooding and then slowly reopened with little assistance from the government. Former chief Jim Thunder was instrumental in putting roads into the community so that families could return to participate in a more prosperous future. The marina was the first project and the other projects followed slowly.

Collecting a tax on items sold on reserve that will benefit reserve residents makes sense to most of the community of Buffalo Point. To that end, it became another step towards independence. They are one of twelve communities across Canada to substitute a government sales tax with a sales tax on certain commodities that is collected for the benefit of the community. Chief Thunder notes:

We are starting to look at our next step, which will be an all-encompassing sales tax that would take in not just the commodities but also anything and everything that is sold on the reserve including products and services. It is a revenue stream that we know has huge potential for our community. I think in time as we implement these new forms of taxation, and as we generate revenues, we will be able to start investing more into the community and become less reliant on the Department of Indian Affairs.

The interesting part about this is that it is a taxation that is being applied to

both First Nations as well as non-Indian people. In our community, because we are in the tourism industry right on the U.S.-Canada border, we have huge numbers of non-Indians that come into our community to use our facilities. The majority of this taxation is going to generate new money. There is a certain amount that will be generated when our own people and other First Nations visit, but I think that as First Nations individuals, we need to start taking responsibility for our communities. If that means that we have to start paying taxes to our communities, so that we as First Nations can survive and prosper, then I think that it is the responsibility of every individual First Nation to take on that responsibility and start putting back into their community.

While the road to independence is rough and rocky, Buffalo Point is prepared to share all of their experience with any community who wants to share stories.

#### **Chief Clarence Louie of the Osoyoos Indian Band, British Columbia**



Chief Clarence Louie has been Chief of the Osoyoos Indian Band of Southern British Columbia for over 15 years. Over that time, Chief Louie has maintained a strong focus on economic and community development that has culminated in his community realizing zero unemployment for those willing to work. Under his leadership, the Osoyoos Indian Band Development Corporation (OIBDC) has created eight profitable businesses: including Inkameep Vineyards Ltd., Inkameep Forestry Ltd., Inkameep Construction Ltd., Nk'Mip Convenience and Gas



Store Ltd., Nk'Mip Resorts Ltd., Inkameep Canyon Desert Golf Course Ltd., O.I.B. Holdings Ltd., and Oliver Read-Mix. The Osoyoos Indian Band — or NK'MIP as it is known in the Okanagan language — was formed in 1877.

As CEO of the eight Band businesses, Chief Louie spends most of his time in his community, working at business development rather than solving larger political issues.

I don't travel much, I leave the political and native issues side of things to our tribal counsel. There are other people, including Chiefs, within our tribe, whose passion is to fight for Aboriginal rights. Their passion requires a lot of travel time. I sometimes get criticized for that, but I like concentrating on business. That's my area, so I stay close to home where the businesses are located.<sup>1</sup>

In the early years, the Band was involved in ranching, trading and operating small farms. Today, huge vineyards sprawl across Osoyoos Band lands, and business are being invited to operate in the community. The Band manages in excess of \$14 million and administers its own health, social, educational and municipal services.

The Osoyoos Indian Band is presently in negotiations to develop and operate a Destination Casino on Band land. The location is ideal, as the community is located on major transportation links to Alberta, Washington, and Vancouver markets. The South Okanagan has great weather. In addition, tourism-oriented communities in the surrounding areas such as Oliver, offer parks, walking and bike trails, lake swimming, arenas, curling clubs, golf courses, downhill and Nordic skiing. The region heralds endless backcountry terrain that features historic trails, lakes and streams, and forestry roads for summer, fall, winter and spring activities. The Band is also in the final stages of designating a 100-acre parcel of land to an Industrial Park to be located on Highway 97, just north of the town of Oliver. This area would include fully serviced building sites that are accessible to commercial activities in the South Okanagan. The Osoyoos Indian Band also has local taxation authority and can establish favourable tax rates for businesses located on reserve.

The Mission Statement of the Osoyoos Indian Band is:

The Osoyoos Indian Band is committed to achieving economic self-sufficiency within

its businesses by the year 2005. This will be achieved through the training and education of our people which ensures that Pride of heritage will guide us in developing our resources optimally both in socio-economic terms and for the benefit of future generations.

Several Goals of the Osoyoos Indian Band support this mission and aim to:

- Increase the level of education in the following areas: academic, athletic, vocational and cultural — and that the Band, parents and students will share this responsibility.
- Decrease the dependency on government funding through increased level of self-generated income, joint ventures, leasing, land and resource development so that economically we can one day be self-sufficient.
- Develop programs that reduce dependency and create community involvement that brings back the traditional Indian concepts of honour, caring, sharing and respect.
- Promote a well-disciplined organization that will reduce the political influence within the Band and its agencies.
- Increase standard of living opportunity for every Osoyoos Indian Band Member.

Under the direction of Chief Louie, the Osoyoos Indian band has developed a broad mix of eight different businesses. However, this development has brought with it an array of complex management and leadership challenges, including: matching the skills of labour residing in the community with employer demands; creating realizable expectations of profitability within each company; providing timely and accurate financial statements for each business; the financing of large capital requisitions; developing an attitude of "professionalism" amongst the managers of the businesses; training band managers; and, being competitive with adjacent non-Aboriginal communities and businesses. Chief Louie argues that although these businesses are successful and employ people, they still have a long way to go.

We need to analyze our existing businesses, develop growth within the existing businesses we have, and develop more businesses opportunities. You know it might look impressive, eight band businesses, when most bands don't even have one. But none of our businesses are doing extremely well. They are all just floating;

they are all making a profit, but not near the amount of profit they should be making. We should be able to compete with the tax advantages we have. We should be able to compete and do better than non-native businesses in our area in the same business, and we're not. We need to raise the bar.

Above all else, Chief Louie demands excellence in all that he and his managers and staff do in the eight businesses.

Chief Louie's direction and motivation are based on solid personal beliefs. In relation to Aboriginal economic development, he states:

There's no sense beating around the bush, economic development, job creation and revenue creation is the direction First Nations and Aboriginal organizations have to go. This relates to the funding of our social programs, among other things. There is a lot of dysfunction in our Aboriginal communities and those social challenges need proper care and attention. But everything cost money. That's the bottom line. Everything costs money. I don't care if you're working in social programs or you're talking language and culture, to put on any event costs money. You have got to have the financial ability to organize things and establish programs that meet the real needs of our people.

We need to strike a balance. We need more people on the revenue-producing side because if you don't have people on the revenue-producing side then you are subject to and dependent on government funding and federal grant transfers. The writing is on the wall and people should know that program cut backs occurring. People have to wake up and start producing their own revenue and creating their own income. We can no longer depend on the old Indian Agent. Those days are over and they should be over. Welfare was the worst thing that the federal government ever brought to Indian reserves. If you look back, on most Indian reserves, our best workers are the old people. It's funny, the best workers are people are 60 and over because they came from an era where there was no welfare or Unemployment Insurance Coverage on the reserves. The older generation grew up during a time period where they had to provide for themselves. They had to provide for their family and put food on the table. Those people show up for work every day. They don't come to the band

and ask for help every time their door latch breaks or something goes wrong with their house. They are self-supporting people. That's how they grew up. It is an ongoing process trying to get the younger people thinking the same way.

With regard to the future of Aboriginal economic development in Canada, Chief Louie feels that:

It looks a lot better than it did 10 years ago, I think most tribes are starting to wake up and realize that they have to become more business minded. They know that they have to have business minded people at the Chief and Counsel level, and they see that they have to involve advisors and business people in their activities. Business people that work in their band or tribe are just as important as those that work in social services activities. It takes a long time and a lot of work to get a business started. You just can't create a business. You have to spend time and effort toward getting and including business-minded people. And it doesn't matter what colour they are.

### **The Federation of Saskatchewan Indian Nations (FSIN) Corporate Circle**



Courtesy of Eagle Feather News

If you surf the Internet to its website, you will find that the FSIN Corporate Circle is a place where Saskatchewan business leaders can meet with FSIN Chiefs to discuss new and innovative ways to provide increased economic, employment and educational opportunities for First Nations people in Saskatchewan. As the governing body

for First Nations people in the province, the FSIN created the Corporate Circle April 8, 1999, as a means for encouraging new and expanded employment and business opportunities for Saskatchewan First Nations people.

Corporate Circle managers and members are initiating programs tailored to the business needs of the participating companies, that include creating:

- Employment opportunities;
- Training opportunities;
- Investment opportunities by FSIN or First Nations in existing First Nations companies;
- Investment partnership or joint venture opportunities in new or existing businesses; and
- Opportunities for First Nations businesses to become suppliers to new or existing companies.

It is the belief of those involved that the Corporate Circle is a place where business leaders and Aboriginal leaders can openly and constructively talk about the future of Aboriginal and non-Aboriginal relationships in the province. Participants feel strongly that this dialogue is critical in bringing together the people of Saskatchewan, in a collective effort, so as to overcome the current gaps that exist in economic, employment and educational opportunities for First Nations people.

Perry Bellegarde, Chief of the FSIN and Corporate Circle co-chair, reiterates this vision stating, "I believe we all want the same things — the best possible education and training opportunities for our children, jobs for our families, good health care, strong families and strong communities." Mark Olson, Vice President of Rawlco Communications Inc., and FSIN Corporate Circle Co-Chair adds that "Saskatchewan is one of the best places in the world to live, work and raise a family, and the main reason why is our cooperative community spirit. Saskatchewan people know that we can accomplish so much more working together, than we ever could working alone." Managers of businesses and corporations in Saskatchewan realize that initiatives such as the Corporate Circle are critical for the economic survival of the province. Don Ching, CEO of SaskTel, clarifies this concern by stating "We've all heard the predictions. Statistics Canada says that about 36 per cent of Canada's total Aboriginal population in 1991 was under the age of 15. During the next 10 to 15 years, Canada will experience a dramatic increase in the size of

the Aboriginal working age population. In Saskatchewan, it is estimated that 50% of the new entrants to the work force will be Aboriginal."

According to Robert Merasty, Executive Director of the FSIN Corporate Circle, membership in the Corporate Circle is open to any business with significant operations within the province that is prepared to work with the FSIN to improve the economic, employment and educational opportunities for First Nations people in Saskatchewan. He believes that there are many different ways in which Saskatchewan businesses can use the FSIN Corporate Circle to help meet these important FSIN objectives. For example, Merasty suggests that corporate members can provide direct employment. Alternatively, corporate members can provide indirect employment through purchasing and contracting initiatives, or through open recruitment practices that ensure First Nations people are included in the pool of candidates from which hiring decisions are made. Increased training and apprenticeship opportunities that are culturally adapted to enhance career advancement opportunities for First Nations employees, or the creation of procurement policies that encourage the purchase of goods and services from First Nations businesses, are other ways corporate members can improve opportunities for First Nations people in the province.

Corporate partners and businesses in turn benefit from being a part of the Corporate Circle. Their participation allows them avenues to build relationships with First Nations customers and workers; develop meaningful partnerships with First Nations businesses, organizations, individuals and communities, and; develop an attractive and meaningful leadership image for their businesses. The FSIN believes that through the Corporate Circle Aboriginal and non-Aboriginal leaders and corporate managers can "build a better Saskatchewan," while providing a partnership approach that can be duplicated in other parts of the country.

At present approximately 40 CEO's of the top corporations in Saskatchewan are involved in the Corporate Circle. They meet with over 29 representatives of First Nations communities, organizations and businesses in the Circle on a regular basis. One of the key events of the Corporate Circle is its Annual Job Fair. The first Job Fair was a huge success for the 1100 students and the 60 corporate organizations that participated. The students came with resumes and were entertained by corporate representa-

tives looking to fill full-time, part-time, summer, permanent and casual jobs. This and other Corporate Circle initiatives provide ways for employers to realize that they have a strong labour pool from which to choose right here in the province. They do not have to spend time and money recruiting outside of the province.

**NOTE**

1. An in-depth interview with Chief Louie regarding his views on business and politics will be published in the next issue of the *Journal of Aboriginal Economic Development*.



ECONOMIC DEVELOPER OF THE YEAR  
AWARD — SEPTEMBER 28, 2000  
*Speech to the CANDO National Economic  
Development Conference, Yellowknife, N.W.T.*

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Chief Clarence Louie

I'd like to thank CANDO for all of its past and present work to bring Native people back into the economy of their region—their territory—their lands.

I'd also like to give my recognition and appreciation to the sponsors and our host organization—the Denendeh Development Corporation. I am privileged to be on the ancestral lands of your people.

I want to thank all of you for taking the time out of your busy schedules to be at the 7th Annual CANDO National Conference.

#### **Importance of Economic Development**

I was asked to give a short presentation on the Osoyoos Indian Band and its business initiatives. Before I can say anything about what we have done in the area of business, I have to say a few things about the importance of business growth on every reserve in this country and the fact that Aboriginal people must develop business-minded people that can compete in the real business world.

For thousands of years Native people were part of the local and regional economy. Yet, over the last 100 years Natives have been

marginalized and denied their right to provide for themselves and their families.

Social ills need to be addressed but they will never be overcome unless there is a strong, viable business program—designed by business people like yourselves. As past National Chief Ovide Mercredi stated, “It is the economic horse that pulls the social cart.”

Once you become “healed,” welfare is not an option. If education is important to your people—where will your educated people work? No one goes to school or gets training so they can be on welfare. The success of your people is directly tied to how your people participate in the economy of your area. As I have stated your social programs need the support of a strong business sector.

#### **The Osoyoos Indian Band Experience**

In 1994, our Band was in the same situation as most Bands in Canada. Federal transfer dollars exceeded the Bands self-generated revenue. Today (six years later), the Osoyoos Indian Band's self-generated revenue is seven times more than the Federal transfer amount. Every Aboriginal community needs to create more self-generated revenue. The fact is social costs accel-

erate every year. Therefore on the other side of the ledger self-generated revenue must also increase.

Now I can understand and sympathize with many Native communities who cannot contribute to their own programs and services because of their lack of economic development. In many instances the geographic location of the community does not provide them with the opportunity to get involved in business growth. With one in three bands in financial trouble, I can fully understand when someone cannot afford to give.

However, through my travels, I know and I have seen a few bands that should be able to contribute to their social and cultural needs, yet, their priorities are elsewhere.

It is through the efforts of the leadership of the Native communities, the elders, the women, the youth, the chiefs and councils and organizations like CANDO, that Native people are once again getting involved and becoming major players in their economy.

### **We Must Leave Behind Our Dependency on Government Programs**

We, as Aboriginal people have to change our mindset from operating Grant Economies, that are dictated by government procedures and policies, to developing and operating revenue generating, job creating companies. Therefore, Natives need to be developing business minded people: revenue-creating people.

As one professor put it: "Being under the control of D.I.A. for generations Natives have learned how to spend money—have become dependent on programs—but few know how to make money. Spending money and making money are two totally different things."

You people are some of the most important people in Indian Country. Why? Because if Native business opportunities are going to succeed—it will take people that are focused and committed to business development like you and the organizations that you represent.

### **Social Programs Have Been Taking Priority over Economic Programs**

Over the last few decades, if you asked for all the Band staff who worked in the social areas and put them around your boardroom tables—all the seats would be filled—then if you asked

the next day for all of your business managers to come and sit at the same board room—only a few, if any, seats would be filled.

There are countless meetings and workshops on social issues—in most bands the biggest budgets and staffing is spent on social programs. I have often wondered why Natives don't spend more time and effort on business development—especially when you consider that economic development is so important to the future of all Aboriginal societies.

According to a major conclusion from the Harvard Research Project on Native American Economic Development, which began in 1984, "Research has proven that when a tribe takes responsibility for what happens economically they have started down the path to improving all social conditions."

### **Social Programs Are Being Funded by the Economic Successes of Our Businesses**

Now I fully realize and understand why we have more people working on social problems. I don't need to go through the First Nations horrible past in this country at the control of Federal government bureaucrats. Past government policies have caused social malfunctions in Native societies.

Our boardrooms and our meetings and our gatherings need to be filled with business minded people, entrepreneurs, executives, and business advisors. It doesn't matter if they are native or non-native. There is only one way to do business and that is the right way with highly skilled people with proven business skills, abilities and experience.

There has to come a time when the healing of our people is over and greater resources can be put towards people that want to be successful and create income and a productive future for their people.

Past National Chief Ovide Mercredi never spoke truer words when he said: "It is hard work that produces a healthy person." Yes, I agree that today many of our people need those social service programs, but even those social programs are handicapped because of lack of funding. The success or failure of our social programs has a direct effect on our economic future.

At the Osoyoos Indian Band, I don't want any of our social programs, education, health, recreation, elders programs and especially our

language and culture programs to be dependent on government grants.

None of our social programs should be operating with half a heartbeat because of insufficient funding—social programs need proper funding to operate. At the Osoyoos Indian Band, it's because of our economic development; our land developments, our partnerships, and our Band enterprises, that none of our social programs need suffer a half-hearted attempt.

### **A Commitment to Socio-Economic Development: Striking a Balance**

I can stomach a bad quarter or a bad year in business—as long as our managers and workers tried their best and our social and economic objectives are being met.

We all know business has its peaks and valleys. But I cannot defend, justify, or make allowance for reducing, or taking dollars away from, or not providing additional dollars to, education programs. I do not want to tell a student: “No, we cannot fund you this term”. I do not want to tell someone who needs medical help that those programs are no longer funded because of Medical Services cutbacks. Looking after and getting ourselves out of these social problems is one of the main reasons we are in business. We call it socio-economic development.

At the Osoyoos Indian Band, a portion of our business profits from each company goes towards social programs—through our economic development we fund:

- Patient Travel
- Adult in Home Care
- Medication Fund—Where Medical Services has cutback, our business contributions step in.
- Education Fund—A key element of self sufficiency is a highly skilled aboriginal workforce. Where education funding has been cutback our business corporation steps in. No member at Osoyoos Band who wants to go to school or wants training is denied.—our business corporation supplements our students at rates higher than the D.I.A. “bread and water” subsistence levels. Education is the battleground.
- Recreation—sports is very important in the development and health of your people—this past year we built a fully equipped first-rate gym. We are the only Band in our area that provides recreation dollars to each and every

one of our people. Economic Development contributes a portion of the fees for any recreation program a member wants to take on or off the reserve. This past year we spent \$70,000.00 on new playground equipment. It was the first time our kids were heard bragging to Non-Native kids in the public school that the best playgrounds were on the REZ. We want them to know that what we have on the REZ is better.

- Youth—our businesses provide youth employment. Every youth on the Osoyoos Indian Band is given a chance for summer employment. There is an ongoing need for youth development workshops. Educational and recreational events are provided for—What is desperately needed in every aboriginal community is “**youth entrepreneurial training**”. Encouraging youth to aspire to become managers and think about careers that generate money is a primary objective of the current leadership.
- The Elders—after all they have gone through at the hands of the Federal/provincial Governments—little or no funding is available for elders programs from government sources. Where the Federal government neglects our elders, the Osoyoos Indian Band Development Corporation steps in. We provide travel dollars for our elders to participate in the events of their choosing. This past year—and it is something our council is extremely proud of—we initiated through our economic development a monthly contribution to senior pensions. It saddens me when I hear that elders from other places get little or nothing from their Band Councils.

### **Preserving Our Past by Strengthening Our Future**

At the Osoyoos Indian Band we are in business to preserve our past by strengthening our future. We provide more dollars for language and culture programs than anyone else in our territory. So for you, I say be proud of any dollars your organization puts toward the preservation of language and culture. We need to bring back a working culture. That is why we are in business. Do not ever depend on government grants to provide the necessary language and culture programs needed by your people.

If anything is your responsibility then it is this. Native people should never be in business

at the expense of their language and culture. Your economic success must not result in the loss of your heritage. If making money is more important than your aboriginal heritage then you have compromised your identity as an aboriginal corporation.

Native people 'where possible' have an inherent obligation to give back to the environment. A portion of your business earnings must go to support environmental programs. At Osoyoos, we participate in water quality programs and fund Fish and wildlife enhancement. We are also protecting one of the most endangered habitats in all of Canada, the South Okanagan 'desert lands.' Many red and blue listed species last major habitat is on the Osoyoos Indian Reserve.

Every year commercial and residential developers approach us about leasing or joint venturing the development of these desert lands. Our people have thought more about their heritage and standing up for the endangered species than the almighty dollar. As such, we are setting aside 890 acres of prime real estate for ecological purposes: a 'pocket desert'.

### **Facing the Challenges in Your Own Backyard**

As a chief and a businessman, I take it upon myself to spend the vast majority of my time at home. For the important Tribal and National issues I give my support to our Tribal Council and staff. I attend every local Tribal Council meeting, but I seldom travel outside of southern BC. In 14 years I have left BC five times: this trip being the fifth.

I went to Ottawa a few months ago—you know it cost over \$1,000.00, for that trip. That \$1,000.00 could easily have been given to an elders trip or a youth trip or paid for some health program. I hear it and I see the many thousands of dollars First Nations spend on council and band staff travel.

Some travel is a necessary part of doing business. Yet, as important as the Provincial and National issues are, it is necessary to focus and concentrate on your own back yard first. Be very selective in travelling. If just a portion of those dollars could be spent on the programs and services that your people need—some of those social ills could be addressed.

### **Giving Back to the Community**

This past May I participated in the Governor General's study tour on business development in Canada. I was one out of 200 business people from across Canada selected for a 3-week business tour. The theme of the tour was "How can business give back to the community".

I have previously given the example of how the Osoyoos Indian Band has given back to its own community. I further believe that in one shape or another most Aboriginal corporations do give back to their community. Being in business for aboriginal corporations is far more than jobs and revenue: it means supporting the very core of what makes up your community, i.e., to re-invest some of those profits back in your people, programs and services in order to improve the quality of life and retaining of your heritage.

A few years ago, I was appointed to the B.C. Native Economic Development Advisory Board (NEDAB). A few weeks ago I was nominated to the national Aboriginal Business Canada Board. At Osoyoos, we know of the importance of developing Aboriginal businesses and when possible I carry that message to all levels of government.

### **Business on the Osoyoos Indian Band: A Corporate Profile**

At this event, I was asked to speak of the business initiatives of the Osoyoos Indian Band. However, after seeing and reading about the despair and unemployment that currently exists on many First Nations reserves I have come to **deliver a socio-economic message** rather than to boast about our accomplishments or give details about our varied business enterprises. Our brochures, booth, video, and web site provide the details. However, I will quickly give a corporate profile of our eight businesses, the majority of which were developed and expanded upon within the past 10 years:

- Nk'Mip Vineyards—250 acres of premium wine grapes. The largest privately owned vineyard in Canada.
- Nk'Mip Campground—biggest campground in the South Okanagan—251 sites.
- Nk'Mip Forestry—30,000 cubic metres of logging each year and a silviculture component.
- Inkameep Construction Company—Providing both on- and off-reserve residential and commercial construction.

- OIB Holdings — residential and agriculture leasing of over 1050 acres.
- Nk'Mip Canyon Desert Golf course — This year we embarked on a \$3.1 million dollar golf course expansion — going from a 9-hole course to a 18-hole championship course with a new club house).
- Oliver Readi Mix — This past year the Osoyoos Indian Band accomplished its first off reserve business acquisition by purchasing — with no government grant, the local cement company in Oliver. It is rare that First Nations venture off the reserve for business development yet **in order to** maximize your business opportunities First Nation business scope has to focus beyond their reserve boundaries and seize business opportunities wherever they exist.
- Saw Mill — On August 1st 2000 a dry log sawmill was set up in partnership with a U.S. based company. It will process 25,000 cubic metres of wood annually with a gross revenue of \$2.5 million.
- Nk'Mip R.V. Park — next month we will embark upon our latest business venture — a \$1.3 million — 72 sites fully serviced R.V. park.

In addition:

This October we will begin the development of a 150 modular home park at the cost of \$3 million. This project will add approximately \$600,000 each year to our Development Corporation revenue.

Inkameep Cellars: This past July a letter of intent for a joint venture winery with Vincor International (North America's 4th largest

winery) was initiated. At this moment, we are halfway through the market and feasibility study of North America's first Aboriginal-owned winery.

Native Interpretive Cultural Centre: A three- to five-million dollar proposal to exhibit the desert, the plants and animals of the desert and the rich heritage of the Okanagan people.

### Summary

Yes. We may be one of the few First Nations with the capacity to be fully employed. We have accomplished much — but as business people well know the toughest part of being in business is staying in business and we still have a lot of challenges and learning to do.

My message today is of the vital importance: creating business people and a business attitude. This will allow for Aboriginal entrepreneurs to compete in the business world. This message is more meaningful than the particulars of the Osoyoos Indian Band Development Corporation. I send out the welcome to anyone if you're ever in the South Okanagan come visit our operations — be our guest!!

I want to leave you with the call to action that I believe CANDO and every other Aboriginal business corporation and Aboriginal business person stands for: Pursue economic growth and maximize business opportunities while maintaining Pride of Heritage." We as aboriginal people should only be satisfied with **the best!** In closing, tonight and in the future, its up to people like you in this room to make Aboriginal economic business growth a reality. **"Go out and make some deals."**



RAMA FIVE YEARS LATER:  
*A Discussion on the Advantages and Pitfalls of  
Aboriginal Gaming in Ontario*

*An Interview with Casino-Rama Director of  
First Nations Affairs, Kevin Wassegijig*

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Yale D. Belanger

It was 1994 when the Mnjikaning leadership decided that their community was perfectly suited to open a gaming establishment. Following a protracted selection process, it was later announced that the Mnjikaning proposal beat out 13 proposals from neighbouring First Nations communities. Despite a number of consequential events such as a change in government and a court challenge, both of which delayed progress on casino construction which also affected revenue distribution, Casino-Rama just celebrated its five-year anniversary and according to most observers has exceeded expectations. With over 700 Aboriginal employees out of work force that numbers close to 3000, Casino-Rama is the largest single-site employer of Aboriginal people in Canada. Ranging in age from 18–55, there are employees representing close to 70 Aboriginal communities from throughout Canada.

It was decided that an interview be conducted with Casino-Rama Director of First Nations Affairs, Kevin Wassegijig, who spoke with the Journal of Aboriginal Economic Development regarding the success of Casino-Rama while outlining some of the challenges casino management must deal with in upcoming years. Aboriginal gaming in Canada is a recent development, and the success of Casino-Rama has come as a pleasant surprise to many. At the same time, however, the success of Casino-Rama has generated concerns that have unwittingly resulted from their own success. Issues such as improving existing Casino-Rama facilities and the anticipated market saturation resulting from Casino-Rama's success which is expected to become pronounced in light of the Ontario government and neighbouring First Nations and non-Aboriginal communities seriously beginning to consider gaming as an economic development tool. These issues were dealt with during the following phone interview, which was conducted 4 October 2001.

*Rama just celebrated its five year anniversary. Reflecting upon the last five years, has the gaming experience come to be recognized as a success in Ontario?*

Well, I think that Casino-Rama has come to be recognized as a success in a couple of ways. One obviously is the revenue generation, which I think is beyond anybody's initial expectations. If you think back to six years ago when they were talking about opening up a casino here, I don't think anybody was really expecting the success that it's enjoyed. In fact, the Toronto Sun does a reader's survey and we've been selected as people's choice for favourite casino every year, so just measuring those two in terms of overall accomplishment I think we've had some measure of success and we are the largest single site employer of Aboriginal people in Canada. So just on a couple of those areas I think certainly we have been successful.

*What has the response to Casino-Rama's success been from the 133 First Nations who are a part of the gaming compact?*

I think you'd get a varied response. Certainly, in the communities in closer proximity the casino is something that is more on their mind in terms of what things are going on. In terms of employment, it's a little more realistic for the people coming from Curve Lake or Georgina to be coming here than somebody, say, coming from Whitefish Bay. So across the province you'd get a different measure of the response to the success of Casino-Rama. Certainly they've all benefited by the revenue distribution. The money that is distributed according to the revenue sharing agreement can be used for community and economic development, for health, education and culture. That's what the Ontario First Nations are using their money for although they don't have to go into all five areas. I mean, the community may decide to use all of it for economic development. It does have to be in those five areas. For example, they can't use it for per capita distribution. When you take a term like economic development, doing housing can be argued as community or economic development because of the jobs it creates. They are very broad areas, but then again if somebody was going to do pay down their debt, that would be

hard to fit in there. It's geared to moving forward, looking at trying to benefit the communities in the future so that they can start or get involved in things in their community that can help them.

*Your workforce at this point has solid First Nations representation. How do you see attracting more First Nations employees into the workforce?*

Actually, that's something that we're working on right now. We've undertaken the First Nations workforce analysis to give us a better handle on any issues and the level of interest out there of people coming to work at Casino-Rama. Secondly, we're starting a First Nations recruitment drive next week (begun October 11), beginning here at Casino-Rama and then moving out to Sudbury, Sault Ste. Marie, Thunder Bay, Timmins, Ottawa, London, Brantford, and Toronto conducting preliminary interviews with First Nations people who are interested in obtaining employment at Casino-Rama. In the past what we've done are career fairs at Casino-Rama for people who are interested in employment at the casino, but this time we're actually going out to the communities. Again, we're not actually going into the smaller communities, but into the neighbouring larger centres, to use Thunder Bay as an example. So we're doing that to increase our First Nations employment, but it is something that is first and foremost in everybody's mind that is that we are looking to recruit First Nations people. So, it's not something that is done just by myself or just by the human resources department; it's something that is done straight across the board. As for our work force, primarily it is a younger workforce and I think that has a lot to do with just the gaming environment: the excitement, certainly the late hours and that kind of thing. Certainly some of the older people have done their tour of duty if you will. It's not that we don't have older people working here, but again it's primarily a younger workforce. To attract employees is one of the challenges as for some it's a big move because they are far from home.

*Recently, a vote was held to lower Mnjikaning's percentage of gaming revenues. Could you comment on the rea-*

*sons for this vote and what could happen as a result?*

When it comes to things like revenue sharing, it's something that I'd prefer to stay away from. Our responsibility as employees of Casino-Rama is to ensure that the casino is a success and I think we've done that and we'll work and continue to try and do that. But it's between the First Nations and the governments in regards to how they are going to distribute the revenue.

*What is the response from the Ontario government regarding the success of Casino-Rama and how has the Ontario government benefited from its relationship with Casino-Rama?*

In a number of ways I think they have. Then again, this is my own perspective, but I wouldn't doubt that there were some naysayers about the appropriateness or the success a First Nations casino would have here in Ontario; but the success it has generated I think has made the initiative of keeping a casino running that much easier, so I think that they have realized some of the benefits there. Certainly just as a commercial casino in Ontario they do receive financial contributions from Casino-Rama. Again, due to our success, this does benefit the provincial government. They get a percentage off of our gross revenue and it's their choice as to how they want to utilize it.

*Last year, according to the Globe and Mail, gaming revenues were down provincially. Also, Michelle Mandel of the Toronto Sun wrote in December that an internal Casino-Rama document outlines that upwards of \$240 million a year in slots revenue could be lost to local gaming establishments. How does Casino-Rama intend to deal with such issues?*

Certainly, any other gaming option our patrons have could affect our casino. What we've been doing, especially with the opening of the entertainment complex and the opening of our hotel next spring are some of the measures that we're taking to maintain our place in the gaming market in Ontario. Also, our marketing people have been very successful in placing us within that market in terms of coming to the casino for a

good time. They drive primarily an hour-and-a-half to get to us, so we have to make it worth their while to come here. In some cases, they have to drive by other gaming opportunities. So, we've added a fine dining Italian restaurant, we've modified our gaming floor, and we do things to certainly stay in touch with what our customers are looking for in a casino. Our entertainment centre is obviously a key component to keeping people interested in Casino-Rama.

*Just as an aside, I know there were a few promoters in Toronto upset that they got bypassed after Faith Hill announced she would be appearing at Casino-Rama and not perform anywhere else in the region. Is this indicative of the approach that Casino-Rama is attempting to maintain their market?*

It is. I mean, if the shoe was on the other foot, I'm not sure how people would feel about Casino-Rama unable to get customers to come up here. We're out there competing for the dollar just like every other entertainment company whether it's another casino, whether it's the theatre or whether it's the major sporting events. Each person has only a certain amount of money that they're going to choose to spend to enjoy themselves.

*Beyond the new hotel going up, what other plans are in the works at this point?*

Again, the hotel and the like are things that the community is responsible for. We're on the operational end. For example, the hotel is the community's construction project and once it's completed and they're happy with it, the amenities that they've decided will be in it, then we'll operate it to the best of our abilities to continue to make Casino-Rama a success. The hotel is part of the Casino-Rama complex but it's the community's construction. I guess technically, when the construction of different types of projects such as the entertainment centre, the casino itself or the hotel, we are in the community of Mnjikaning so obviously they do have a huge say in it and I believe they are the ones who signed on the dotted line for the millions of dollars of bank loans required.



*How is the relationship between the new management company responsible for Casino-Rama?*

Penn is our new management company for Casino-Rama. It's still fairly new. A lot of the changes occurred more at the management company level than operationally at Casino-Rama so we haven't noticed in day-to-day business a lot of difference. A lot of this has to do with the fact that it's very, very new.

*When the Carnival management company was in charge, did they keep their distance from the day-to-day operations of were they involved in directing operations at Casino-Rama?*

They were more like overseers. You see, we have our executive here that's responsible for the day-to-day operation of our casino. On the more global scale, whether it's annual budgets or what have you, marketing plans and those types of things are submitted to our operating committee for approval.

*Looking at how successful the Pequot Foxwoods Casino is in the United States combined with the fact that Casino-Rama is becoming a growing concern in Ontario, is there a push to promote the casino more internationally?*

Right now we actually do concentrate primarily on our present market. We don't do a lot in terms of large promotions, whether it's the United States or internationally, because again it's not our place in the market. For example, at Windsor their market is the United States: they do benefit from the market in Detroit where ours is Toronto and that's where we focus our energies as opposed to spreading ourselves too thin and trying to be too many things to too many people.

*Is there a fear that other provincial First Nations may see the advantages of opening a casino, thereby saturating the market and affecting all First Nations and Ontario casinos?*

That's part of where Casino-Rama came from. When the discussions started with the province and the federal government, I don't believe the discussions were started with the First nations

saying "We'd like open one and put it here." A lot of the communities were very interested and remain very interested in getting into the gaming market. Casino-Rama has been a good start and they appreciate that, but I don't believe it would prohibit anybody from looking at other opportunities. And when we talk about gaming, it's just not casinos. I know there have been other communities out there that have expressed interest and have conducted in the past high level bingos and I expect that they will continue to work on those kind of ventures. All I'm saying is that there are other First Nations out there who could get involved in other gaming ventures.

*What are some of the future challenges you see facing Casino-Rama?*

One certainly is what you alluded to earlier is that of other gaming opportunities such as slots at the racetracks and those kind of things. The racetrack has moved from Barrie to Innisville and will be opening very soon which will contain slot machines and they are directly between us and our market, at least a half-hour closer to Toronto than we are. Those kinds of things will present challenges. And these days the economy is a question mark. With the tragedy that occurred in the United States there is a lot of concern with what's going to happen in the United States and in Canada and what that will do to the economy. Any kind of major shift in the economy, especially when people only have so much money to spend, when things get a little shaky people tend to hold on to their money and be less inclined to take a night on the town and come to Casino-Rama to take their chance at the slots or the table games. Maintaining our place in the market is important. Toronto continues to grow and look at different things. Barrie has certainly been a growing concern so options for people become more varied, so we have to stay close to our customers and to react to what they want. One of the challenges is to stay close and not lose sight of that. With everything that's going on we're not going to close our doors, but we have to be aware of what's going on and react accordingly.

*Have you any closing comments?*

One of the things when you talk about the impact of Casino-Rama on the surrounding area, such as bringing 3000 jobs into the region which

has been beneficial to the area, is important to recognize. Whether it's housing starts or we see the addition of a few more hotels coming into the area, of which the construction creates more jobs, this all means that the dollar continues to spin around the local area. And we have the community wellness fund. In the five years we've

been open we've contributed over \$3 million to local community groups, whether it's the Native Women's associations or other community groups that have benefited directly from Casino-Rama being here. Those are some of the other ways that we try and be a partner in the community as opposed to things being one-way street.

LESSONS FROM  
RESEARCH



## Editor's Introduction

Yale D. Belanger

Aboriginal leaders seeking to provide an economic base for community initiatives that include financing some aspects of self-governance or developing the required infrastructure to provide a better standard of living at the community level often turn to gaming as a way of doing this. Despite the immense national growth of gaming and its growing use in financing of public programs, relatively little has been written to date about the issues that accompany the creation of aboriginal gaming establishments and the effect they have upon the people and communities who embrace gaming as a tool of economic enhancement.

This edition of *Lessons from Research* offers selections that deal specifically with the anticipated effects gaming will have upon Aboriginal communities in Canada all the while asking the question, "Is gaming an effective means to build local economies for the purposes of nation building?"

The first piece in this section, by Yale Belanger, details the evolution of aboriginal gaming in Canada with an emphasis on how communities can benefit from the monetary

foundation provided by economies established from gaming revenues. Focussing on the evolution of Ontario's Casino Rama and its effect on the Mnjikaning community's political and economic security, the author argues that the issue of funding self-government through gaming revenues will become an important issue in Ontario in the years to come.

The second section is a legal history of gaming in Canada by Hal Pruden, Counsel in the Criminal Law Policy Section at the Department of Justice (Canada). He describes the contemporary situation of First Nations who fit into an existing legal structure that pledges Canada's responsibility for "Indians and land reserved for Indians" under Sec 91(24) of the BNA Act of 1867 yet guarantees provincial jurisdiction over gaming that many Aboriginal leaders aspire to.

Robin Kelley of the Canada West Foundation in Calgary presents us with a detailed essay summarizing the pitfalls and advantages in adopting gaming to build economies. She argues that the provinces have the opportunity to develop policies that will address many of the concerns she outlines concerns before they develop into future problems.

In the fourth piece, Alison Dubois, John Loxley and Wanda A. Wuttunee of the University of Manitoba, provide a brief overview of the Aboriginal gaming experience in Canada and pose critical questions in ascertaining the viability of opening casinos, a position the authors contend will stimulate additional and much needed research in the field.

Margo Little examines the question as to whether the profits from casinos can ever adequately compensate reserve residents for the social costs associated with gaming enterprises. Utilizing interviews to present a community-based impression about gaming's benefits, Little concludes that "the key to balance is to maintain traditional institutions such as collectivity, respect for family and the role of the Elders. Policies that separate political and economic development from the rest of human experience cannot be tolerated."

Paula Sherman examines the U.S. tribal gaming situation, focussing specifically upon the evolution of the Foxwoods Casino operated by the Mashantucket Pequots considered to be the largest casino in the world. The Pequot view generating revenue as a means of promoting sovereignty whereas the State of Connecticut accepts the compact entered into with the Pequot as extending state sovereignty to the reservation.

The final piece in this section by Yale Belanger brings us back to the question of how useful gaming can be to Aboriginal leaders by reviewing the literature pertaining to Aboriginal gaming in Canada. The author concludes that much work needs to be done on the issue of how gaming benefits Aboriginal people while also investigating the pitfalls involved with adopting gaming.

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

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Yale D. Belanger

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 (Azmier, 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-

demie 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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# AN OVERVIEW OF THE GAMBLING PROVISIONS IN CANADIAN CRIMINAL LAW AND FIRST NATIONS GAMBLING

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Hal Pruden

## Historical Developments in Canadian Law

For Canada, the *Constitution Act 1867* assigns the legislative authority over criminal law to the federal Parliament. This differs from the situation in the United States and Australia, where each state holds the legislative authority for criminal law. After Confederation in 1867, Canadian gambling was governed by existing common law and criminal statutes related to gambling, as varied by Parliament through various post-1867 criminal gambling statutes.

Canada became the first country in the British Empire to produce its own codification of the criminal law. Enacted in 1892, and brought into force in 1893, the *Criminal Code of Canada* drew heavily upon a draft criminal code produced in Britain but never enacted there. The Canadian *Code* also drew upon post-Confederation Canadian statutes, including gambling statutes.

Through more than a century, there have been numerous amendments to the gambling provisions originally found in the *Criminal Code*. The basic scheme that may be discerned from a careful reading of the *Code's* gambling provisions,

though it is nowhere explicitly stated in the provisions, is that gambling is prohibited except where specifically permitted within the *Code*. In the 1950s a Parliamentary Committee considered the expansion of legalized gambling. However, until 1969, parimutuel betting on horse races, regulated by the federal Minister of Agriculture, and low stakes, charitable lottery schemes constituted legalized gambling in Canada.

“Lottery scheme” amendments were made to the *Criminal Code* in 1969. North American interest had been sparked by the first state lottery ticket system that was introduced in New Jersey in the 1960s. Canadian interest was especially fuelled by the desire to raise funds for the Montreal Olympics. The 1969 legislation permitted the federal government or a provincial government to conduct a broad range of lottery schemes. It also permitted a narrower range of lottery schemes conducted by a licensee of a province. There was no authority for the federal government to license others to conduct lottery schemes. The 1969 legislation was “marketed” on the basis that the funds raised would be used for public “good causes” because the lottery scheme revenues would go to governments or to charitable and religious organizations. In particular, the

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Canadian “public use of revenues” approach to casino gambling contrasts sharply with the U.S. approach that typically sees regulation and taxation of casino gambling that is conducted by private entrepreneurs.

In 1979, the federal government entered into an agreement on gaming with the provinces. The federal government agreed not to use its *Criminal Code* permission to conduct lottery schemes and in return, provinces agreed to make an annual payment in a fixed amount set to a fixed year’s value. In 1983, Parliament amended the *Code* to permit the federal government, alone, to conduct a “pool betting operation”. Provinces objected that this violated the 1979 agreement, arguing that it really dealt with lottery schemes. The federal government took the position that certain operations by provinces were pool betting operations and not lottery schemes. Litigation ensued. In 1985, Ministers in non-Justice portfolios agreed to resolve all litigation. The federal government would use its best efforts to place a bill before Parliament repealing the federal authority to conduct lottery schemes and pool betting operations. The provinces would continue the annual payments under the 1979 agreement and would make a payment of \$100 million to be used for the 1988 Calgary Olympics. In December 1985, Parliament enacted the amending legislation that removed authority for federal operation of lottery schemes and pool betting operations.

The 1985 gambling bill clarified that a province could conduct a lottery scheme on or through a computer, video device or slot machine, but could not license others to do so. Prior to this bill, there had been some who believed that a province could, in theory, license others to conduct lottery schemes using these mechanisms.

### **Key Criminal Code Gambling Provisions**

Offences related to keeping a gaming house or a betting house are found in section 201 of the *Criminal Code*. Section 202 creates offences in respect of betting, pool selling or bookmaking. Section 206 creates offences in relation to lotteries and games of chance.

The *Code* specifically states, in section 204, that private bets between individuals not in any way engaged in the business of betting are permitted. This section also states that parimutuel

betting on horse races is legal, where regulated by the federal Minister of Agriculture. Such regulation is conducted through the Canadian Pari-Mutuel Agency.

Section 207 of the *Code* creates exceptions to the gambling offences for a broad range of “lottery schemes” that are conducted by the provinces (under the *Interpretation Act*, this includes territories). This range includes lottery tickets through slot machines. The section also creates permission for a slightly narrower range of provincially licensed lottery schemes. This includes lottery schemes that are conducted by: a religious or charitable organization where the proceeds are used for a religious or charitable purpose, lottery schemes conducted by the board of a fair or exhibition, and lottery schemes conducted by a private individual where the maximum prize is \$500 or less and the cost to participate is \$2 or less. Licensees of a province cannot conduct a lottery scheme that operates on or through a computer, video device, slot machine or dice game.

Section 207.1, enacted in 1999, allows private, commercial lottery schemes conducted on an international cruise ship that is in Canadian waters. Parliament enacted this amendment on the basis that it would assist tourism on the Saint Lawrence River route and the west coast Inside Passage route by permitting cruise ships to conduct within Canadian waters the gambling that they conducted while in international waters. The gambling must be contained wholly on the ship and must not have external players. There must be a cruise of at least 48 hours duration with a start, visit or end at a port in a foreign nation and there must be some scheduled sailing in international waters.

### **United States Tribal Gaming**

Unlike Canadian law, where aboriginal rights were only recognized as a legal concept by the courts since the 1973 *Calder* decision in the Supreme Court of Canada, the United States courts have recognized such concepts from the early 19th century. Under United States constitutional law, tribes hold “domestic dependent sovereignty”. However, they may only legislate in an area to the extent that Congress has not limited their ability to do so. In the 1980s, an issue arose with respect to the ability of the Cabazon tribe in California to legally conduct tribal gambling. This culminated in a major case destined

for the U.S. Supreme Court. Fearing a disastrous loss in the courts, some tribes commenced an initiative to have Congress legislate an Indian Gaming Regulatory Act that would allow certain tribal gaming operations. Then, the U.S. Supreme Court ruled in 1988 that Congress had not limited the Cabazon tribe from conducting its gaming operations. This was a massive win for the tribe. However, the legislative initiative already underway had gathered momentum that was unstoppable, especially when states heavily supported the legislation following the *Cabazon* case.

The *Indian Gaming Regulatory Act* (IGRA) passed in 1989, thereby establishing a congressional limit on what otherwise would have been an untrammelled area of tribal domestic, dependent sovereignty. IGRA established three classes of gaming. Class I permits Indian regulation of traditional games. Class II permits bingos and other tribal-state regulated gaming such as non-banked card games. Class III permits amongst other forms of gambling, slot machines and banked card games in a state that permits some form of class III gaming, where there is a tribal-state "compact".

The experience with U.S. tribal gaming has been varied. In states, where there is a compact that establishes a tribal monopoly on casino gaming, many tribes have done extremely well. Similarly, depending upon market conditions, such as location and competition, other tribes without monopolies within the state have done well. However, in some tribes, market forces and other factors have led to unsuccessful operations. Of the few hundred tribal gaming operations, a small percentage produces the majority of the total revenue. Not all tribes see gambling as a culturally appropriate area. For example, the Navajo tribe, which numbers over 200,000, has chosen not to pursue gambling development. There is also variation on the sharing of revenue by tribes with large commercial gambling operations with tribes that have none.

### **Canadian Expansion of Legalized Gambling**

Unlike the United States, where some states do not permit any lottery tickets, all Canadian provinces and territories offer government lottery tickets. Unlike the United States, all Canadian provinces, and the Yukon Territory offer some form of government slot machine gambling,

whether the slot machines are located in casinos, racetracks, bars or restaurants.

The expansion of government slot machine gambling has occurred rapidly over the past dozen years. The decision to implement machine gaming simply required a provincial executive decision because the *Criminal Code* already contemplated such operations. In many U.S. states, an amendment to the state constitution is required in order to legalize casinos or slot machine gambling. In 1989, Manitoba opened the first Canadian casino to offer slot machine gambling. In 1990 Nova Scotia installed video lottery terminals (which appear to meet the *Code's* definition of a slot machine) in locations such as bars. Although there has been expansion in Canada, there has also been controversy and public debate. However, this debate has occurred within a province or territory and has not become a national debate.

The legalized gambling industry runs to billions of dollars according to statistics Canada. Additionally there is a very large market for illegal gambling, including illegal machine gambling, illegal sports bookmaking operations and card gaming houses.

There are now video lottery terminals or slot machines in every jurisdiction except British Columbia, the Yukon, the Northwest Territories and Nunavut. In Ontario, slot machines are located at racetracks but not in bars. There are casinos with provincial government slot machines in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and the Yukon.

### **Accommodation of First Nations' Gaming Aspirations**

Section 207 of the *Criminal Code* contemplates provincial designation of licensing bodies. Some provinces have chosen to specify First Nations bodies to issue charitable lottery scheme licenses. Manitoba, Ontario, and Quebec have some experience with these. Of course, even with such first nations licensing bodies, some first nations choose to have first nations charities within the land base obtain a provincial license through the general route available to all charitable organizations.

Some provinces have chosen to share proceeds from provincial government casinos or from provincial government slot machines (including video lottery terminals) with First Nations. British



Columbia, Alberta, Saskatchewan, Manitoba, Ontario New Brunswick, Nova Scotia have such arrangements. Casinos on first nations land bases exist or are possible in BC, Alberta, Saskatchewan, Manitoba and Ontario.

Following the U.S. Supreme Court decision in *Cabazon*, Canadian First Nations observed developments in tribal gaming in the United States and considered the potential for economic development. There are significant legal, demographic and market differences between Canada and the United States. In Canadian law, the *Constitution Act 1982* recognizes existing aboriginal rights. The Supreme Court of Canada has considered the aboriginal gambling right issue in its single decision on two cases, *Pamajewon and Jones* and *Gardiner, Pitchenese and Gardiner*. The court applied the same test that is used for other claims to an aboriginal right. In effect the court found that an aboriginal right to large scale commercial gambling was not made out in those two cases. The court left open the possibility for claimants to raise the issue in the future on a case by case basis, keeping in mind that the usual test for an existing aboriginal right will have to be met.

In the *Saint Mary's Band* case, the issue before the Federal Court of Appeal was whether

the *Indian Act* created authority for band by-laws that regulate gambling. The provision in question speaks of order at public games. It was held in the federal court trial division and in the appeal division that the provision did not envisage regulation of gambling. The Supreme Court of Canada refused leave to appeal.

### Conclusion

Parimutuel betting on horse races, regulated by the federal Minister of Agriculture, accounts for a small proportion of legalized gambling in Canada. This brief overview of Canadian criminal law on gambling suggests that the largest portion of legalized gambling, consisting of a broad range of "lottery schemes" falls to provincial operation or provincial licensing. Certain provinces have gone some distance towards accommodating First Nations gambling aspirations in ways that conform to the criminal law while others have not. Accommodations in the gambling field have not always satisfied economic development aspirations or self-government aspirations of First Nations, even in some provinces that have made accommodations. No doubt, this area will continue to see dialogue towards further accommodation.



# FIRST NATIONS GAMBLING

## *Policy in Canada*

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Robin Kelley

### **Introduction**

In recent years, some First Nations across Canada have pursued increased gambling opportunities within their communities. The introduction of on-reserve gambling is seen as an important opportunity to help stimulate economic development, create jobs, and provide revenues to develop much needed infrastructure and social programs. In the long run, some argue that on-reserve gambling would allow First Nations communities to become less dependent on funding from the federal and provincial governments and, in so doing, increase their political and economic sovereignty. However, gambling is not always a economic panacea; the size and scope of the benefits are dependent on a number of factors including the level of market saturation, problem gambling impacts, and the ability to draw gamblers to reserves.

The perceived success of many American Indian casinos has served as a model for First Nations to refer to in their efforts to gain access to the Canadian gambling market. Tribal gambling has emerged as one of the fastest growing segments of the United States gambling industry, with annual revenues from tribal casinos increasing from \$212 million in 1988 to over \$6.7 billion by 1997 (Gerstein et. al., 1999). This increase

in revenues has helped many American Indian tribes develop a diversified economic base and improve social and community services on-reserve to rival services offered in nearby communities. In general, American Indian tribes throughout the United States are much more active participants in the commercial gambling industry than are First Nations in Canada. Many First Nations throughout Canada feel that they should be entitled to the same gambling opportunities as many American Indian Bands.

It is important to note that the establishment of gambling on First Nation reserves in Canada has begun. The current public policy need is to ensure that this expansion is done in a sound and sustainable manner. Policymakers should be prepared for potential challenges that may emerge with an increase of gambling on-reserves. Even though many of the experiences of tribal gambling in the United States have been very successful, there are examples where gambling has not provided the economic prosperity envisioned. The issues of problem gambling, market saturation, accessibility to gambling venues for off-reserve clientele, and stewardship of revenue must be carefully addressed in order for First Nations gambling ventures to be successful.

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## Public Support for On-Reserve Gambling

There exists public support for licensing gambling on First Nation reserves in Canada. In a 1999 Canada West survey, it was found that 52% of Canadians agree that governments should license gambling on First Nation reserves (Azmiar, 2000). Support for licensing on-reserve gambling is somewhat uniform throughout the provinces, with residents of Ontario being slightly more in favour. Public opinion as to whether gambling on-reserve will provide opportunities for economic development for First Nation communities is more mixed with 45% of Canadians agreeing (Azmiar, 2000). While this may at first seem inconsistent, the results suggest that as a matter of "right" or "entitlement," Canadians do believe that the First Nations should be able to conduct gambling on-reserve, but Canadians are doubtful as to whether or not it will provide net benefits for aboriginal communities.

In a just completed Canada West survey of 3,200 western Canadians, it was found that a majority (58%) do not feel that on-reserve casinos would benefit aboriginal communities. In every western province, a majority feel that on-reserve gambling does not benefit Aboriginal communities. Residents of Manitoba, where intentions to approve up to five First Nation casinos have recently been announced, are the most strongly sceptical as to whether casinos will benefit First Nation communities with 44% strongly disagreeing.

As the proliferation of First Nations gambling is relatively new to Canada, public uncertainty with respect to its economic benefits is not surprising. Policymakers and First Nation leaders throughout Canada have an additional advantage that the experience of tribal gambling in the United States can be drawn upon when drafting gambling policy. With First Nations and the Canadian population in general open to the idea of licensing gambling on reserves, provincial policymakers have an opportunity to develop legislation that incorporates the interests of First Nation communities.

### First Nations Gambling in Canada: Policy Overview

The experience of the tribal gambling industry in the United States holds important lessons for Canada. However, it is important to stress that

Canadian gambling policy is very different in nature. Due to the size and characteristics of the market for on-reserve gambling, combined with the unique features that regulate gambling in Canada, it can not be assumed that First Nations gambling will proliferate in Canada in the same manner as it has throughout the United States.

First Nation gambling policy will need to incorporate the role of First Nation, provincial and federal governments in the policy process. Individual First Nation communities throughout Canada have unique characteristics such as a young demographic structure, located in rural areas away from population centres where many gambling patrons originate, and have low levels of infrastructure. These elements make the formation of separate First Nations Gambling Policies a priority for some provincial governments.

### United States Tribal Gambling

The policy framework that regulates tribal gambling in the United States is vastly different from that in Canada. While gambling in Canada is regulated individually by the provincial governments, in the United States there exists a national framework to regulate and administer tribal gambling. Unlike Canadian provinces, American states cannot hold a monopoly on operating certain forms of gambling. If a tribe is located in a state that permits gambling, it is entitled to authorize its own gambling activities.

The main expansion of Indian gambling throughout the United States began in the late 1980s as a response to the U.S. Supreme Court's decision in the *State of California v. Cabazon Band of Mission Indians* that concluded that Indian tribes had the right to conduct gambling activities on reservations without the need to act within state or county gambling laws (New York State Racing and Wagering Board, 2000). It was determined that states could only intervene in on-reserve tribal gambling if the criminal law in that state prohibited the activity. The Supreme Court further decided that California's level of gambling was sufficient to rule out the possibility of Indian games being contrary to public policy and clearly was not a violation of state criminal law (New York Racing and Wagering Board, 2000).

In response to concerns that areas of unregulated tribal gambling throughout the United States would develop, the U.S. Congress created and ratified the Indian Gambling Regulatory Act

(IGRA) to provide a regulatory framework for Indian gambling throughout the United States (National Gambling Impact Study Commission, 1999). Since the enactment of the IGRA, Indian gambling in the United States has undergone rapid expansion, establishing itself as one of the fastest growing segments of the U.S. gambling industry (Kelly, 1997). Tribal casinos have resulted in the employment of many American Indian workers. In a study of 214 tribes that operate casino and bingo gambling activities in the United States, it was found that overall unemployment levels have dropped from 38% in 1989 to 25% in 1995. Most of this decline has been attributed to the expansion of tribal gambling (Donnelly, 2000). In addition to providing direct employment opportunities, many tribal nations have used proceeds from gambling to develop alternative businesses, improve infrastructure, and establish education and social programs within their communities. Per capita remittances from tribal gambling in some cases are as large as \$500,000 annually for each band member (America Watch, 2000; McDonald, 1994).

Concerns about the industry's expansion do exist. Not every American Indian Band has welcomed gambling as a potential source of revenue. The Navajo Indian Nation twice in the past decade voted by referenda against allowing gambling casinos on their tribal lands. Some tribal nations have raised concerns about the possible erosion of their traditional values, and others have found that tribal casinos have not provided as much economic prosperity as envisioned.

In response to the success of Indian gambling throughout the United States, many states are beginning to try to receive some of the benefits. When tribal-state gambling compacts are up for re-negotiation, it is becoming more common for the state to require some sort of revenue-sharing arrangement to reach an agreement. Although this is technically not permitted within the IGRA, many tribes have felt that they have no choice but to negotiate as their profits from gambling operations are worth the cost to keep their establishments up and running. It is also becoming more prevalent for states to introduce legislation that would legalize casino gambling overall (National Gambling Impact Study Commission, 2000). This has come in response to concerns raised by many non-Indian casino operators that Indian-run casinos have an unfair

advantage, as they are often subject to less regulations.

### Canadian Gambling Policy

In Canada, the federal government has traditionally regulated gambling within the Criminal Code of Canada. In response to successful provincial lobbying efforts, the federal government amended the Criminal Code in 1985 to allow the provincial governments to be the sole legal providers and regulators of gambling in Canada. In exchange for this amendment it was agreed that the provinces would contribute \$100 million towards the 1988 Calgary Winter Olympic Games, as well as make annual contributions to the federal treasury (Campbell, 2000). The main implication of this agreement is that all gambling activities now conducted in Canada are subject to approval by the provinces. Any First Nation that wishes to establish gambling on-reserve must first receive provincial approval.

The changes to the Criminal Code may represent a missed opportunity for the First Nations. When the criminal code was amended in 1985, it may have been an opportune time for the First Nations to try to persuade the federal government to include provisions for on-reserve gambling. At a minimum it would have provided a good opportunity for First Nations to pursue the creation of a national First Nations gambling regulatory body.

### Legislative Issues

Many First Nation leaders oppose the requirement that they seek provincial approval to conduct gambling on reserve lands. They claim that as a distinct and sovereign nation whose lands are not under provincial jurisdiction they have the right to conduct on-reserve gambling activities and should not be obliged to comply with provincial gaming regulations (Skea, 1997). The issue of First Nation sovereignty to conduct on-reserve gambling activities came before the Supreme Court of Canada in *R. v. Pamajewon* in 1996. In this case, the Shawanaga and Eagle Lake First Nations both unilaterally passed bylaws to allow for-profit gambling activities without seeking provincial approval. They were charged with keeping a common gaming house contrary to section 201(1) of the Criminal Code of Canada. The defendants declared that this section of the Criminal Code was not binding in

reference to them as it violated the right of Aboriginal self-government protected within Section 35 of the Canadian Constitution. The Supreme Court ruled in favour of the provinces and found that while small stakes gambling may have been a defining feature of aboriginal culture prior to contact with Europeans, high stakes for-profit gambling activities certainly were not (Morse, 1997). This ruling effectively reaffirmed provincial authority as the sole legislative power to regulate gambling activities in Canada.

While the Supreme Court ruling has appeared to eliminate the option of allowing First Nations to conduct on-reserve gambling activities independent of provincial regulation, there have been discussions about bringing the issue forth before the courts again. The Province of Saskatchewan and the Federation of Saskatchewan Indian Nations (FSIN) have held discussions about working together to persuade the federal government to amend the Criminal Code to grant First Nations greater autonomy in regulating gambling on their reserves. At the first annual First Nation Gaming Conference and Trade Show hosted in August 2000 by the FSIN, a motion to support the creation of a National First Nation Gaming Association independent of provincial control was passed (Sack, 2000). Further discussions are to be held at the 2001 meeting of the Assembly of First Nations.

It is unclear if any unilateral attempt to create a First Nations Gaming Association will be successful. In order for this to happen the Criminal Code would have to be amended with the approval of Parliament. This would also require negotiations to take place with the provinces as they currently have jurisdiction over the activity. Instead of pursuing this option, most First Nations groups have been cooperating with provincial authorities in order to reach individual agreements.

### **Problem Gambling**

In addition to regulation, provinces are responsible for administering programs to treat problem gambling.<sup>1</sup> Concerns have been raised that the expansion of on-reserve casinos will lead to higher levels of problem gambling among the First Nations, problems that may outweigh any economic benefits. Increased accessibility to gambling as well as historically high levels of substance abuse and addiction have been cited as factors that may put First Nations at a higher

than average risk for problem gambling. Another cause for concern is that many First Nation communities often exhibit characteristics that are commonly thought to be associated with problem gambling, such as low socio-economic status and education levels.

Studies appear to support concerns that the First Nations face an above average risk for developing gambling problems. A gambling prevalence study released by the Nechi Institute in 1999 found that the level of problem gambling among aboriginal adults in Alberta is significantly higher than for the Alberta population as a whole (Auger, 1999). Recent findings from the United States have also confirmed this, with studies showing that on average American Indians have a three to seven times greater prevalence rate of problem gambling (Moore, 2000; Volberg, 1999). Surveys of problem gambling treatment centres in New Zealand have led to similar conclusions. The Maori of New Zealand have been found to have above average incidence of problem gambling, and are over-represented in New Zealand problem gambling treatment programs (Gruys, 1998).

However, studies that conclude Aboriginal Peoples tend to have above average levels of problem gambling have been criticized for failing to disentangle race and ethnicity from issues of poverty and low socio-demographic status. It has been pointed out that these factors may indeed be a large reason why many American Indians and other indigenous peoples have a tendency to display higher than average levels of problem gambling (Volberg, 1999). Risk factors such as low income, low education, high rates of unemployment and substance abuse have been associated as being precursors to gambling addiction (Moore, 2000). If these factors do make people more predisposed to becoming problem gamblers, First Nations communities in Canada likely will be at greater risk, as many of their communities experience high rates of substance abuse and have lower than average levels of income and education.

### **Current First Nation Gambling Policies in Canada**

As gambling in Canada is regulated at the provincial level, there exist as many policy approaches to First Nations gambling as there are provinces. Policies that address on-reserve



gambling have been developed or are undergoing development in most provinces. Some provinces have drafted separate agreements that allow First Nations the ability to conduct on-reserve gambling activities. Others have chosen not to legislate any First Nation gambling policies, instead making First Nation groups subject to existing regulations that apply to all people.

In general, most provinces have signed agreements or formed separate gambling policies with First Nation groups in their province. Those that have not, such as Prince Edward Island and Newfoundland and Labrador, do not have many First Nation reserves within their province. Exceptions are Quebec<sup>2</sup> and British Columbia, where First Nations are subject to existing regulations that apply to all residents.

First Nation Development Funds that allocate a portion of on-reserve gambling revenues towards First Nation social programs and economic development initiatives have also been established in many provinces. All of the provinces that have created First Nation Development Funds have, or are in the process of allowing, a limited number of on-reserve casinos. First Nation Development Funds in most cases act as a mechanism to redistribute revenues from reserves that operate large scale and highly profitable forms of on-reserve gambling, such as destination casinos, to reserves that have not received approval to do so. Creation of these funds should help to reduce any future economic inequalities among First Nation communities in a province that may result from the expansion of on-reserve casinos.

Programs that treat gambling addiction are available throughout Canada. In each province, aboriginal people are able to access problem gambling treatment programs that are offered through established provincial addiction programs. However, even with the establishment and existence of treatment programs for gambling addiction, aboriginal participation rates may be low. For many American Indians, generalized problem gambling treatment programs have been found to be relatively ineffective, having lower than expected utilization rates (Moore, 2000). Recognizing this, Manitoba has recently proposed to use 2.5% of revenues generated from future First Nation casinos to create and fund an Aboriginal addiction program. The Poundmaker's Lodge in Alberta also offers services for Aboriginal problem gamblers, with a cultural focus towards treatment.

## Areas of Gambling Policy in Canada

Distinction should be made between policies that deal with on-reserve charitable gambling, VLTs and casinos. For most forms of charitable gambling, such as bingo, raffles, and pull-tickets, First Nations in every province are active participants. Casino policy is a relatively new and emerging area of on-reserve gambling in Canada and remains highly regulated by the provinces. On-reserve casino developments pose additional challenges, because casinos must focus on attracting patrons from outside the host community. By attracting patrons from adjacent regions, casinos can end up competing with each other for clientele. For this reason, casino policies may want to address regional development issues.

### First Nations and Charitable Gambling

Charitable gambling is defined as charity-run games such as bingo, pull tickets, and raffles where all proceeds after winnings are retained by charities. With the exception of charity casinos, First Nations throughout Canada are active participants in most minor forms of charitable gambling. First Nations in some provinces have been given the authority to issue licenses for charitable gambling on their reserve, provided that they have signed a gambling agreement with the province and meet existing provincial regulations.

On-reserve charitable gambling has attracted relatively little public concern as events are for the most part individual and small in nature. Revenues are distributed among the local First Nation community for charitable, economic and social development purposes. As most patrons originate from within the local community, charitable gambling is considered to be mainly a community, rather than a regional, issue.

### First Nations and Video Lottery Terminals (VLTs)

In most provinces with licensed VLTs, First Nations have a limited number of on-reserve VLTs. In most cases VLTs on First Nation reserves are subjected to existing provincial regulations with regards to placement and location. If VLTs must be located in a licensed establishment, which is the case in Alberta and Manitoba, this can be an obstacle for First Nation communities. Some First Nation Band Councils

**TABLE 1: First Nations Charitable Gambling Activity in Canada**

<i>Province</i>	<i>On Reserve Charitable Gambling</i>
British Columbia	<ul style="list-style-type: none"> <li>• First Nations have been active participants in on-reserve charitable gambling activities.</li> <li>• Must comply with the existing provincial charitable gambling model.</li> </ul>
Alberta	<ul style="list-style-type: none"> <li>• First Nations have been active participants in on-reserve charitable gambling activities.</li> <li>• Must comply with the existing provincial charitable gambling model.</li> </ul>
Saskatchewan	<ul style="list-style-type: none"> <li>• Plans were to create a separate First Nation authority to regulate and approve on-reserve charitable gambling. To date these plans have not been realized. First Nations that participate in charitable gambling must comply with the existing provincial charitable gambling regulations.</li> </ul>
Manitoba	<ul style="list-style-type: none"> <li>• First Nations have been active participants in on-reserve charitable gambling activities such as bingo, pull-tickets and raffles.</li> <li>• If a First Nation has a gambling agreement with the province they are able to license on reserve charitable gambling events provided that they are in compliance with provincial regulations.</li> </ul>
Ontario	<ul style="list-style-type: none"> <li>• First Nations can license their own charities to receive funds from charitable gambling activities. Licenses can be obtained from a band council officer who negotiates an agreement with the province. Must comply with the existing provincial charitable gambling regulations.</li> </ul>
Quebec	<ul style="list-style-type: none"> <li>• First Nations must comply with the existing provincial charitable gaming model.</li> <li>• No separate charitable gambling policy. One First Nation group has an agreement with the province that allows them to license on-reserve charitable gambling.</li> </ul>
New Brunswick	<ul style="list-style-type: none"> <li>• All charitable gambling is regulated within the New Brunswick Lottery Act.</li> <li>• First Nations are able to license these activities if they have signed a gaming agreement with the province otherwise they must seek approval for each event. They must comply with provincial charitable gambling regulations.</li> </ul>
Nova Scotia	<ul style="list-style-type: none"> <li>• First Nations participate in on-reserve charitable gambling activities such as bingo, pull-tickets, ticket lotteries, and raffles. They must comply with provincial charitable gambling regulations.</li> <li>• First Nations with a provincial gambling agreement are entitled to conduct 3 giant bingo events annually with prizes in excess of \$15,000 per event.</li> </ul>
Prince Edward Island	<ul style="list-style-type: none"> <li>• There exist no special provisions for First Nations charitable gambling.</li> </ul>
Newfoundland	<ul style="list-style-type: none"> <li>• First Nations within the province are involved in charitable gambling such as bingo and ticket raffles.</li> <li>• There exist no special provision for First Nations charitable gambling.</li> <li>• Must comply with existing provincial regulations.</li> <li>• Future agreements may be reached, as land claim negotiations are currently under way throughout the province.</li> </ul>



have ratified a “dry reserve” policy that eliminates alcohol on-reserve and therefore do not have any licensed establishments. To work around this in Manitoba, the provincial government permits VLTs on-reserve so long as they are located in adult-only establishments. In Alberta, where every First Nation reserve in the province is “dry,” no such exception exists and as a result, even though Alberta First Nations are

eligible to operate on-reserve VLTs, they currently do not have any.

VLTs have been at the forefront of problem gambling debates in recent years. Policy debates have focused on the social costs that VLTs can bring through increased gambling addiction. Studies have found that VLTs are one of the most addictive forms of gambling because of their speed and ease of play. Levels of problem

**TABLE 2: First Nations VLT Activity in Canada**

<i>Province</i>	<i>On Reserve VLT Gambling</i>
British Columbia	<ul style="list-style-type: none"> <li>• No on-reserve VLTs. Note: There are no VLTs in B.C.</li> </ul>
Alberta	<ul style="list-style-type: none"> <li>• First Nation reserves do not have any on-reserve VLTs.</li> <li>• First Nations can receive approval to operate VLTs, but they must be located in a licensed establishment. All First Nation reserves in Alberta are “dry” and do not have any licensed establishments to place VLTs.</li> </ul>
Saskatchewan	<ul style="list-style-type: none"> <li>• There are no separate agreements for on-reserve VLTs.</li> <li>• As the FSIN would likely choose to place all allocated VLTs in their casinos, the First Nations currently are not pursuing an agreement.</li> </ul>
Manitoba	<ul style="list-style-type: none"> <li>• 18th of June 1999, a 4-year VLT moratorium was lifted.</li> <li>• First Nations can have up to 40 on-reserve VLTs.</li> <li>• The host First Nation receives 90% of on-reserve VLT revenues, without spending restrictions.</li> <li>• VLTs in Manitoba must be placed in a licensed establishment. For ‘dry’ reserves where there are no licensed areas, VLTs can be placed in an adult-only venue.</li> </ul>
Ontario	<ul style="list-style-type: none"> <li>• No on-reserve VLTs. Note: There are no VLTs in Ontario.</li> </ul>
Quebec	<ul style="list-style-type: none"> <li>• First Nations are able to have on-reserve VLTs so long as they comply with provincial regulations.</li> <li>• No separate provisions for on-reserve VLTs.</li> <li>• First Nation receives siteholder portion of gross revenues (30%).</li> </ul>
New Brunswick	<ul style="list-style-type: none"> <li>• On reserve VLT revenues are divided among a private operator, siteholder, and the province. The host First Nation receives the siteholder’s portion of VLT revenues plus 95% of the provincial revenue share provided that they have a gambling agreement with the province.</li> </ul>
Nova Scotia	<ul style="list-style-type: none"> <li>• First Nations with provincial gambling agreements can have on-reserve VLTs.</li> <li>• VLT location is up to the First Nation Chief and Band Council; however, there exists an 8 VLT limit per room and a 20 VLT limit per location.</li> <li>• Number of total VLTs permitted on a reserve depends on the First Nation population.</li> </ul>
Prince Edward Island	<ul style="list-style-type: none"> <li>• First Nations do not have VLTs.</li> </ul>
Newfoundland	<ul style="list-style-type: none"> <li>• First Nations do not have VLTs.</li> </ul>

gambling associated with VLT use have been found in some cases to exceed the average by 5 times (Doiron, 1999). As a consequence, there is a concern that the introduction of VLTs on First Nation reserves may lead to an increase in levels of problem gambling within their communities.

An additional concern is that on-reserve VLTs may have the net effect of lowering total revenue within a First Nation community. As most reserves are closed communities that do not attract many visitors from outside locations, the main patrons for VLTs will be members of the local First Nation. If the province receives a

share of profits from on-reserve VLTs, the net effect may be that revenues are taken out of the First Nation community and given to the province.

### First Nations and Casinos

The development of on-reserve casinos has emerged as the central policy debate surrounding the expansion of First Nations gambling in Canada. It is important to stress that casinos on First Nation reserves in Canada have become a reality. While there currently are not many casi-

**TABLE 3: First Nations Casino Activity in Canada**

<i>Province</i>	<i>On Reserve Casino Gambling</i>
British Columbia	<ul style="list-style-type: none"> <li>• 1997 call for destination casino proposals gave four First Nation submissions draft approval.</li> <li>• Locations are on reserves near Penticton, Merrit, Campbell River and Cranbrook.</li> <li>• Only the 'Casino of the Rockies' on the St. Mary's reserve outside of Cranbrook has received approval.</li> </ul>
Alberta	<ul style="list-style-type: none"> <li>• Currently no First Nation casinos.</li> <li>• Tsuu T'ina First Nation has developed a \$700 million dollar casino/entertainment project proposal.</li> <li>• Proposals are being developed by the Enoch Cree, Alexis, and Cold Lake First Nations.</li> <li>• First Nation casino proposals are pending until a licensing policy review is complete.</li> </ul>
Saskatchewan	<ul style="list-style-type: none"> <li>• Four First Nation casinos: Prince Albert, Yorkton, North Battleford, and Carlyle.</li> <li>• Annual revenues exceed \$65 million dollars, attract over 1 million visitors, employ 1,000 people, 800 of which are of First Nation heritage.</li> <li>• Over 50% of employees at the Casino Regina are aboriginal.</li> </ul>
Manitoba	<ul style="list-style-type: none"> <li>• June 1, 2000 a selection process for the development of First Nation casinos was held.</li> <li>• 12 locations were submitted for review, five were selected as potential candidates.</li> <li>• Currently two locations are off-reserve; as all First Nation casinos must be located on-reserve, land will be converted to the host First Nations' reserve.</li> </ul>
Ontario	<ul style="list-style-type: none"> <li>• Casino Rama, hosted by the Chippewas of Mnjikaning, is Canada's largest First Nation casino.</li> <li>• Mississaugaus of Scugog Island host the Great Blue Heron Charity Casino.</li> <li>• Golden Eagle Charity Casino in Kenora is owned and operated by the Wauzhushk Onigum Foundation.</li> </ul>
Other Provinces	No existing on-reserve Casinos. Nova Scotia First Nations that have signed gaming agreements with the province participate in Sydney Casino revenue sharing.

nos on reserves, this will likely change as many provinces have begun to establish regulations and develop a policy framework for on-reserve casinos. Given that many First Nations have, or are in the process of receiving approval to operate casinos within their communities, key policy debates focus on maximizing economic benefits while minimizing social cost.

Among provinces throughout Canada there exists great variation in how First Nation casinos are operated and their revenues are distributed. Some permit a limited number of First Nation casino operations, while others such as Nova Scotia allow First Nations to receive a percentage share of revenues from established government casinos. Variations among provincial First Nation casino policies are not surprising as the number and size of First Nations communities differ throughout the regions. Provinces that have large numbers of First Nations have, in general, been the most proactive in allowing on-reserve casinos. Geographic and demographic characteristics also play a factor in provincial casino policy. While First Nations in the Western provinces already have, or plan to develop on-reserve casinos, none of the First Nations in Atlantic Canada have received approval to do so.

### **Factors to Consider with the Establishment of First Nation Casinos**

Many potential challenges may arise with the establishment of additional on-reserve casinos. Some of these challenges, such as how to distribute casino revenues and address the potential for increased levels of problem gambling within the local community, will mainly affect the individual First Nation community. Other issues, such as market saturation, revenue transparency, and coordination with provincial gambling policy, may require a regional approach to policy development. Casino policy also may want to address whether the main goal of introducing of casinos on First Nation reserves is to develop individual reserves, or to develop First Nations throughout the province.

### **Equity Among First Nation Groups**

#### *1. Distribution of Wealth*

Provinces that have entered the casino industry or are currently in the process of doing so tend to grant casino licenses based on the potential economic viability of a casino within a

certain region. For on-reserve casinos, granting approval based on regional viability is an effective way to develop the market and at the same time prevent market saturation. However, if all casino revenues are to solely benefit the host First Nation, this could lead to an inequitable distribution of gaming revenues between First Nation communities that have received approval to operate a casino and those that have not. Economic polarization may also occur among First Nation communities that have casino developments. Evidence of this can be seen by looking at the tribal casino industry in the United States. Of the approximately 200 Indian Bands in the United States that operate casinos on reserve lands, 23 Indian Bands account for over 56% of total tribal gambling revenues (Baron, 1998).

To prevent a situation where the expansion of gambling creates an inequitable distribution of wealth among First Nation communities, many provinces are developing or have developed casino revenue-sharing agreements. Within these agreements a certain percentage of revenues from First Nation casinos are allocated in trust to benefit First Nations across a province as a whole. Redistribution of casino revenues among First Nation communities that have not received approval to operate a casino, or that operate small casinos in marginal locations, are designed to reduce economic inequity between First Nation communities that could result from expansion of First Nation casinos. Whether the distribution of gambling revenues among the First Nations is a concern will depend on whether the goals of policy are to develop individual reserves, reserves as a whole, or a combination of both.

#### *2. Problem Gambling within the Host Community*

Along with casino expansion, there is a potential for increased levels of problem gambling within individual First Nation communities. While casinos will provide benefits from an overall increase in revenues for the host First Nation, some community members may incur costs from problem gambling. There is concern that increased exposure to, and accessibility of, casino gambling will lead to higher levels of problem gambling within the communities. To help lower the cost of problem gambling and decrease its incidence, a portion of on-reserve casino reve-

nues can be used to establish problem gambling programs geared towards First Nations.

As previously mentioned, factors such as low income, low education and high rates of unemployment have been identified as precursors to gambling addiction (Moore, 2000). If a portion of revenues from on-reserve casinos are to be allocated towards programs that increase education, income and employment levels within the host First Nation community, the increased prevalence of problem gambling due to higher exposure to casinos may be mitigated.

## Uses of Revenues

### 1. Revenue Allocation

Most provincial gambling revenues in Canada are directed towards funding charitable and religious organizations, economic development, health and social programs. As the main goal of introducing casinos on First Nation reserves in Canada is often to promote economic and social development, many provinces have drafted gambling agreements with First Nations to include a section that legislates areas where gambling revenues are to be allocated. These areas often include social, cultural and economic development initiatives, as well as education and health programs. No province in Canada currently allows First Nations to grant per capita payments to band members from casino operations. However, BC has yet to put spending restrictions on the share of revenues that the host First Nation will receive. In a review of revenue allocation for on-reserve casinos in the United States, it was found that in some cases tribes whose members received per capita payments achieved little long-term improvement (Anders, 1997).

### 2. Revenue Transparency and Accountability

The issue of accountability for revenues from First Nation casinos has begun to receive increasing attention. A report by the Provincial Auditor of Saskatchewan, released in November 2000, found that the Saskatchewan Indian Gaming Authority (SIGA), which manages four First Nation casinos in the province, did not have enough financial controls to ensure that casino revenues were being allocated in a proper manner. The Provincial Auditor estimated that the SIGA had directly misallocated over \$1.7 million dollars in casino revenues (Saskatchewan, Liquor and Gambling Authority, 2000).

The experience of the SIGA may have made many provinces cautious with regards to granting First Nations operational control over their casinos. The concern is that revenue from First Nation casinos may end up providing benefits to individuals at the expense of community members as a whole. Individual members within First Nation communities have also called for greater transparency over how funds are spent within their communities (Walker, 2001). With the recent proposal for First Nation casinos in Manitoba, it has been suggested that community boards should be created to help ensure that casino revenues benefit all members within the local First Nation community (CBC Online, 2001D). It should also be pointed out that the issue of revenue transparency and accountability is not isolated to First Nation casinos, but applies to gambling generally in Canada.

### 3. First Nation Sovereignty

Provincial efforts to oversee the allocation of revenues from First Nation casinos may want to take into consideration the desires of First Nations to have increased political and economic sovereignty over their communities. It is important that First Nation peoples are able to have the independence to decide how they would like their gambling revenues to be allocated. Some First Nation leaders may see provincial involvement in developing a system to distribute revenues from gambling as a barrier towards their goal of achieving self-government. However, many First Nation people do recognize that in order to establish good governance, a binding and transparent system of distributing monies must first be established. Many also feel that concerns about accountability are not destructive towards the First Nations aspiration of achieving self-government, but are a prerequisite (Walker, 2001).

Provinces have been developing legislation that attempts to recognize both concerns over transparency of casino revenues and First Nation sovereignty. Alberta has proposed to develop a Fund that will distribute slot machine profits from future First Nation casinos to First Nation communities throughout the province. The Province, in cooperation with First Nations, will develop a charter for the Fund to help ensure that revenues are allocated towards stated objectives. First Nation representatives throughout Alberta will have the ultimate decision as to where revenues are to go, so long as the activi-

ties that they fund are within the Fund's mandate.

## Market for Casino Gambling

### 1. *Target Patrons*

If only on-reserve gambling is to be pursued as a development strategy for First Nations communities, it is important for patrons to originate from locations outside the host First Nation community. Much of the reason for the success of gambling venues and casinos located in Windsor and Niagara Falls has been associated with the large numbers of Canadian and American patrons they attract and revenues these patrons bring into the casinos (Campbell, 1998).

The experience of tribal gambling in the United States has shown that the most successful tribal casinos are located in close proximity to large urban centres (Baron, 1998). In the case of Foxwoods, the most profitable tribal casino, New York City, Boston, Springfield, Hartford and Providence all are located within 2 ½ hours driving distance of the casino. Gambling establishments and casinos in isolated locations have been found to receive a higher percentage of revenue from patrons who are residents of the local community (Carmichael, 1998).

The ability to attract off-reserve patrons does not apply uniformly to all First Nation groups. Development strategies for destination casinos may want to consider who the main patrons of on-reserve casinos will be. Many First Nation communities situated in rural or remote regions may have difficulty attracting clientele from outside of their community. To attract outside visitors, casino development strategies may want to focus upon either creating a venue to attract tourists or locating casinos near urban centres. In the case of remote First Nation communities, destination casinos that focus on attracting tourists, as opposed to smaller community-style casinos, may be the most desirable.

### 2. *Regional Competition and Market Saturation*

With gambling in Canada expanding to allow more on-reserve destination style casinos, provinces and First Nation groups will want to avoid creating too much competition in the market. Many tribal casinos in the United States generate very high levels of profit in the short run primarily because they are the sole provider of casino gambling in a region (Baron, 1998).

With the introduction of more tribal casinos, this competitive advantage can be eliminated. In states such as California and Washington where many tribes operate casinos, gambling revenues for tribes have begun to decline as the market has become more saturated. Some states have also found that if they do not permit tribal and state casinos, their residents will gamble out of state. In a study of gambling in Wisconsin, it was noted that policymakers and Indian tribes could not completely reject state and tribal casinos and expect to decrease their residents' exposure to casinos as they can easily travel to nearby states to gamble (Thompson, 1995).

With an expansion of on-reserve destination casinos, provincial governments and First Nations may eventually be faced with the same dilemma. Saturation does not pose as great a concern in Canada as in the United States because the provinces regulate entry into the gambling market. However, competition between provinces, especially in regions that are near provincial boundaries, should be taken into consideration.

A good example of the problems that cross-border and regional competition for gambling patrons may create can be seen by examining the development of the British Columbia and Washington State casino industries. In the mid-1990s, BC began to expand its gambling activities in an attempt to encourage residents who frequented border casinos in Washington to gamble at home. Slot machines were approved in casinos, wager limits increased and hours extended to make BC casinos more attractive to residents. The effect of these policy changes was felt very rapidly in Washington, particularly by the many tribal nations that operate border casinos. The Lummi Tribe, who opened the Northwest's first casino in 1984, was soon forced to close operations. The tribe cited increased competition from BC casinos as the main factor for going out of business. It was estimated that before BC changed regulations to its casino industry, 80% of the patrons at the Lummi Tribal Casino were Canadians. The casino employed over half of the tribal labour force. After the casino closed operations, the tribe's unemployment rate went from 7.1% to 60% (Philips, 1997).

With First Nations and provinces, primarily in western Canada, expanding their gambling industry to allow destination-style casinos, market saturation may increasingly become a problem. Signs that First Nation casinos may in the future compete to attract the same patrons from other



regions have already begun to emerge. In Alberta, the Cold Lake First Nation is contemplating submitting a proposal to operate a casino that will be located on the Saskatchewan border. This may attract many people from Saskatchewan as well as lower the number of Albertans who frequent Saskatchewan's First Nation casinos.

### 3. *Coordination with Provincial Charitable Gambling*

The introduction and approval of First Nation casinos may be at odds with a province's current policy goals. The mandate of many provincial lottery corporations is to contribute significantly to government revenues (B.C. Lottery Corp., 2000). The approval of First Nation casinos and the creation of gambling agreements that allow First Nation groups to receive the bulk share of their on-reserve gambling revenues may come in conflict with this mandate. If both First Nation and provincial casinos compete to attract the same patrons to their venues, provincial revenues from gambling may be reduced.

It should be acknowledged that provincial governments themselves do have an incentive to see First Nation gambling ventures succeed. While First Nation members who live on-reserve are the fiscal responsibility of the federal government, provincial governments spend large sums of money on community infrastructure and on the health, education and welfare of Aboriginal peoples who have left the reserve in search for employment (Skea, 1997). If the introduction of on-reserve gambling facilities and casinos can provide a source of employment and inject revenues into the host First Nation community, these expenditures may decline.

## **Policy Recommendations**

Should provincial governments and First Nation groups choose to implement First Nation casinos on reserves, the following options are recommended:

1. Policies Should be Developed in Coordination with First Nation Communities.  
Provincial policy towards on-reserve casinos should be developed in cooperation with the First Nations. First Nation communities frequently have voiced desires to take a more proactive role in deciding with what forms of gambling they would like to

become involved. As on-reserve casinos will have a large impact on the local community, the host First Nation must be able to provide input into the policy process so that its concerns and needs are heard.

2. Policies must consider social costs.  
Policies that promote on-reserve casinos need to take into consideration the social costs that may be born by the local First Nation community. Research shows that Aboriginal and First Nation people may have a higher prevalence of problem gambling. First Nation leaders and policymakers therefore should be aware of the potential costs that higher levels of problem gambling on-reserves may bring due to increased exposure to casinos. At a minimum, economic development from First Nation casinos should be weighed against the potential cost of increased levels of problem gambling.

While all provinces in Canada have established programs to treat problem gambling, it may be prudent to develop gambling addiction programs that take into consideration the unique aspects of Aboriginal and First Nation culture. In the United States it has been found that generalized problem gambling programs have not been very effective for Native Americans (Moore, 2000). Findings have suggested that community leaders, in addition to individual members of First Nation communities, should be made more aware of the potential addiction problems that increased exposure to gambling may present. While specific methods of treating gambling addiction may be best left to the individual First Nation community, levels of awareness about problem gambling risks need to increase. To help facilitate this, First Nations may want to slate funds from on-reserve casinos for gambling awareness programs within their communities.

In addition to developing programs that directly treat problem gamblers, programs to prevent problem gambling may want to focus on eliminating the many indirect factors present in First Nation communities that can lead to a higher incidence of gambling problems, such as low income and education, depression, alcoholism and high unemployment.



3. Revenues should be directed towards community development.

Revenues from First Nation casinos should be directed towards community development. As many First Nation communities are among the lowest income jurisdictions in Canada, with high levels of unemployment and low levels of infrastructure (Morse, 1997), the focus of introducing casinos should be to provide a source of capital to help improve socio-economic conditions on-reserve. Experiences from the United States have shown that many of the most successful tribes hosting casinos on their reserves have implemented community development strategies to increase education, employment, and reduce levels of substance abuse within their communities.

Policymakers and First Nation leaders will also want to identify the overall policy goals of introducing casinos on First Nation reserves. It should be determined whether the introduction of on-reserve casinos is to provide revenues for the host First Nation or First Nations throughout the province as a whole. As First Nations located near urban centres have a geographical advantage in attracting off-reserve patrons, the introduction of casinos may create disparities of wealth among First Nation communities. If on-reserve gambling is pursued as a way to aid community development for all First Nations people, mechanisms must be found to distribute a portion of revenues from casinos to First Nations throughout the province. This will help ensure that the introduction of on-reserve casinos in Canada will not increase economic inequalities among First Nation communities.

If casino revenues are to be divided and given directly to members within the local First Nation community, certain social and economic development prerequisites within the community should be met first. If per capita payments from First Nation casinos are to be permitted at all, they should only take place after economic and social development goals within First Nation communities have been met. Many American Indian Bands who operate successful tribal casinos have done this. The Pequots of Connecticut developed a strict incentive program whereby certain requirements, such as educational attainment by

youth, must be met before a person can receive a lump sum remittance from the Foxwoods Resort and Casino.

4. First Nation casino expansion should emphasize industry sustainability.

Much of the success of U.S. Indian Gambling comes from the fact that certain bands have had a monopoly or near-monopoly over legalized gambling in a particular State or region (Carmichael, 1998). In the case of the Foxwoods casino, the State of Connecticut agreed in 1993 to grant the casino and the nearby Mohegan reservation a monopoly on slot machines in exchange for 25% of slot machine profits. The sustainability of a First Nation casino industry in Canada may depend on agreements similar to Foxwoods, where the number and type of casinos in a region are restricted (Skea, 1997).

For the most part this has been happening indirectly within provinces in Canada. The fact that entry into the casino industry is highly regulated and that regional casino development plans have ensured that the provincial market for gambling has not become overcrowded assists the sustainability of gambling ventures in Canada. It may also be prudent for provincial governments to consult with adjacent provinces and states when approving casinos on-reserves.

Situations where many casinos operate marginally and try to attract the same patrons should be avoided. If too many First Nation casinos are introduced, casinos may not provide adequate revenues to aid the development of First Nation communities. If the economic benefits of on-reserve casinos are negligible, the end result may be that the social costs of First Nation casinos may outweigh the economic benefits.

## Conclusion

When the gambling industry in Canada initially began to develop, it was not predicted that gambling would generate as much revenue as it now does. Policies towards gambling were often developed in response to issues that emerged with industry expansion. While this approach has been relatively successful, the implementation of gambling policy has often lagged public concerns.

With First Nations gambling policy, the provinces have the opportunity to develop a sound policy framework that will address current concerns before they develop into future problems. Policymakers have an advantage in that the experiences of tribal gambling throughout the United States over the past two decades can act as an important reference for developing a policy framework for First Nation casinos.

The future of First Nation casinos in Canada should provide scope for mutual cooperation between the First Nations and provincial governments. Through cooperation rather than competition, provinces and First Nation groups may be able to pursue gambling agreements that provide future benefits for all of their communities, while minimizing social costs and inequalities.

#### NOTES

1. The term 'problem gambling' refers to both probable pathological and problem gamblers as defined by the South Oakes Gambling Screen (SOGS).
2. One first nations in Quebec has signed an agreement with the province that permits it to license on-reserve bingo events, there are no current plans to pursue additional agreements.

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# GAMBLING ON CASINOS

>> >> >> << << <<

Alison DuBois, John Loxley and Wanda A. Wuttunee



*Is it really because of the immorality of gambling? Capitalism has always rewarded immortality, regardless of race, gender or religion. I think it has more to do with power. As Indians make money we also gain power. As we gain power we develop a political voice. We can then use that voice to demand that treaties be honored.*

Sherman Alexie, Spokane Coeur d'Alene Indian, poet, author (Alexie, 2000)

*No wonder they're always getting into trouble. Their mothers will be spending all their time in the casino on the slot machines.*

Elder and grandmother, Swan Lake First Nation, Manitoba (Sanders, 2000)

*As a graduate student in the Native Studies Department at the University of Manitoba, we are counseled by our academic and cultural advisors that, first and foremost, our concern as researchers is for the Aboriginal and indigenous community. As a First Nations student, this tenet guides my input with regards to this project. It needs to be pointed out to the reader that it is difficult to separate 'what I know' from 'who I am'. My experience and knowledge as one who hails from a First Nations reserve community affords me a particularly conscientious view when considering casinos as development. Adding to the mix is the fact that there is a growing number of Aboriginal and*

*non-Aboriginal people who are increasingly demanding that First Nations become self-sufficient, thereby adding momentum as First Nations grab the economic bull by the horns, or, in this case, embrace this new species of returning buffalo.*

(Alison Dubois, 2001)

## Introduction

Successful economic projects with significant impact in Indian Country are few. For more than a decade, a number of U.S. Indian communities have operated casinos and other gaming projects in an industry that now contributes over \$9.6 billion per year (approximately 10 per cent of the gaming industry) and is attracting more and more participants.

As federal support for tribal activities continued to diminish and alternative economic development activities in Indian Country remained minimal, tribal governments turned first to high-stakes bingo and then to other forms of gaming to provide revenue for tribal services.... The harsh reality is that the financial world has not historically looked towards locating business on Indian reservations (Mason, 2000).

This record has caught the attention of Aboriginal leaders in Canada. The prize for success in gaming is likened to the return of the buffalo which speaks to the hopes and dreams of Indian people. Gambling profits instill pride since now communities have a financial base that can be reinvested to address community ills including unemployment, poor access to revenue for essential social and educational programs and most importantly it means independence. It stimulates strong discussion and opinion as demonstrated by the opening quotes.

This work takes the experience in the industry to date and poses critical questions in ascertaining the viability of a casino opportunity. Research from a variety of sources provides the context for a balanced approach to answering each question. While not comprehensive, the list of questions is a good stepping stone to further investigation.

It is important to put the American experience in context. Sovereign Indian tribes have a government to government relationship with the federal, state and local governments. They must negotiate legal agreements with states regarding what kind of gaming they can be involved in provided that state gaming regulations are in

place. Competition includes casinos in Las Vegas and Atlantic City, and on river boats in six states. There are other legal gaming activities including dog and horse racing, high stakes bingo and lotteries (Mason, 2000: 43).

Only about one-third of native communities located in states that allow gaming are currently involved in casinos but the numbers are growing. It is a choice that demonstrates self-government but it is a choice that is not taken by all. As with any business, success is varied and casinos have gone into bankruptcy or are operating with minimal profits. Eighty percent of the revenue is generated by only eight casinos (Hill, 2001). Tribes are permitted to spend their gaming profits only on services to members, on charitable contributions, or on a per capita distribution to members. This revenue has allowed tribes with profitable gaming to replace or supplement federal funds (Mason, 2000: 45).

Examples of community investments include youth programs, policing, health programs and improved water systems. Cultural programs and purchasing land to act as a buffer around a sacred lake are further examples of investments that could not otherwise be made (Mason, 2000: 148).

The Canadian gaming industry is less established with Ontario and Saskatchewan leading the way. Four casinos are in the licensing process in Manitoba and Alberta has recently agreed to establishing an Aboriginal gaming policy. Many provinces operate profitable casinos with funds going to charities and to government budgets. Few places in Canada could support the type of highly successful casinos operating in the states for a variety of reasons including lower population density patterns, competition and legislation. This means that potential industry size in Canada is scaled down in comparison to the U.S. experience.

Assuming that a community is interested in the feasibility of a casino, they will need to consider a variety of issues. The community support for the proposal is critical. In order to win community support, effective leadership will consider all aspects of the project and conduct a thorough 'due diligence' inquiry including a cost/benefit analysis; impact of legislation and regulations; social and environmental impacts as well as consider the employment and training opportunities. During this process, there may be opposition that will be acknowledged in strong communities. In Manitoba, elders in one community expressed



reservations on the impact on the community since they saw negative impacts on the family as a major concern (Sanders, 2000). These considerations will be discussed in this paper in the context of the experience of others.

If these deliberations take place within the framework of community vision complemented by the agreed upon standards for quality of life, then the chances for a successful casino project are enhanced (Kalt and Cornell, 1993). It is likely that a casino project will be only one part of a comprehensive economic development strategy in the interests of spreading risk and diversification. The strength of community leadership will be demonstrated in an holistic approach, in keeping with the community's history, that makes room for consideration of culture and tradition. At any time, ethical concerns may also overwhelm the process when the question of whether or not a casino project meets the needs of present and future community members.

### Critical Planning Questions

#### *What Proportion of Jobs Created Go to Aboriginal People?*

This varies widely from place to place but in the United States. Two studies of casinos in Minnesota in 1992 reported that 13 casinos employed about 5,700 people of whom 1,350, or 24%, were Native Americans (DesBrisay, 1994). It appears that quite high rates of Aboriginal employment can be achieved, witness the Lummi Tribe securing two thirds of the 400 jobs in its casino for its own members in the first year of operation (DesBrisay, 1994). In some cases Tribes are simply too small for their membership to occupy a high proportion of jobs; in other cases, location is probably a factor while in yet others it may be simply decisions by outside managers and weak ownership control which limits Aboriginal employment. In Saskatchewan, the four First Nations casinos employ 1,100 people, 70% of whom are Aboriginal (SIGA, 2001, website). In their Yorkton casino, 79% of the 210 employees are Aboriginal (Fallding, 2000). One of the prime objectives of First Nations casinos in Manitoba, is job creation (Manitoba First Nations Casino Project Selection Committee, 2000: 3).

#### *Are Casino Jobs Unionized?*

This depends on the casino. Unionization is important, not just to ensure reasonable wages, which in Yorkton start at \$7.75 an hour plus tips

(compared with over \$13 in Windsor (Hutchinson, 1999)), but to address issues of working conditions. Casinos present workers with some unique conditions of noise, stress, violence and harassment which owners need to address but seemingly do not without pressure from workers through their unions. Union representation is important, therefore, for both non-Aboriginal and Aboriginal workers.

In Saskatchewan, the Canadian Auto Workers union (CAW) is representing workers at the Prince Albert casino. CAW represents workers at the largest casino in Canada, at Windsor, and so has experience in the area. The Saskatchewan Indian Gaming Authority (SIGA), which leases casinos from First Nations, has been extremely resistant to unionization, arguing that there is no room for a provincially regulated union on First Nations land which is under federal jurisdiction. On these grounds, SIGA has launched a series of legal challenges and appeals against CAW representing its workers, losing the argument at every level so far. Currently they are waiting for permission to appeal to the Supreme Court of Canada. SIGA seems not to have much of a case, since its gambling operations are regulated entirely by the province, but is prepared to spend huge amounts of money on the issue. What really seems to be motivating SIGA is opposition to the union movement generally. After two years of trying CAW has still not been able to negotiate a collective agreement with SIGA, the main stumbling blocks being grievance procedures, seniority and collection of union dues, before issues of salary and working conditions have even been aired properly. SIGA has recently applied to have the union decertified (Olszewski, 2001; and CBC Information Radio).

There is a tradition of similar hostility towards unions among some First Nation leaders in Manitoba, with claims that they are not Indian organizations and that they challenge First Nations sovereignty. These are spurious arguments having more to do with First Nations leaders not wishing to have the authority of Chief and Council challenged. Aboriginal workers have been at the bargaining table with SIGA and have been appalled at its intransigence. In particular, SIGA's expressed wish to have elders deal with grievances does not sit well with First Nation workers, leave alone with other Aboriginal and non-Aboriginal workers in the casinos: neither does the attempt to place Indian status at the forefront of seniority considerations, ahead of

qualifications and length of service. It is reported that Manitoba casino proponents also share SIGA's view about the inappropriateness of provincially regulated unions operating on First Nations territory (CBC Radio). Again, this makes little sense if the authority of provincial agencies to regulate First Nations gaming in Manitoba is accepted and one wonders how First Nation leaders would react if federally registered unions were to appear on the scene. The report that Aboriginal casino proponents in Manitoba are, however, prepared to accept 'informal employee associations', is even more puzzling and suggests that formally organized unions pose an unacceptable threat to their leadership and authority.

*What Proportion of Gambling  
Income Accrues to First Nations,  
Directly as Owners or Indirectly?*

In 1995, 106 U.S. tribes received \$1.6 billion in net income from Class III gaming activities (casinos, slot machines, horse and dog racing, jai alai), representing 38% of revenue from gambling after pay-outs. This compares quite favourably with figures of 20–25% for similar facilities in Nevada and Atlantic City (U.S. House of Representatives, 1997).

In Saskatchewan, the 73 First nations reportedly shared \$13 million from casinos in 1999. This includes a 37.5 per cent share of the profits of the four First Nations casinos and 25% of the profit of Casino Regina which is operated by the province. The four First Nations casinos also pay 37.5 per cent of their profits to the province and 25 per cent goes to community development corporations which fund both Aboriginal and non-Aboriginal charities (Fallding, 2000).

The revenue sharing formula arrived at in Manitoba provides for as much as 70% of all net revenue to be paid to the host First Nation and the owners, with only 27.5% accruing to all First Nations and 2.5% reserved for addressing problems of addiction. The main differences from the Saskatchewan situation are that the province receives no share and the owners clearly receive the lion's share. There are, however, no public estimates of what dollar amounts might be involved.

*Do First Nations Tax Gambling  
Proceeds?*

If all the net proceeds from gambling are paid to First nations, either those who own them

or those benefitting from the distribution formula, then the issue of taxation does not arise. The more important question is the use to which these funds are put and the accountability of leaders for these funds.

*Do All First Nations Involved in  
the Gaming Industry Make Money?*

There is great unevenness in the size and profitability of Indian gambling facilities in the United States. About 40% of all gaming revenue was generated by just 8 out of 112 facilities operated by the 106 tribes mentioned earlier (U.S. House of Representatives, 1997). Ten tribes received at least \$50 million each, accounting for over a half of the \$1.6 billion transferred. Twenty tribes showed no transfers from their gaming operations.

A survey of 24 Indian gaming facilities in California in 1991 found that ten were profitable, at least four have closed down, four were marginal and the rest 'marred at some point by controversy—including fraud, mismanagement and allegations of gambling-related murders and the involvement of organized crime' (DesBrisay, 1994).

Of the four Saskatchewan First Nations casinos, the \$4 million casino and resort at the more isolated White Bear Reserve was said to be struggling (Fallding, 2000). In the United States, managers brought in from the outside to assist First Nations have not always acted appropriately. Thus, the White Earth Band of Chippewa, at Mahnommen in Minnesota, took control over its Shooting Star Casino after the managers, Gaming World International, had reportedly breached its contract by taking a larger share of profits than agreed and by not repaying loans made by the Band (Gaming World, 2001). Casinos and the like are not, therefore, guaranteed cash cows. Even profitable operations may not be sustainable in the long run. Some observers see U.S. tribes having no more than ten years to use gambling revenues to diversify their economies before profits are eroded through competition (Frantz, 1999: 298).

*What Explains Success or Failure  
of First Nations Casinos?*

Factors held responsible for the success of casinos are population density and accessibility, quality of management and political stability of the First Nation organization (DesBrisay, 1994),

but competition for business must also be important. In the Manitoba context, all four successful casino bids will operate close to or in urban centres and the Manitoba Lotteries Commission will closely regulate and monitor all management operations. The MLC is also in a position to regulate competition. There are, however, limits to its ability to do this. At least one of the proposed First Nations casinos, that at Brokenhead, is quite close to Winnipeg and its ability to compete with existing casinos there is an open question. Also, competition from Internet gambling and from casinos in neighbouring provinces and adjacent states of the United States are potential threats over which the MLC has little control. Neither can the MLC be expected to do much about political instability should this become a factor.

The planned casino on the Opaskwayak Cree First nation, a joint venture of six First nations in the north, may also not be guaranteed success because of a small population base, a fragile economy and possible saturation of the market for gambling. Opaskwayak has a population of 3,500 and is adjacent to The Pas, a town of only 6,000 people. Both are quite remote although there is some tourist traffic in summer. Recently, the main employer in the town, Tolko Industries, a sawmill and lumber operation, shut down putting some 600 people out of work. While the closure may be only temporary it will, according to the Chief of the First nations community, 'have a significant impact on the local economy' (*Winnipeg Free Press*, March 10, 2001). The other problem with this particular choice of location is that gambling revenues there are already significant (they were as high as \$5.8 million gross as early as 1991! See DesBrisay, 1994: 22), presumably from bingo and VLTs. Perhaps the saving grace of this proposal is its relatively modest capital cost of \$4–6 million, compared with over \$25 million for the Brokenhead proposal.

#### *Is Accountability an Issue in First Nations Gambling Activities?*

Most definitely. The amounts of money involved are, relatively speaking, huge. In Saskatchewan, the office of the Provincial Auditor has found that the Saskatchewan Indian Gaming Authority has been guilty of 'improper and questionable use of public money', involving some \$1.7 million. It found that the CEO of SIGA improperly used debit and credit cards, board and management expenses were unsupported,

unauthorized salary advances were made, contracts were let in excess of market value and board members were sometimes in conflict of interest situations. Both the SIGA Chair/CEO and the whole board have been replaced (Saskatchewan Liquor and Gaming Authority, 2000). Since there was an intention that SIGA would assist First Nations casinos in Manitoba, this development must not only have been a disappointing one for First Nations, it must also have been an alarming one for the Manitoba Lotteries Commission (MLC).

There are important lessons for the MLC in what happened in Saskatchewan. The Provincial Auditor there has taken the position that the Saskatchewan Liquor and Gaming Authority (SLGA) 'could have prevented some of the improper use of public money if it had done a better job managing the public money under SIGA's control' (Saskatchewan, Provincial Auditor, 2000). The First Nations of Saskatchewan were let down, therefore, not just by SIGA, but also by the SLGA. This is bound to make the MLC more cautious in its regulation of First Nations casinos. Indeed, successful casino applicants have already begun to complain that the MLC is not only being unduly restrictive in negotiating management agreements but is also expecting Aboriginal casinos to pay for an expensive regulatory infrastructure (Fallding, 2001).

The other aspect of accountability is the use of gambling proceeds in the communities themselves. While the issues involved here may appear to be no different from those arising with the use of other sources of revenue, U.S. experience suggests that if inflows are large, gambling revenues can be particularly contentious. Questions arise about whether monies should be paid out on a per capita basis or pooled for collective use. Off-reserve residents have also claimed a share in such revenues when these have been large (DesBrisay, 1994: 44).

#### *What Are the Economic Impacts of Gambling?*

No systematic studies of the economic impact of first nation gambling facilities appear to have been carried out. In gross terms, U.S. tribes derived about \$300 million or 7% of their gross revenue in 1995 from food, beverages, hotel rooms and interest as sidelines to gambling. But the economic development impact goes beyond these direct linkages in more suc-

cessful operations. Thus, the Sault St. Marie Tribe of Chippewa Indians in Michigan used proceeds from its casino to create many spin-off businesses including two convenience stores, a janitorial service, a cleaning supplies outlet, a dry cleaner, an air charter service, a tribal newspaper and other successful businesses.

Economic development benefits may take a number of forms: local communities might benefit from the building of casinos and related facilities, through ownership of construction or transportation companies, providing building supplies or supplying labour. They might benefit from owning, managing and staffing these and related spin-off activities. They might also use gambling proceeds to diversify economic development activities into unrelated fields or spend proceeds on social activities which improve the ability of community members to participate more fully in the economy through work or through ownership of small community or privately owned businesses (DesBrisay, 1994: 27–34).

Of the five proposals for First Nations casinos accepted in Manitoba, all but one (the one on the Opaskwayak First Nation) are accompanied by a hotel, offering additional potential spin-offs and employment. Nothing is in the public realm about other possible forms of economic development associated with casino development, although the request for proposals put out by the Manitoba First Nations Casino Selection Committee puts great stress on economic development benefits (*op. cit.*: 9, 16).

The key to success in maximizing economic development benefits is to bring in as much outside money as possible, as a kind of export promotion strategy, exporting the 'service' of gambling and related activities to tourists, and to make the most of the wages, salaries, profits and jobs from these undertakings. If casinos end up relying on local dollars only, and on outside workers, owners or managers, then the strategy may be deeply flawed. They will simply divert money from existing local businesses, such as restaurants, stores, movie theatres etc, where these exist.

Proponents of gambling, like those of public money for privately owned professional sports franchises, tend to exaggerate the economic spin-off benefits. In fact, the multipliers seem to be quite small. The employment multiplier for the Windsor casino has been estimated at 0.6 for the construction phase and only 0.44 for operations and tourism i.e. for every job created in running

the casino, less than a half a job is created in the region. In smaller centres, like Sault St. Marie, relevant multipliers are only 0.29 for capital and 0.18 for operations and tourism (DesBrisay, 1994: 28). In most First nations, where economic infrastructure is very weak, the multipliers could be even lower. It is for this reason that some see possibilities of attaching facilities to casinos, such as stores or services, which might actually **reduce** income leakages from First Nations (DesBrisay, 1994: 29).

Part of the feasibility process includes an assessment of casino operations. Some of the issues that must be addressed include partners, ownership issues, regulation of activities, management talent, financing arrangements and the attractiveness of the venture to targeted segments of the population. The context of these decisions will include the community's own vision for independence and the move to a strong community.

#### *What Is the Magnitude of the Project?*

A small project may be in reach of a single community with the assets to access bank finances. If it is a large project however, then a **partnership** or consortium may be struck to put the deal together. This will involve setting the responsibilities and profit-sharing parameters down in an agreement that satisfies the needs of all parties. Financing possibilities are endless for communities with banks, land claim settlements with collateral from other investments being common sources.

For example, Manitoba's Brokenhead River Casino Resort, Inc, representing seven communities successfully submitted a proposal for a two-phase \$25 million project in the heart of cottage country. It will be located on reserve land where spin-off benefits will be most beneficial. The deal has been put together with bank financing. Many communities received treaty land entitlement dollars which could support economic development projects. Other proposals in the process were put forward by individual communities and ranged in value from \$4 million to \$22 million.

Buffalo Point First Nation was unsuccessful in obtaining a casino license but is going ahead with its hotel and golf course. It has entered into a partnership with another First Nation community and they will share project costs and profits. They will pool their VLT allotments and introduce them into the hotel for the benefit



### Sharing Insights

Richard Kirk, member of Six Nations and head of the oldest North American Indian-owned advertising company, has consulted in the field of Indian gaming for the last ten years. He has worked in his own community in Ontario and is currently working with the Seminoles in Florida as the marketing designate for Big Cypress Casino.

In Richard's opinion, the Canadian government is a major competitor in gaming since they have their own revenue interests to protect. It is difficult to get an operation on stream and in any event the government will ensure through regulations and other tactics that the Indian gaming industry is not as lucrative as the billion dollar industry is in the states. It is still worthwhile to look at the possibilities but be prepared to compromise.

With the Six Nations casino project, Richard first got his family support and only then went to elders and traditionalists to seek their support, prior to going to the political council and other interest groups. With that project, elders were concerned about liquor being served and the impact on the community. The proposal was put forward to locate in a community 1½ hours away so that social impacts would be minimized but it was still within commuting distance. He was also prepared to refrain from selling liquor for the first while. He said that his plan was to then show the elders how much profit could be added by selling liquor further into the project. The elders also said we can't endorse easy money. His reply was that this is the hardest money that you will work for.

The plan died after six years, for a number of reasons but he did note that the internal politics in the community were a big obstacle. For every good idea that is empowering there are one or two people willing to spend time and money to block the project. Time passed with this strife and decision-making stalled. The government opened a casino in Brantford in an effort to halt this project and it became a recycler rather than a generator of Indian money as Indians frequented the casino. Little new money was actually coming into the community.

The Seminoles do not have that same history of internal conflict and so have benefited enormously. They have built up a large economic base and are the leading economic group in Florida and are building a world-wide network of business interests. They have their own country in the state of Florida with their own shipping lines and airlines. The government is an issue but there are ways around it.

Casino revenue is of value when it is not recycling our own people's money. It is attracting new dollars. Success is also recognizing success in our own people from our own community. There is a crazy expectation that a person who is a professional must come back and must work for free despite his skills and expertise or he will be ostracized. It must come from so many generations of oppression.

In Richard's words, everyone in my community is an expert on regulations. Government withholds benefits and everyone knows the regulations about our entitlement. Why not spend all that energy on building business then studying the regulations? Our opportunities are exciting and within that development is true sovereignty. It is that, that will give us the freedom. Gaming is a highway to where we want to go. It is only a tool and we can keep the tool on the moral high ground if we choose because we will be able to set our own standards. Richard, a quintessential Indian businessman with a unique sense of public responsibility, notes, "I am the only capitalist socialist I know. That is what we bring to business" (Kirk, 2001).

of their sport fishing clientele and cottage owners from the United States and other parts of Canada.

The attractiveness of the project to various stakeholders will be the subject of much debate. This will continue through the decision to build a casino and can continue after the casino is in operation. For example, litigation was required when Métis and non-status Indians demanded that their share of casino profits that had been

earmarked for First Nation communities only (Makin, 1999) after Casino Rama, Ontario had been in operation. In other cases, opposition kills the proposal or is too weak to affect it.

#### *What Project Assets Can Be Identified?*

The community will want to identify all its assets and resources that can be brought to the casino project. How many band members



are interested in employment opportunities in a casino? Are there other community assets that are currently underdeveloped that might add to the marketability of the project? An advisory committee of experienced businesspeople from other casinos could be very useful in helping a community deal with these issues. Other advisory bodies might be helpful at different points in the project development process including one made up of community members.

A critical asset is the ability to hire a competent **manager** or management company. This business requires scrupulous standards in monitoring cash intake. Since the flow of unmarked currency is substantial, procedures must be in place to minimize internal problems and minimize the threat of organized crime. These threats to a project are well-documented and proper precautions standard to the industry. Experienced, professional managers are at a premium since they are in high demand. A complete inventory of community assets is necessary.

#### *What about Addictions in the Community?*

Casinos increase the chance of dysfunction in communities where they operate. When a casino opened in Hull, Quebec in 1997, the proportion of gamblers increased from 13.8% in a year, to 60.4% (Canadian Medical Association Journal Newsdesk, 2000). The proportion of Hull residents who disagreed with the establishment of a casino increased from 20% before the casino to 29% after the casino opened, which of course is too late to impact on the presence of the casino in the community.

According to Dr. Korn in a recent Canadian Medical Association Journal, there are ongoing debates around gambling addiction, family dysfunction, gambling by youth and on the quality of life enjoyed by individuals, families and communities (Korn, 2000). There was dramatic growth in Canadian gambling opportunities including the numbers of casinos, slot machines and video lottery terminals in the name of increased government revenue without increasing taxes. By 1997/98 every province except PEI was allocating monies to deal with people who suffered gambling problems to a total expenditure of \$15 million. Indian-owned casinos face the same issues of encouraging gambling and at the same time safeguarding their community public interest. A balance must be struck between the health, social and economic costs and benefits.

Aboriginal communities face huge social problems that impact on their dependence on the Canadian government to move them forward. Issues around the fact that economically disadvantaged and marginalized people are more vulnerable to gambling and gambling-related problems must be recognized (Korn, 2000). The cost to families suffering from gambling sounds very familiar in the Aboriginal community and includes dysfunctional relationships, violence and abuse, financial pressure and disruption of growth and development of children.

In order to deal effectively with a challenge such as problems affecting the quality of life in a community with a casino, there are a number of options. One such course of action would be to complete an addictions health profile of the community as part of the due diligence process prior to agreeing to a casino project. The objective is to measure the current state of gambling in the community since studies indicate that communities within an 80 km radius of a casino are impacted by it. Who gambles on bingo, lotteries, VLT's and the Internet regularly? How much money is spent monthly on these activities? Are there other addictions present in the family? What is the household annual income? Assistance from local university researchers may be helpful in developing this baseline community health card. This information will be of interest to the community before final approval is given to a casino.

Once a casino is approved, this information can be updated. Oftentimes, a percentage of casino revenue is set aside for treatment of problems related to gambling. These include a wide range of impacts which should be acknowledged when setting the parameters for these funds. This percentage and the types of programs can be tied into the problems that a community faces due to a local casino. This will protect community quality of life objectives as determined by those affected by a casino.

#### **First Nations Leadership**

##### *What Is happening in Other First Nations Communities?*

The casino-as-development issue, i.e., placing casinos as a central thrust in Aboriginal economic development, raises unique questions which First Nations casino proponents might consider prior to pursuing or continuing development. The ability to consult with other First

Nations in Manitoba could shed new light on a topic which has raised much public debate. One of the questions that a First Nations leader in Manitoba might consider is, what are other First Nation casino proponents experiencing?

Indeed, there were some concerns expressed by First Nations leaders regarding the need to consult with other communities. Unfortunately, the urgency regarding Manitoba's casino proposal deadline apparently hindered consultation between communities (*Winnipeg Free Press*, May 1, 2000, A4).

Although it has been reported in the local Winnipeg media that those communities that have submitted casino proposals have not been allowed to consult with other casino proponents, Liz Stephenson, Director or Research for the Manitoba Gaming Control Commission, stated that such a view is incorrect and, "proponents are free to talk publicly about their plans" (*Winnipeg Free Press*, May 1, 2000, A4).

What are some possible ramifications due to a lack of dialogue between stakeholders and interested parties?

The opening quotations at the beginning of this article represent opposing views, both Aboriginal and non-Aboriginal, which invariably arise in the casino debate. The juxtaposition of the two individuals' viewpoints is interesting as each represents the 'pro' and 'con' side of the casino debate.

Firstly, both individuals represent First Nations from both sides of the Canada-U.S. border. The casino-as-development/underdevelopment issue has linked First Nations people, surpassing the boundary lines that have separated relatives for generations. Interestingly enough, there are strong family ties that are nevertheless maintained.

The views expressed by the Elder and grandmother from Swan Lake, Manitoba speaks volumes about the changes that have occurred in most reserve communities. As the traditional economies of First Nations changed in accordance with the demands of Canada's capitalist economy over the past several hundred years, changes to family and community persisted. It appears that the extended family plays a minimal role in the rearing of children. The passing on of traditional teachings by grandparents to young men and women is quickly eroding in most communities and the traditional roles of parents has forever changed due to such federal policies as residential school programs.

Secondly, there is no doubt that First Nations leaders are cognizant of the potentially harmful social effects of casino development as shown by the Elder's comment. First Nations leaders will need to determine if there will be further negative social impacts resulting from the development and establishment of casino's on or near their communities. In order to address concerns raised that one of the social costs to First Nations is increased addiction to gambling and alcohol and to alleviate current government control in the casino issue, First Nations might further consider what impact an alcohol-free casino will have on government control of casinos. Furthermore, is such an option feasible?

Thirdly, the opening quotes represent a divergent viewpoint with regards to Aboriginal economic development, and in particular, casino development. There is a possibility that a lack of dialogue will lead to misunderstanding and apprehension between Aboriginal and non-Aboriginal people. An example of a possible occurrence such as this is evidenced by the thinly veiled hints of racism which were reported in the local media.

### *Racism*

Aside from future impacts of current legislation are other important factors to consider. One of the underlying issues in the casino process has been the question of racism.

One of the conditions that must be met by proponents is casinos must be located on reserve land. If casinos are to be situated off current reserve land, then tracts of private property purchased for casino development must be declared reserve status. In Thompson this will apparently involve creating an Urban Reserve, with which idea the local municipality seems to be entirely comfortable.

For other communities that declared an interest in establishing casinos near municipalities, however, potential location of casinos near non-native communities has proven to be a contentious issue. An editorial in the *Winnipeg Free Press* (May 1, 2000, A10) began by stating that there was no racism in the casino debate. Rather, the issue was one of "location, location, location," as is the case in any sound business and real estate strategy. But there are strong reasons for disputing this conclusion.

While some communities welcome the opportunities presented by the proposed casino, others reject it. Swan Lake First Nation, Mani-

toba killed its casino proposal that had provincial approval, when the nearby community of Headingley rejected a motion put forward by its local council to ascertain support for the proposal. Debate included racist information that was passed out by a local racetrack, Assiniboia Downs, underlining the no-tax status of on-reserve First Nations people and asking the question “Will there be a residential area developed to accommodate employees from Swan Lake Reserve — where will they reside?”

In effect, the brochure is raising the spectre of Swan Lake building housing next to the casino — code for natives moving into the community. “I don’t want them going around, buying every little piece of land and building a reservation,” one man said at a public meeting. Another said if he wanted to live next to a reserve, he’d move near one. “As a resident, I was personally appalled at the types of questions and suggestions that were made, and the fear-mongering,” said resident Dieter Hoch (Guttormson, 2000). One of the main reasons reported by the media was that the good people of Headingley did not want a First Nations casino located in their community. Very little is mentioned regarding whether or not Headingley residents opposed casinos, **First Nations** casinos or gambling in general. Located across the TransCanada highway is Assiniboia Downs, Manitoba’s horse racing/betting establishment, complete with several video lottery terminals. Surely then, Headingley residents are not unfamiliar with gambling.

*How Will the Provincial  
Government Ensure **They** Are  
Accountable to First Nations?*

Much of the debate about accountability has been one-sided, influenced very much by the Saskatchewan experience, taking the form of how to ensure that First Nations casinos are accountable to the Province. Given the responsibility of the Provinces for gambling this is only reasonable. But First Nations need to start asking questions of their own.

For instance, are there different types of ‘accountability’? Perhaps there is a different way to explain what ‘accountability’ means to **First Nations** which extends beyond that afforded by the conventional economic definition. First Nations leaders realize that there is a more holistic version of accountability which encom-

passes **social** respect and responsibility. How ‘socially accountable’ are other representative systems? First Nations might want to determine how **socially** accountable other representative systems are in the casino debate. For instance, does the Manitoba government’s approach to accountability compromise the success of First Nations casinos? If it has, what will this mean for the prospects of success of First Nations casinos? True, Manitoba First Nations’s lack of support for the previous Tory government might not warrant attention to the preceding question. But the current NDP government has considerable First Nations support and used the casino development issue as part of its platform during the 1999 Manitoba election. On the one hand, this was a bold and imaginative move which carried some political risk. On the other hand, as we have seen, there are some problematical issues with casinos as development strategy, and some not inconsiderable risks, made only worse if governments exaggerate benefits and underestimate costs, as the previous government has done.<sup>1</sup> First Nations need to be extremely cautious about entering this business and carefully determine in whose best interests the current government serves. At this early stage in casino development, tight Provincial control might be warranted, but how much control/interference will the government continue to exercise into the future? It must be remembered by First Nations that ultimate control over casinos rests with the provincial government. Is there a possibility that the only ‘control’ that First Nations will exercise over casinos will be limited to ensuring there is sufficient “Indian-ness” in casino architectural designs and bingo dabbers? During a June 2000 debate in the Manitoba legislature then gaming minister Ron Lemieux stated that the conditions of compliance which were set out in the Request for Proposals had to met by First Nations. “If they are not met, those First Nations will not get a casino” (Legislative Assembly of Manitoba, November 15, 2000, website).

First Nations must remember that the Tory government expanded gambling in the early 1990’s to address two concerns; money flowing out of the province as gamblers travelled to nearby U.S. casinos and the cries of hotel owners who were feeling the effects of decreases in alcohol consumption of customers and numbers of customers in general (Black, 1996: 50). In this regard, both Buffalo Point and Roseau River First Nation proposals would have established

casinos near the U.S. border, thereby addressing the outflow of Manitoba dollars (*Winnipeg Free Press*, June 4, 2000, A1).

As well, the Roseau River proposal had the support of nearby community (Emerson, Manitoba), a condition which must be met by casino proponents. Since neither proposal was included in the final selection process, one wonders whether or not broader political considerations were at work here, notwithstanding the seeming impartiality of the two person selection committee. For example, Roseau River has been quite assertive in claiming its rights while Buffalo Point, with the most highly developed infrastructures, has been involved with band membership concerns. Were all the factors considered in the final selection of proponents? In the absence of a transparent process one can only speculate.

#### *Who Will Define 'Management'?*

Mirroring the accountability debate in terms of seeing the argument from only one perspective is the issue of First Nations casino management.

It is important that First Nations casino proponents collaborate with provincially appointed management to determine exactly what is meant by 'management'. This is important because the term 'management' might have different connotations for First Nations and non-First Nations. An example of this can be seen in the SIGA/Saskatchewan government situation. If we carefully consider how First Nations conduct community consultations, then perhaps a new interpretation will be added to the alleged mismanagement by SIGA.

Due to alleged financial mismanagement, SIGA has come under closer scrutiny, following an audit which included the examination of SIGA Board meeting minutes. One of the conclusions made by the provincial auditor was that "proper Board procedures" were not followed (Saskatchewan government, November, 2000, website). Although the expertise and professionalism displayed by the provincial auditors is a given, perhaps perceived 'mismanagement' by the auditors regarding SIGA Board procedures was in actuality, not 'mismanagement' at all but was indicative of a decision-making by consensus.

#### **Closing Remarks**

When all is said and done, there can be few concluding remarks. The current socio-economic conditions in many First Nations reserves do

not appear to be improving and it is doubtful that casino development will alleviate the economic crisis on most First Nations reserves in Manitoba. If proceeding with casino development carefully, however, at an appropriate scale, in the right location and with due regard for maximizing jobs for First Nations people and purchases from First Nations enterprises, some communities might receive relatively large inflows of new capital. Again, for as long as they might last, if managed carefully, these resources could make a difference to the economic and/or infrastructural base of these select communities.

But at what cost? Although it might be difficult to immediately ascertain what the short and long term economic costs or benefits might be from casino development, the cultural and social impacts of casino development will almost certainly be felt for generations to come, and many of these will assuredly be negative, taking the form of a 'tax' on the poor as they seek to improve their lot through gambling. Gambling addiction will also certainly increase, with all the social problems that brings.

Who benefits? If these projects are capitalist ones, the likelihood is very few will profit, usually at the expense of many. It is 'survival of the fittest' in its purest form. Those individuals (or corporations) in control of economic development enterprises will reap the financial rewards and the majority of First Nations will most likely continue to wallow in Third World conditions. Although casino development will create jobs, the rights and benefits for First Nations employees does not appear to be a deciding factor in the casino process, as evidenced in the SIGA/CAW debacle. Only a true cynic would conclude that 'job creation' for First Nations is **not** one of the incentives in the casino-as-development issue. The real test for First Nations will be to maximize the economic spin-offs while avoiding or minimizing the social costs. This essentially means attracting business for the casinos from outside the First Nations communities. This will be easier said than done.

Furthermore, the issue of who controls First Nations casinos is a thorny one. Given the problems in Saskatchewan one can understand the desire of the Province to prevent a repeat in Manitoba. Strong central controls in the early days may not be unreasonable. But will authority and discretion be transferred over time and will culturally appropriate decision making institutions be allowed to evolve?



## NOTE

1. The Cyrenne Report (1995) concluded that the provincial Tory government had “systematically overstated the benefits and understated the costs associated with gambling” (Black 1996:52). Black points out that Ernst & Young’s report was indicative of the provincial government’s direct response to the Cyrenne Report and was an attempt to control damage which Cyrenne’s report might generate.

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# CASINO AS CASH COW

## *A Cautionary Tale?*

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Margo Little

### **Introduction**

Economic development initiatives frequently involve a large measure of compromise and trade-off. For First Nations experimenting with high stakes gambling as an engine for economic progress, the trade-offs are sometimes not acceptable or even visible to community members. Raising revenue through casinos may forever alter the social and economic balance of a community. Many observers are wondering if the profits from casinos can ever adequately compensate residents for the social costs associated with gaming enterprises.

In an era where debt load may interfere with progress on reserves, gaming becomes a tempting alternative. Indian Affairs officials claim that up to 25 per cent of bands are broke or in need of financial management assistance (Tibbetts, 1998: A8). As Aboriginal nations step up the pressure for full self-governance, indebtedness has prompted many to embrace gambling as a catalyst for economic rejuvenation.

Frustration has been mounting as the federal government continues to ignore the 4000

page Royal Commission Report with its 440 recommendations for improvement. Increasingly bands are convinced that financial dependence on Ottawa can only be severed through calculated risk-taking. As always the question remains: How can developers maintain a balance between economic and social progress?

### **The American Model**

Canadian bands have been eager to follow the lead of some tribes south of the border who appear to have struck gold. A closer look, however, reveals that all is not as prosperous as it would appear in the American flirtation with casino development. It is true, as Kim Crompton reports in "Tribal Gambling Pitch Escalates," that "tribal gaming has replaced yesteryear's buffalo as American Indians' means of survival in the modern day." In a March 2001 edition of *Journal of Business*, she notes that nationwide there are about 200 tribes operating more than 300 gaming facilities ranging from one-room bingo games to large casinos. The National Indian Gaming Commission in the United States

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confirmed that the industry now generates more than \$9.6 billion in gross gaming revenue, up from \$500 million in 1988 (Crompton, 2001: A1).

With so much at stake it is not surprising that First Nations in Canada feel a sense of urgency and have ceased to wait for the government to act upon the Royal Commission directives. But, as a team of reporters from the Associated Press discovered last spring, a casino does not signify instant freedom from federal purse strings. Investigators from *The IRE Journal* set out to see if the billions of dollars in gambling revenues had changed the lives of Indians on reservations. Was gambling solving the unemployment, poverty and welfare problems that had plagued U.S. reservations since their creation in the 19th century?

In summarizing the findings, reporter David Pace reveals that there was "a tremendous concentration of gambling revenues among tribes with few members." The 23 tribes with casinos making more than \$100 million a year got 56 percent of the total Indian gaming revenues in 1998 even though they accounted for just 5.1 percent of the American Indian population. Interestingly, tribes that owned casinos making less than \$10 million a year comprised more than half of the Indian population but received only five percent of the total gambling revenues.

Pace goes on to say that "welfare participation on Indian reservations with casinos grew far less during the 1990s than on other reservations. But the historically high unemployment and poverty levels on reservations changed very little during the 1990s despite the influx of gambling money" (Pace, 2001: 8).

The report cites further evidence that gambling revenues were having minimal impact on the quality of life. The analysis found that the U.S. unemployment rate dropped from 6.9 percent to 4.9 percent between 1991 and 1997; however, the unemployment rate for 146 tribes with casinos declined from 55.9 percent to 52.2 percent. Among the 144 tribes without casinos, the unemployment rate increased from 43.6 percent in 1991 to 48.3 percent six years later.

The investigators examined data on education levels, poverty rates and housing conditions. The average poverty rate in counties hosting gaming tribes declined only slightly between 1989 and 1995, from 17.7 percent to 15.5 percent. In counties of non-gaming tribes, the poverty rate increased slightly, from 18.2 percent to 18.4 per-

cent. In the U.S. as a whole, the poverty rate increased from 12.8 percent to 13.8 percent during that period.

The authors of the report concede that about two dozen tribes with casinos are beginning to intervene in the poverty cycle. The vast majority of tribes have not experienced relief. For example, the San Carlos Apaches of eastern Arizona run a \$40 million casino that provides jobs for several hundred of the tribe's 10,500 members yet the \$65,000 monthly dividend to the tribe has not solved local problems. "The reservation's unemployment rate increased from 42 percent in 1991 to 58 percent in 1997," according to Pace, "and the number of tribal members receiving welfare jumped 20 percent during that period (Pace, 2001).

"Casino profits have just scratched the surface of the economic and social problems confronting reservations," tribal chiefs told *The New York Times* last year. Many bands say they are so far behind in housing, plumbing and basic infrastructure that the casino money is a drop in the proverbial bucket. Tribes are beginning to see a reduction in participation in food stamp programs but it is apparent that progress is slow and sometimes imperceptible (Belluck, 2000).

Stephen Cornell, director of the Udall Centre for Studies in Public Policy, supported the chiefs' observations in an address to an economic development conference in Tucson, Arizona. Gambling is not a cure-all, he agreed; "There are huge, continuing problems of poverty in Indian America. We are dealing with problems that are comparable with poverty issues in developing countries" (*The New York Times*, 12 November 1999).

Although the National Indian Gaming Association claims that "Indian gaming is the first and only economic development tool that has ever worked on reservations," many would disagree. As Jerry Unseem reports in his article "The Big Gamble," most of America's 1.7 million Indians, and especially those living on reservations, are poor. Native Americans have a poverty rate 2.5 times the national average, a suicide rate nearly twice as high, and an alcoholism rate six times greater" (Unseem, 2000: 222). Mega resorts, like the famous and lucrative Foxwoods run by the tiny Pequot band, are relatively rare. In fact, 361 tribes have no gambling at all. Only very small tribes in close proximity to substantial population centres are able to enjoy runaway success. For the others "the

Indian new economy" has evolved into an elusive dream (Unseem, 2000).

For Canadian bands grappling with similar realities, gaming still seems attractive. It is natural for Aboriginal economic development committees to envy the growing gaming industry in American states and to rush to jump on the bandwagon. It is also understandable for First Nations on both sides of the border to gravitate to gambling as a way to address community needs. In fact, adopting commercial gaming as a strategy is a clear example of Native inventiveness and adaptability.

### History of Gaming Practices

Much of the impetus to focus on gambling operations has been inspired by the Canadian government's rigid stance on self-government. Court decisions in the 1990s argued that bands could not claim an activity as a right unless they could prove that activity is part of their culture or heritage (Morris, 1996: A18). First Nations negotiators quickly reacted to this short-sighted view since gaming is one area where it is easy to demonstrate a long-standing traditional practice. Establishing casinos became a potent symbol of the inherent right to manage First Nations affairs.

The historic record shows that games of chance have been an integral part of tribal societies throughout North America. As Reven and Gabrielle Brenner point out in *Gambling and Speculation*, "Early American Indians believed that their gods were the originators of their gambling games with coloured stones and that the gods determined the outcome" (Brenner, 1990: 3). In those days, bones, sticks, arrows and lots were shuffled and thrown by the tribal seer, who then disclosed the message for the future, a message revealed by the supernatural spirit who controlled the throw. Today's players are simply repeating a ritual sanctioned by their ancestors.

Historians claim that Woodland tribes, for example, enjoyed a wide variety of games based on dexterity or on chance. Summaries published by the National Geographic Society describe activities involving shooting arrows, playing a kind of soccer, tossing lances at a rolling disk and guessing which moccasin held a stone or marker. Both men and women engaged in "gambling by tossing split lengths of cane for scores determined by the number of convex or concave surfaces turned up" (Grovenor, 1974: 142).

Methods of play, forerunners of modern casino techniques, illustrate far ranging complexity, creativity and resourcefulness. In Quebec, for instance, the Algonquian people were passionate about a game called paquessen. The Amalecite people of New Brunswick invented *altestagen* for entertainment. *Pahkasahkimac* was a popular diversion among Saskatchewan Cree. The Micmac of Nova Scotia were equally inventive with their regional dice games. Players in Manitoba were fans of *buggasank* or *boggasah* which involved a complicated circle game of gain and loss. The Nisga'a of British Columbia contributed a totemic trump game to the repertoire of Aboriginal gambling activities. Throughout the Americas colourful and intricate games enlivened festivals and celebrations. This affinity to games of chance in the past makes today's economic development officers comfortable with the casino concept.

Metis communities also cherished their games of chance, according to Julia D. Harrison. In her publication entitled *Metis*, she reports that card-playing, horse racing and bingo have always been very popular. "In card games, players use traps, rifle shells, matches, fishing nets, or other personal equipment for bets when money is scarce" (Harrison, 1985: 129).

The Iroquois tradition also displayed some unique gaming practices. In *Teachings From the Longhouse* Chief Jacob Thomas relates that the Great Betting Game or the peach stone and bowl game was a well-respected activity. It was expected that participants would bet "the most valuable and precious things" they owned and, if a person lost a bet, it was believed they would "see their possessions in the spirit world" (Thomas & Boyle, 1994: 67).

Clearly gambling has existed and flourished in virtually every tribal group on the continent. Because of the strong link to the past, modern economic development agencies consider gaming a legitimate and traditional mode of fund-raising. The establishment of casinos serves as one strategy in the campaign to strengthen self-government.

### Compulsive Gambling

Fortunately, there is abundant evidence to illustrate that gaming is an integral part of the distinctive cultures of Aboriginal people; however, further examination of past practices reveals early practitioners were not immune to the dark side of gaming excesses. Despite current miscon-

ceptions, compulsive gambling is not just a twenty-first century phenomenon. Many observers report witnessing out-of-control wagering behaviour throughout history.

Betting games sparked conflict then, just as they do now. An entry in the journal of Charlevoix described what he interpreted to be gambling mania among the Hurons of Michigan. So fond of the dish game were the Hurons that they sometimes lost their rest, "and in some measure their reason. They hazarded all they possessed and many did not leave off until they were almost stripped quite naked and till they had lost all they had in their cabins" (Culin, 1992: 106).

The tendency of gamblers to play until all is lost was also noted by Nicolas Perrot in his diary. "Entire villages have been seen gambling away their possessions, one against the other, and ruining themselves," he wrote (Culin, 1992: 107). Gabriel Sagard expressed similar amazement when he marvelled that the Native men were "addicted not only to the game of reeds but were also addicted to other kinds of games" (Culin, 192: 107). Other cultural outsiders, including Father Louis Hennepin recorded scenes of gaming euphoria. In his writings, he comments, "There were some so given to this game that they would gamble away even their great coat. Those who conducted the game cried at the top of their voice when they rattled the platter and they struck their shoulders so hard as to leave them all black with the blows" (Culin, 1992: 108).

Although early games of chance did not feature the huge cash prizes available to modern players, it is clear that compulsive behaviour spans generations. The face of pathological gambling today bears striking similarities to the gambling fever exhibited so long ago among tribal ancestors.

According to the American Psychiatric Association, there are several key indicators of pathological gambling. The gambler is preoccupied with planning the next gambling venture or thinking of where to get money to bet. There is an necessity to gamble increasingly larger sums in order to get the desired excitement. There may be repeated unsuccessful attempts to control, cut back or stop the gambling. Chasing losses, lying to family members and committing illegal acts are all signals that the betting is out of control (Lesieur, 1995: 153).

Some Aboriginal social workers are reluctant to endorse gaming because some people are sus-

ceptible to cross-addiction, according to *The Edmonton Journal*. Butch Wolfleg, a councillor for the Siksika Nation east of Calgary, has expressed fears that he and others like him are prime candidates for gambling addiction. He shared his apprehension at a gaming conference featuring speakers from American casinos. He told conference delegates that "we are prime targets for people to exploit us, especially if they wave money and capital and jobs in our faces." Add a casino to a community with high unemployment and alcohol problems and the social impact can be devastating, he told reporter Marta Gold. In his address he characterized casinos as "a neat way of raising revenue, as long as it's balanced with some of that money being directed to social impact, especially on children" (Gold, 1996).

Similar concerns were voiced in "The Spirit of Bingoland," a study released by the Nechi Institute of Edmonton. The researchers noted that "the problem of alcoholism is being successfully addressed today through the efforts of countless Native people who are determined to reduce the devastation caused by alcohol in their own communities. Unfortunately, legalized gambling, seen by many as a new economic saviour, may supplement or possibly even replace drinking as the new addiction of choice in the Native community" (Hewitt, 1994: 1).

In addition, the Nechi sponsored survey indicates that "gambling is a serious problem in Native communities which needs to be addressed. Unfortunately, recognition of the problem by Native communities is very low, probably at about the same level as recognition of alcohol and drug problems was 20–25 years ago" (Hewitt, 1994: 1). Overall the authors concluded that there is a very compelling link between gambling addiction and unresolved grief.

As professional social workers continue to gather data to alert political decision-makers to the hazards of rapid gaming expansion, anecdotal evidence is also emerging. The human side of the issue emerges in a letter written by Northwest Territories resident, Naomi Sampson (a pseudonym). She describes the loneliness and desperation she experienced as she tried to maintain a close relationship with the problem gambler in her household. "I first met the gambler in my life at the community hall," she writes. "I didn't think he was a gambler or a cheater when we first got together." At first she says she was unaware of the extent of her part-



ner's gambling addiction. "In his winning phase he would just gamble more, but he did provide food. Then the losing phase brought many apologies but he would also blame us for what was happening. We learned to care for ourselves and to meet our own needs because we couldn't count on the gambler," she confides.

In the desperation phase of his illness, the gambler was seldom home, according to Sampson. "If he was home," she admits, "he was agitated and bored, anxious to get back to the gambling. As for myself and my two teenage boys, we don't gamble. Sometimes I felt the gambling was all my fault because we never did activities together and just drifted apart. I felt hurt and would try to tell him not to use the money for gambling and to buy something he needs for himself."

"There was a lot of shame and stress from living with the gambler," she confesses. "He would get into arguments with my sons and there would be a lot of abuse because we were dependent upon him."

"I try to be understanding," she says, "But it is disappointing. I feel helpless over his addiction. I stayed in the relationship because I love him and my boys wanted him but he couldn't get away from the habit."

During the gambling binges the young mother reports that she endured "loneliness and a lot of headaches." She agonized as the bills continued to pile up. "I was anxious and frightened whenever we would break up over the gambling," she says. "Emotionally it was very draining. Socially we didn't fit in because he didn't get along with my friends. After awhile I realized he had an addiction and that he didn't want help."

To other people trapped in such relationships, she advises, "Stop supporting them. You can start life all over again if you want to. After all, life is meant for love and joy. People who are hooked on gambling don't love you; it is the money they love. They are just throwing money away and the hungry people at home are forgotten. You want a true friend, not material things" (Little, 1999: 145).

### **Voices from First Nations Communities**

Although proponents of casinos claim that gambling is an economic and entertainment choice, many First Nations people believe that gambling ultimately undermines family values. To deter-

mine whether casino development is favoured by a cross-section of Northern Ontario band members, a random sampling of students was surveyed at N'Swakamok Native Alternative School in Sudbury. In private interviews conducted at N'Swakamok Friendship Centre, many participants expressed the view that excessive gambling interferes with the teaching of patience, respect, human achievement and personal responsibility.

In his personal testimonial, Don, a thirty-six year old from Wikwemikong Unceded Reserve, remains opposed to a casino in his community. "I don't think it's right," he says. "I'd go out protesting door to door if they ever tried to bring one (casino) in there. I don't think it's right to take money out of the community. A lot of people already have problems with gambling at bingo and such. Kids are left to run around and fend for themselves; they're not raised properly."

For Don a casino would spur an upswing in addiction. He believes that increasing the opportunities to gamble leads to an increase in the population of problem gamblers. "People that don't normally gamble would end up gambling if the casino came in," he predicts. All in all Don views gambling in a negative light and disapproves of it as a drain on the people. He applauds other resources for economic development including a dolomite quarry, a marina, and mini-mall and logging operations (Little, 1997:, 83).

Eighteen year old Paula echoes some of Don's concerns with casino operations on reserve. As a Wikwemikong band member, she believes that a casino would cause too many problems among the residents. "People get hooked on the games and they get addicted to gambling and start to neglect their families by sitting at a slot machine all night," she says. "I've seen children neglected; I have been one of those left babysitting while others were out at bingo."

Another major worry for Paula is the loss of intergenerational communication when gambling takes hold in the community. She fears that casinos reinforce the materialism that threatens to seduce First Nations youth. Most of the Elders she knows are "very traditional and into healing and traditional medicines," she says. "They want to teach their grandchildren all of these things, but if others have their way, they'll be too busy getting a job at the casino!" She deplores the fact that many of the younger generation don't



find the old ways very interesting. In her eyes, the promotion of casinos defeats the purpose of going to school and getting an education. "Why go to school to become a blackjack dealer?" she asks (Little, 1997: 85).

A twenty-six year old from Fort William expresses opinions akin to those of Don and Paula. Jack feels the morality of the people is adversely affected by the presence of blackjack tables and slot machines. For him casinos symbolize conflict. He sees his home community as a close-knit place where "people care for one another. Casinos bring in strangers, outsiders, and large crowds that have a negative effect on impressionable youth," he says.

In his view, an influx of tourists coming to gamble has a detrimental effect on community life. And he feels traditional activities such as pow wows are "wrecked" since they can't compete with the glitz of casinos. He recommends that more energy be put into economic development alternatives such as fishing, agriculture and nurseries. He encourages leaders to wait for small enterprises to pay off instead of concentrating on the instant profits and unhealthy dependence associated with reliance on casinos. "There's always the danger that people will get comfortable with the casino," Jack warns. "And gradually they get greedy and go for more expansion" (Little, 1997: 87).

Linda, a sixteen year old youth from Golden Lake, concedes that casinos bring money and jobs to communities, yet she fears the accompanying social problems. "There's always the chance of getting addicted to gambling," she says. "I definitely do not support it." She believes gambling has a negative influence on personal responsibility. Too many people fall for the notion that they can "get rich fast" and end up falling behind in rent and other bills.

Linda acknowledges that many communities are in need of healing as well as an infusion of funds but she opposes materialistic solutions. She urges First Nations youth to treasure the old ways because "money is nothing but material objects;" whereas, "traditional values go back centuries and have been brought down to us; in no way is gambling compatible with traditional values. Gambling is something man-made; traditional values were sent to us from the Creator," she believes. She is adamant that community goals of unity and prosperity can never be achieved by congregating at casinos (Little, 1997: 89).

Healing is also a priority expressed by Janice, a forty-seven year old member of the Whitefish Lake First Nation. She is cautious about expanded gaming opportunities since it might jeopardize the healing movement on reserve. "Most families do gamble now," she observes. "And some families are hurting because of the gambling." She is concerned that more emphasis on gambling might be a set back for the carefully nurtured recovery movement in the community.

Like many First Nations people, Janice experiences ambivalence when confronted with gaming questions. She admits casinos are divisive. "The community is in the midst of reviving traditional values of the elders and picking up the cultural heritage and teachings," she says. "Some members oppose gambling; others welcome it. It is a recent phenomenon that we are walking the sobriety road and gambling might interfere with the healing process" (Little, 1997: 90).

A thirty-nine year old Michipicoten member shares some of the same reservations as Janice outlines. Jackie longs for the economic boost casinos might ignite, yet she is apprehensive about the negative potential. "Wherever there's more money, there's more crime," she points out. "One of the biggest negative things would be low-income families spending all their money gambling and leaving their children alone. This would lead to juvenile problems and drug and alcohol problems."

Job creation aside, Jackie feels that large crowds of travellers destroy a community's sense of safety and security. She also bemoans the fact that "a lot of teenagers and younger children are left alone without the support and guidance of parents between the hours of seven and ten at night. That's when parents should be there, not at bingo" (Little, 1997: 100).

From the community interview excerpts it is apparent that band members have mixed feelings about gaming in their home communities. For most participants in the survey, balance in both economic and social issues is the key to community enhancement.

### Cautionary Tales

Canadian communities are just beginning to assess the overall impact of large scale gaming operations on the quality of life. For those seeking models, a glance south of the border reveals an abundance of cautionary tales.

In her introduction to *Crapped Out*, editor Jennifer Vogel states that “in many cases gambling only makes a bad situation worse.” She advises gambling promoters to be wary since gambling produces no new wealth and contributes nothing to economic development. In her view, gaming is a discredited economic philosophy.

In reality, casinos do not bring “the breath of life” to impoverished areas, according to *Newsday* writer, Stephanie Saul. In her investigation of economic development trends in Tunica County, Mississippi, she discovered that poverty persists even though casinos thrive. The drawbacks catalogued in areas where casinos were located included an 800 per cent increase in crime. Traffic accidents increased because of free alcohol at gaming establishments. The district attorney reported higher levels of violent crime and armed robberies. The county averaged twenty indictments a year before the advent of casinos and 160 a year after casinos arrived. Economists estimated that for every dollar generated by gambling, it cost the state triple that sum to cover the costs of incarceration (Saul, 1995: 49).

Iowa residents have announced disillusionment with gambling as well. In *America's House of Cards*, Marc Cooper observes that casinos are built in “vulnerable communities” where high unemployment makes the citizens desperate for funds for “social improvement projects” (Cooper, 1996: 32). Casino developments are like vultures descending upon “impoverished ports and Indian reservations throughout the heartland,” he notes. Iowa’s compulsive gambling population tripled after riverboat casinos arrived. State officials estimate that each problem gambler costs the taxpayer between \$13,000 and \$35,000 per year in treatment, law enforcement, divorce, spousal battering and absenteeism (Cooper, 1996: 34).

The unsavoury reputation attached to some American casinos also raises red flags for Canadian bands contemplating similar enterprises. In some areas anti-gambling groups have charged that Native casinos are fronts for non-Indian developers who skim off a large percentage of the profits. Donald Trump, a wealthy casino booster, tried to convince a congressional panel that Indian gaming was awash in crookedness and that “organized crime is rampant on Indian reservations” (Unseem, 2000).

Tales of fraud and misappropriation of funds may be a powerful deterrent to bands with casino visions. One of the most highly publicized

casino scandals has been played out on the South Dakota Pine Ridge Reservation. According to *Fortune* magazine, the community has been torn apart over casino profits of \$3 million. A grass roots organization occupied tribal council headquarters amid accusations of “corruption” and claims that the tribal treasurer was pocketing money himself. All of this conflict has erupted in an area reporter Jerry Unseem describes as “an economic dead zone” where unemployment hovers around 80 percent and alcoholism around 50 percent (Unseem, 2000: 223). Instead of creating harmony and comfort, the casino is the focal point of community division.

An equally fragmenting scenario has unfolded in Mohawk territory as well. As the twentieth century was winding down, gaming issues fomented a bullet-punctuated feud in Akwesasne. According to *Toronto Star* reporter Darcy Henton, a dozen aluminum-sided gaming houses jammed with slot machines and blackjack tables had sprung up along highway 37 near Hogansburg, New York. The illegal casinos continued to operate because of jurisdictional disputes among New York, Ontario and Quebec authorities. Traditional Mohawks opposing the unwanted casinos were pitted against a heavily armed “security force” of warriors who used force to keep the unlawful houses operating. Again gambling destroyed community peace and brought the reserve “to the brink of war” (Henton, 1990).

Another damaging blow to Aboriginal blueprints is “the rich Indian stereotype” currently in vogue as non-Native citizens universally assume that bands are getting rich from betting operations. As modest gains with gambling are documented, a backlash emerges among surrounding communities. Even though bands are just beginning to acquire some of the things that they have needed for decades, the myth persists that Indians have access to great gaming wealth. The Menominee casino in Keshena, Wisconsin, for example, was not profitable enough to keep unemployment among the 6,500 residents from reaching 47 percent. Menominee chairman, Apesanahkwat, explains: “We’re just trying to bring our people up to a quality of life that everyday Americans enjoy” (Belluck, 2000).

The Chippewas of Mnjikaning, operators of Casino Rama near Orillia, Ontario, have learned that hosting a casino can foster unrealistic expectations. In December 2000 a community referendum was held to decide the fate of casino

profits. The voters endorsed a decision to divide up the \$12.6 million that had accumulated. Chief Sharon Henry told reporters that band members "obviously felt they deserved something in recognition for the drastic changes in the community over the past five years." Individuals were to receive payouts of about \$12 per day. "It's not a huge amount of money," she added. "Nobody's getting rich here."

The payouts come from the casino's lease on the land and is compensation for tolerating an estimated 14,000 cars and 80 buses rolling through their neighbourhoods daily. A one-time \$10,000 lump sum was to be given to each band member after a 60 day appeal period had elapsed. Chief Henry said, "It's enough to make them feel they're getting something in return. The small community atmosphere is gone forever" (*Sudbury Star*, 12 December 2000).

### Unacknowledged Social Costs

One of the seldom acknowledged, but most disturbing, outcomes of casino development is the increase in suicide rates. Experts agree that increased gambling opportunities often push people with addictive personalities over the edge. The suicide rate for compulsive gamblers is five to ten times higher than it is among the general population, according to Robert Goodman, author of *The Luck Business* (p. 49).

In Minnesota where authorities estimate a population of 38,000 pathological gamblers, financial ruin has driven some gamblers to kill themselves in the desperation phase of the illness. Treatment workers in the state confirm that "gamblers are committing suicide" and that the average debt load is over \$40,000 (Vogel, 1997: 204).

Canada has its own share of gambling-linked suicides. Since the opening of the Montreal Casino in Quebec, whispers of suicides have circulated around the site. Membership in the province's Gamblers Anonymous groups exploded by fifty per cent soon after Quebec opened three casinos. Suicides are categorized as gambling-related if a suicide note discusses gambling debts or if next of kin inform the police that the deceased was depressed over gaming activities. The *Toronto Star* reports that a sixty year old Montreal man killed himself over "serious" losses at the casino; a widow of 48 threw herself in front of a subway train because of financial difficulties attributed to betting; a depressed

Laval resident shot himself in the abdomen after suffering very substantial losses at the casino; an Asian family man shot his brother-in-law and wounded his mother-in-law and uncle before killing himself (Moore, 1996: A12).

New Brunswick cities have also been reeling from video lottery terminal induced suicides. Gambling counsellors report that some New Brunswickers are taking their lives because of addiction to slot machines (*Times Transcript*, D16).

Henry Lesieur, editor of *The Journal on Gambling Studies*, contends that gambling costs society hundreds of millions of dollars in hidden social ills. It doesn't matter how precise the figures are, he feels. "To me, what's important is, once one person commits suicide or two people commit suicide, those numbers don't make any difference" (Vogel, 1997: 206).

First Nations communities already mourning the loss of so many youths to suicide may be repulsed by an activity long proven to exacerbate an already challenging social problem. Many families touched by the tragedy of youth suicide will reject casinos on the grounds that they deepen rifts in the community and open up painful wounds.

### Conclusion

Many critics of high stakes gambling believe that gaming is inherently corrupt and likely to corrupt those who promote it and profit by it. Unless bands abide by a strong code of ethics and uphold community and family values, then there are many dangerous mine fields along this fabled route to self-reliance. First Nations leaders must firmly resist loss of control to outside interests and counteract the myth that gaming on reserve is merely a front for non-Indian entrepreneurs. The key to balance is to maintain traditional institutions such as collectivity, respect for family and the role of the Elders. Policies that separate political and economic development as separate from the rest of human experience cannot be tolerated. Ethical considerations must enter the picture whenever major projects are envisioned. The spiritual life of the people must be honoured in any economic development activity since communal values help to protect the community from self-serving individuals.

From scrutinizing gaming operations that succeed, it can be concluded that this model of economic development works when it is steered

by traditional principles. It works when First Nations capitalism is guided by Native values and communication processes. It works when there is honest, open, fair and equitable distribution of resources to community needs decided by consensus. Communication and dialogue are always key ingredients. Above all, a community generated Code of Behaviour or Vision Policy is a must to hold it all together. The cultural values of peace, respect and friendship provide the underpinnings for all successful ventures.

It is possible to take marginalized communities and empower them through the gaming mechanism but well thought out safeguards must be built into the plan. The quandary posed by the use of gambling to woo prosperity is not easily resolved. It is vital that First Nations create institutions worthy of community support and respect. Precise financial management controls coupled with a concern for healthy families can be a winning formula for economic and spiritual salvation.

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# GAMING AND IGRA: *A Tool for Self-determination or Elimination*

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Paula Sherman

What is required to make sustainable Native communities in the twenty-first century? Many suggestions and proposals for nation building have been discussed over the past 30 years at tribal, academic, and federal government levels. Two questions emerge from this discourse. What is it that Native People want? And what do they need to do to get it? Many would express the desire to have their right to self-determination recognized. This is the key for everything else to follow. But others would argue that a healthy and sustainable community requires more than a theoretical concept of nationhood, it requires an economic base to meet the needs of its citizenship. Without some form of economic development in place, communities are forced to survive upon the federal payments that usually fall short of community needs. As a result, many communities have adopted or are in the process of adopting gaming as a tool in the nation building process. Many leaders view casinos as the solution to all the social problems in their communities. With the proceeds from gaming operations, social programs can be built to heal the community and strengthen cultural ties. Many others do not agree with this position and assert that gaming compacts destroy the sovereign nature of tribal governments because compacts allow state governments to assert even

more jurisdiction over communities, lands, and resources.

Are Native peoples jumping on the gaming bandwagon without really considering the ultimate consequences to their communities? What of the rights of other communities that might be directly or indirectly affected by the decisions that we make today? Do we have the right to jeopardize the continued existence of other communities? Gaming compacts are complex and very difficult concepts for many people accept. Economic gain does not translate to political freedom in the eyes of many and these leaders and traditional people would urge caution to any community contemplating entering into a gaming compact.

If this is a matter of sovereignty as many suggest, should we not as Native peoples be aware of the adverse affects gaming is having on the very self-determination many are fighting so hard for. Native nations in the United States are sovereign and have the right as such to operate gaming operations if they desire. The sovereign right exists to do so, but the minute a tribe decides to follow that path many find their self-determination eroding out from under them. Gaming as a means to economic stability has instead become another way for state governments to exploit Native resources. In a very real

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sense the need to overcome the social problems in many communities has forced Native peoples into a precarious situation, one that has many communities debating the true meaning of sovereignty.

### Sovereignty

Prior to exploring the issue of gaming compacts and the loss of tribal sovereignty to state governments we need to first understand the concept of sovereignty. The nature of tribal sovereignty is of vital importance for the survival of Native peoples as distinct entities. But often we do not know what it really encompasses. Is sovereignty even the correct concept to describe the structural reality of various Native communities whose traditional forms of governance are very different in origin and meaning? While there is ongoing discourse regarding the use of this term as a catchall to describe community realities, the term has stuck and is the phrase of the day for defining the political aspirations of many Native peoples in the United States and Canada.

Is sovereignty an understanding that you must have complete control and jurisdiction over all aspects that affect your community or is it a concept that can survive being sliced up and sections utilized? This is a very important question that must be kept in mind as we explore the ways in which communities struggle to deal with survival as distinct peoples in the wake of assaults at both the federal and state levels. Gaming in many ways is at the centre of this debate.

The dispute centres on the Indian Gaming Regulatory Act passed by Congress on 7 October 1988. Federal officials viewed IGRA as a real source of securing economic stability in Native communities. IGRA would allow Native communities to build and operate tribal gaming operations could be used as a tool to self-sufficiency. Native communities were informed that their gaming operations were prime targets for organized crime. Under IGRA, gaming would be regulated on four distinct levels: Tribal government; State government; the National Indian Gaming Commission; and federal agencies such as the U.S. Justice Department, the FBI, the IRS, and the Bureau of Indian Affairs (Tribes lead in the stringent regulation of Indian Gaming, 1996).

Beginning in the 1970s, tribes began to participate in charity gaming. The Seminole Nation

in Florida took it to a new level when they decided to ignore Florida's imposed prize limits and implement their own with prizes. Broward County Sheriff, Robert Butterworth, filed criminal charges against the tribe and sought to close down operations. In 1981, the Seminole challenged the right to offer games without state limits was upheld by a federal court of appeals. Florida then appealed to the Supreme Court, who refused to review the ruling in 1982. The key to the case was that bingo was legal in Florida resulting in the tribe only violating the manner in which the games were being played. The Supreme Court also ruled in 1987 that regulation by any non-tribal entity could take place only if a specific act of Congress called for such measures (Thompson, 1999: 46).

What was acknowledged in the Supreme Court decision was the fact that states had no jurisdiction to interfere in the economic activities of Native communities. At that point both the Seminole Tribe in Florida and the Cabazon Mission Indians of California were operating profitable businesses that held a promise of providing a sound economic base from which to diversify and strengthen their nations socially, politically and economically.

State governments who saw their own sovereignty questioned took action against many tribes and the federal government. In the process at least 49 governors declared their plans to avoid the original intent of IGRA (Hill, 1994: 61). State governments disagreed with the act because they argue it forced them to negotiate with tribes, putting them at a distinct disadvantage. Section 3(a) states that:

Any Indian Tribe having jurisdiction over the Indian lands upon which a class III gaming activity is being conducted, or is to be conducted, shall request the state in which such lands are located to enter into negotiations for the purpose of entering a Tribal-State compact governing the conduct of gaming activities. Upon receiving such a request, the state shall negotiate with the Indian tribe in good faith to enter into such a compact (National Indian Gaming Commission, no date).

*As a result, IGRA created three classes of gaming:*

Class I—social games solely for prizes of minimal value or traditional forms of Indian gaming as a part of tribal ceremonies or celebrations;

Class II—bingo and related games, including pulltabs, lotto, punch boards, tip jars, instant bingo and some card games, excluding house banking card games such as blackjack and baccarat; and

Class III—all forms of gaming that are not Class I or Class II, including slot machines and blackjack (“TRIBES LEAD IN THE STRINGENT REGULATION OF INDIAN GAMING”, 1996).

To varied extents, each class of gaming existed within state jurisdiction in the form of “Las Vegas” charity nights prior to the influx of gaming on Indian reservations. The passage of IGRA recognized the rights of tribes to operate facilities with those games on tribal lands. For example, if a state allowed class III gaming in any form for any reason then Native communities in their casinos could adopt that level of gaming. Unfortunately, IGRA also created a situation in which individual tribes had to surrender various aspects of their sovereignty to the state as a concession to operating a gaming facility or including a class of gaming not legal in the state. This compact between the state and a tribe would set out the agreement through which gaming would be undertaken and implemented.

*Section 3(c) states that any Tribe-State compact negotiated under subparagraph (A) may include provisions relating to:*

1. The application of criminal and civil law and regulations of the Indian tribe or the State that are directly related to, and necessary for the licensing and regulation of such activity;
2. The allocation of criminal and civil jurisdiction between the state and the Indian tribe necessary for the enforcement of such laws and regulations;
3. The assessment by the state of such activity in such amounts as are necessary to defray the costs of regulating such activity;
4. Taxation of the tribe of such activities in such amounts assessed by the state for comparable activities;
5. Remedies for breach of contract;
6. Standards for the operation of such activity and maintenance of the gaming facility
7. Any other subjects that are directly related to the operation of the gaming activities (National Indian Gaming Commission, “Indian Gaming Regulatory Act”).

One of the only benefits of the Indian Gaming Regulatory Act was that it contained dispute resolution mechanisms for when states refused to negotiate compacts, but these mechanisms have now reached an impasse. The original act authorized tribes to sue in federal court when a state refused to negotiate in good faith and enabled the department of the interior to issue alternative procedures when a state refused to ratify the compact selected by the court appointed mediator (Allen, 1999).

No state may refuse to enter into negotiations described in paragraph Section (3)(A) If, in any action described in subparagraph (A)(I), the court finds that the state has failed to negotiate in good faith with the Indian tribe to conclude a Tribal-State compact governing the conduct of gaming activities, the court shall order the state and tribe to conclude such a compact within a 60 day period (National Indian Gaming Commission, “Indian Gaming Regulatory Act”).

If the state still refuses, a mediator is appointed and then another 60 day limit imposed, if the state fails to submit a signed compact, then the Secretary of the Interior will prescribe procedures that are consistent with state law in consultation with the tribe in question. This was the avenue taken by the Mashantucket Pequot in their effort to open a casino on their reservation in Connecticut.

In a very real sense, state control through gaming compacts builds on the damage already done to tribal jurisdiction through Public Law 280, which was first passed in 1958 and encompassed six states including Alaska, California, Minnesota (except Red Lake), Nebraska, Oregon (except Warm Springs) and Wisconsin. With the enactment of Public Law 280, those states affected received Criminal jurisdiction over reservation Indians. In addition, Public Law 280 opened state courts to civil litigation that previously had been possible only in tribal or federal courts. In the six states named in Public Law 280, the federal government gave up its entire special criminal jurisdiction involving Indian perpetrators or victims (Goldberg, 2000).

It is apparent that IGRA has become an instrument through which state governments can control Native peoples and their economic and natural resources. This form of exploitation was not allocated to those affected states in Public Law 280, which gave states only law enforcement

and civil judicial authority, not regulatory power. States may not apply laws related to such matters as environmental control, land use, gambling, and licenses if those laws are part of a general state regulatory scheme. It also denied the states the power to legislate concerning certain matters, particularly property held in trust by the United States and federally guaranteed hunting, trapping, and fishing rights (Goldberg, 2000).

Although Public Law 280 was already in effect in 1983 when the Indian Gaming Regulatory Act was passed by Congress, IGRA has proceeded to dissolve tribal sovereignty by forcing tribes into gaming compacts with states who demand jurisdiction over many areas not included in Public Law 280.

Any possible benefit to tribes retaining any real form of sovereignty under IGRA disintegrated in 1996 when the Supreme Court affirmed the states' immunity from tribal suits in the Seminole decision, which created a malfunction in the dispute resolution mechanism (Allen, 1999). IGRA had allowed tribes to sue the state if they failed to negotiate a compact in good faith. This allowed some bit of autonomy to communities to redress compact disputes.

State governments have argued that IGRA is unconstitutional because of the 11th Amendment which says that states are sovereign units and cannot be sued in federal court except by other states, foreign countries, or the federal government (Tribes lead in the stringent regulation of Indian Gaming, 1996). The decision effectively rendered IGRA unenforceable and, according to Interior Secretary Bruce Babbitt, put tribes such as the Santa Ana in New Mexico in an "untenable position": in need of a compact to continue gaming, yet without recourse if a state refused to grant them one or attached extortionate conditions. So when the New Mexico legislature demanded a fat piece of the pie in 1997 — 16 per cent of slot proceeds plus regulatory fees take it or leave it — the tribes registered a protest but signed. "[The compacts] haven't been negotiated," complained Frank Chaves, co-chairman of the New Mexico Indian Gaming Association. "They were dictated" (Abaurrea, 1996).

But many tribal and federal officials continue to argue that IGRA represents a catalyst for economic and political self-determination. Executive Director of the National Indian Gaming Association, Tim Wapato said, gaming is

the one thing that has worked in the 200 years of Federal Indian Policy (Cozzetto, 1995: 120). The belief in gaming by tribal officials has been exasperated by the desperate conditions on many reservations. It is as former Cherokee Nation Chief Wilma Mankiller puts forth, federal resources are continually disappearing and tribal leaders must compensate for that somehow. They must provide the same services to a growing population (Cozzetto, 1995).

As of 1996, 141 tribes in 25 states operate class III gaming facilities, or high stakes gaming operations on reservations under federally approved state-tribal compacts (Ribis & Ribis, 1996: 10). "Indian tribes have never had the resources before, and now they've become real players with everyone else," states Gary Kingman, Director of Public Relations and the Seminar Institute at the National Indian gaming Association (Rossi, 1997). The Mashantucket Pequots, who own the most successful casino in the world, agree whole-heartedly. "If we want a police force we just go out and buy one, that's true sovereignty, and that's something that not many tribes have had the opportunity to really exercise nationally (Harvey, 1996: 147).

The Narragansett Tribe in nearby Rhode Island, and the only tribe to been singled out and excluded from gaming concur. "In order to have strong government you must think of the word Autonomy. I've heard the word sovereignty mentioned but I haven't heard of autonomy ... that's defined by Congress as the right and the condition of self-government.... Tribes need income to support their autonomy so they can have full-fledged sovereignty and actually practice it" (Ribis & Ribis, 1996: 10).

Native peoples have persisted, and are poised now to restore many of the conditions of sovereignty and self-reliance that they had when Europeans first arrived. We are reminded again at this point of the Pequot Case, while sovereignty is crucial to tribal development, it seems to develop simultaneously with a sound economy (Harvey, 1996: 149). The Harvard Project on American Indian Development argues that the Pequots are so successful because they have the crucial piece of the development puzzle: they have the power to make decisions about their own future (Harvey, 1996: 187).

Gaming is the most important tool Native people have today for national renewal (Thompson, 1999: 43). The Indian Gaming Regulatory Act many argue continues to be important

because it assuaged federal laws so that American Indians could build up their economies.

That would be a wonderful accomplishment, if IGRA did not create a situation in which state governments can enforce more jurisdictions over communities, their lands and their resources. Gaming operations can lead to erosion of sovereignty. Many tribes opposed the 1952 legislation that allowed state police officials to have jurisdiction on their lands in six states. Now many of these same tribes have negotiated gaming compacts that will do the same thing. John Dyer, Lecturer at Syracuse University, argues against the merits of casinos, "Gaming is not the panacea to solve all of our problems ... if we compromise land and sovereignty so we can end up with a pile of money ... well I don't know about you, but I don't want to be the one to say to my grandson, Well, son we used to have sovereignty, but now we have a Mercedes" (Ribis & Ribis, 1996: 11).

The passage of IGRA and subsequent negotiations conducted between tribes and the states that have negotiated gaming compacts came at a cost affecting Indian Sovereignty across the board. IGRA has added another layer of legislation over the right of Native peoples to self-governance (Johnson, 1995: 20).

John Mohawk is also skeptical of gaming's benefits. He states that the window of opportunity from casinos is short term. Those who have the best chance of making it long term are communities who have a solid cultural base as their foundation, those who invest in education, caring for the elderly, and revitalizing language. Greed will inevitably play a role in gaming considerations, and tribes can expect this issue as another complication (Ribis & Ribis, 1996: 11).

Others would not agree. When asked what impact Foxwoods Casino has had on the Pequot Nation, tribal member Wayne Reels stated, "The casino is good. Without it we would not have been able to buy back the land. This has all been a struggle, they never said to us, hey here's your casino" (Ribis & Ribbs, 1995: 12). Many Mashantucket people would agree. For them the casino has been a windfall of opportunity to rebuild their nation to the prominence it once had at first contact with the English in the early 17th century. Jo-Ann Issac argues that a casino was their only option, "Gaming came into play because we couldn't borrow money from the bank. To build an economic base for us to be able to live and work in our own community was

a very hard struggle, for a long time" (Ribis & Ribis, 1995: 12). For Tribal members of the Mashantucket Pequot Nation, their dreams of community revitalization only happened through the adoption of gaming.

Gaming has been utilized to implement social and economic development on the Mashantucket reservation over the past twenty years or so. Tribal members have tried a variety of nation building approaches including a garden project, maple syrup, wood sales, swine project, greenhouse project, sand and gravel operation, land acquisition, housing, water system, health administration building, community services, Pharmacy, post office, daycare, community centre, and the museum and research centre. Various hotels, restaurants, shipbuilding, and manufacturing businesses can be added to the list, leaving us with the undeniable fact that the Pequots are the most diversified economically of any tribe in North America and the casino made that possible.

The Pequots had a lot less to work with in the beginning than many other communities. The Mashantucket people were really starting from scratch. They had a reservation, but in the mid 1970s there was one house and a couple of trailers and three elderly women who were mounting resistance against the State of Connecticut who at the time was trying to terminate the reservation. It is from this point that nation building began. Skip Hayward, vice chairman, and former tribal chairman, created the atmosphere in which many Pequots returned to Mashantucket from all over the country. State recognized, the Pequots submitted a petition to the federal government to have their sovereignty acknowledged again. This happened in 1983 through an act of Congress, which is very different than the normal recognition process other tribes have had to rely upon. The Pequots were fortunate that the State of Connecticut admitted to having committed a historic injustice by having sold away most of their reservation against federal law.

Mashantucket was the earliest reservation established in the country, with over 2,000 acres put aside in 1666. Robin Cassacinamon the British leader at the time had requested land be set aside at the headwater of the Mystic River which was the traditional homelands of the Pequot people, but the British refused and put aside the land in what is now adjacent to Ledyard. In 1761 the General Assembly passed a resolution that reduced the reservation to 989 acres. In



1856, the Pequots lands were once again stolen and they were left with 180 acres after an Indian agent sold away over 600 acres at a public auction.

In 1983 when the Pequots submitted their land claim, they had less than 200 acres. Connecticut recognized their responsibility in having been a part of that process that led to the political, social, and economic demise in southern New England. Connecticut supported the Pequot claim and President Reagan signed the bill in 1983 that settled their land claim and recognized the special nation-to-nation relationship that the Pequots claimed existed since the contact period. With the acknowledgement and land came a \$900,000 settlement in which the Pequots begin to use to fund the nation building process. State support disappeared very quickly though when the issue turned to gaming.

Which brings us back to the creation of the Pequot gaming enterprise. The Pequots approached the State of Connecticut with a proposal for a compact early in 1989, just after Congress had passed the Indian Gaming Regulatory Act. IGRA provisions required the state to negotiate with the Mashantucket Pequots in good faith. The state refused. The Pequots filed a complaint and took the state to federal court. Although the court ordered the state to negotiate, the state still refused. The court appointed a mediator to facilitate the process, and required the state to submit a compact proposal to the mediator. Then governor Weicker did so but had included slots as part of the compact, a class of gaming not even legal in the state. The Pequots submitted their own proposal for a compact but the Bureau of Indian Affairs chose the one submitted by state. Weicker was under fire from the Connecticut General Assembly for having listed a class of gaming they considered not legal in the state refused to sign the compact and demanded it back. Instead, the BIA accepted the compact as binding. The state still refused to sign. Simply stated, there is no compact between the State of Connecticut and the Mashantucket Pequot Tribe.

The gaming activity on the reservation is governed exclusively by procedures promulgated by the Secretary of the Interior pursuant to IGRA (Blumenthal, 1984). The Pequots had their right to build and operate a casino on their land base up held by the court and had a compact negotiated at the federal level. But the state was still insisted that class III gaming in Connecticut was illegal. The tribe attempted to evade

federal provisions, but in the end they made a deal with Weicker that gave them all the slots they wanted at the casino. But in return the Mashantucket Pequots signed away 25 per cent of their slot revenue in a permanent agreement. So while the tribe is very lucrative, they signed away enormous revenue to the State of Connecticut and allowed state jurisdiction on the reservation. But that was their decision; a decision they thought would ultimately lead to greater increases in revenue. And as Tribal Member Wayne Reels stated earlier, they now had the economic standing to buy back land that would strengthen their community.

If it were just the Mashantucket people who would be affected by the deal they made with the state then that would be one thing, but as we shall see, that deal made it impossible for other tribes in the state to seek a compact without agreeing to the provisions of the Pequot compact and side agreement. The bottom line was that the Pequot deal did nothing to settle the legality of slot machines in the state. The deal between Weicker and the Mashantuckets guaranteed the state 25 per cent of the slot revenue in return for the right to have slots in their casino. Since slots were still illegal it effectively gave the Pequots a monopoly on slots. This became a problem when the Mohegans negotiated to open a second casino in Connecticut in 1994 (Thompson, 1999: 53).

Attorney General Blumenthal and other state officials were highly concerned how the Mohegan recognition and subsequent right to negotiate for a gaming compact would affect the deal they had made with the Pequots.

If Connecticut legalizes any gaming operations other than the Mashantucket Pequots, the tribe no longer has to pay the 25% of slot revenue to the state ("Mohegan Tribal Gaming Authority", 1997).

This was not a matter to be taken lightly; the Pequots were paying out an average \$40 to \$50 million a month in slot revenues. Losing that amount of money was of dire consequences to the state when the Mohegans approached them with a proposal for a compact. But of course the state found a way around this, which enabled them to not only continue to collect the 25 per cent in slot revenues from Mashantucket but also brought the Mohegans under the same compact.



Like the Santa Ana Tribe in New Mexico, the Mohegan Tribe was forced into a compact that cost them land, revenue, and allowed state jurisdiction over the reservation. In essence the Mohegan Tribe gave up a substantial amount of sovereignty and self-determination as they were brought in under the Pequot model.

*The Mohegan Tribe has agreed:*

- (a) To settle any and all claims the Mohegan Tribe might have to any public or private lands in Connecticut.
- (b) To the extinguishment of any and all other claims against the state of Connecticut.
- (c) To limit the location of any tribal gaming operations ... to a single site not to exceed 700 acres.
- (d) To submit all gaming related development ... to the regulation of the State Traffic Commission and to adopt a health and safety code and fire and building code identical to or more stringent than the respective codes adopted by the State of Connecticut.
- (e) Upon enactment of federal legislation approving this agreement the tribe shall withdraw its land claim against the state.
- (f) To make payments in lieu of taxes on all additional tribal trust land acquired by the tribe after the transfer of it to the Fort Shantok property and the initial Indian reservation.
- (g) To the assumption by the state of Connecticut of criminal jurisdiction over the Mohegan tribal members on land or other natural resources owned by the tribe (Blumenthal, 1984).

At the time of this agreement the Mohegans had a land claim in the courts for over 20,000 acres. They had to withdraw it as a part of the deal. They agreed to allow state jurisdiction over all tribal members on the reservation and they would pay for any cost incurred by any state agency to providing services whether it was casino related or not. If this wasn't enough of an erosion of their sovereignty, they also agreed to sign away jurisdiction over all the air, water, and mineral rights on their reservation. This was all separate from the 25 per cent slot revenue that the state was to get every month for as long as the casino was in operation. This like the Pequot compact became a permanent agreement and is not up for renegotiation.

The Mohegan Tribe also agreed without any added persuasion from the state to compensate the town of Montville each year.

On June 16, 1994, the Tribe and the Town of Montville ("Town") entered into an agreement whereby the Tribe agreed to pay to the Town, beginning one year after the commencement of slot machine gaming activities, an annual payment of \$500,000 to minimize the impact to the town resulting from the removal of land from the Town's tax rolls into trust for the tribe ("Mohegan Tribal Gaming Authority," 1997: 7).

Although the last concession on the part of the Mohegan Tribe to the town of Montville was done so of their own accord, they did so believing that they would make up the revenue from their gaming operations.

As we go through the details of the compacts made between the State of Connecticut and Pequot and Mohegan Nations, it becomes harder to see the promise of IGRA reflected there. The Mohegan Tribe by virtue of coming under the Pequot compact had to agree to allow not just the expansion of state jurisdiction over their community and people part of which had already occurred under Public Law 280, but also jurisdiction over natural resources. While they agreed with it, like the Santa Anna Tribe and others what choice did they have when the precedents were already in place? The Mohegans, like the Pequots saw gaming as a means of strengthening their sovereignty. That is the danger of gaming under IGRA. The promise of economic stability has to be weighed equally with the loss of self-determination.

What about the issue of sustainability? There are serious questions concerning whether gaming is sustainable in Indian Country. Casino success stories, such as Foxwoods, prompt other communities (both Indian and non-Indian) to consider hosting other casinos. The problem is, that the gaming industry is chasing after finite consumer resources. Current casinos draw customers from a large area, but these areas shrink with each added casino. State officials are very worried about this issue in Connecticut and other states. Gaming has caused a huge backlash against the whole federal recognition process as is indicated in a letter to David Walker, GAO Comptroller General in which the State of Connecticut asked for the General Accounting Office

to investigate the BIA and their tribal recognition process.

The significance of a decision on tribal recognition claims has never been greater than at the present time. The recognition of an Indian tribe under federal law carries significant consequences, including: claims to land titles; establishment of tax-exempt trust lands that are beyond state and local regulatory control; and jurisdictional conflicts among federal, state, local, and tribal governments. In addition, under the Indian Gaming Regulatory Act, the newly acknowledged tribe may obtain the right to develop massive gaming facilities on its lands, regardless of the consequences or interests of surrounding communities.

Currently there are 227 tribal acknowledgement petitions. Fifty-four of these involve California groups. Seventeen groups seek acknowledgement in Michigan. In Connecticut, where there are eleven such petitions, every region of the state is confronted with land claims and gambling facilities. The same is true for other states (Wolf, 2000).

In addition he requested a list of:

1. All currently pending petitions and their status
2. All recognitions which have been granted by Congress in this century;
3. A list of all recognized tribes, in chronological order, noting those that operate gambling casinos and other forms of class three gambling (Wolf, 2000).

What is quite clear is the fact that Wolf and the State of Connecticut want to have an impact on the recognition process because they fear that every eligible tribe in the state will want to negotiate a compact and open a casino. It would not be a mistake to conclude that this is a popular sentiment of many state government officials at this point. The Pequots have been accused by town and local officials as being frauds and not Indian at all. According to Jeff Benedicts, the Pequots are a by-product of the casino. This accusation is simply not true. The Pequots are legitimate, and have historic ties to their land base going back to the early seventeenth century when the English first approached them to establish trade relations.

For the Pequots, the concept of economic sovereignty is more important to them than a theoretical concept of political sovereignty. Their

decision to open Foxwoods was weighted against many other considerations. In the end, they chose the concept of sovereignty that had the best chance of meeting the needs of their community. Mashantucket Pequot Tribal Nation enterprises have had on unemployment in the state of Connecticut and Southern New England in general. MPTN currently employs close to 14,000 people, many within the state and New London County. There are also the indirect benefits to other merchants and enterprises as a result of the casinos existence that have to be considered as well. MPTN has done a lot to support the region and the state. The Pequots have taken their responsibility to the surrounding region seriously; this is something that should also be recognized.

Still, given all that, the Pequot compact has not only been utilized by Connecticut and other states as a mechanism to gain more control over Native peoples but to force state jurisdiction over natural resources. As stated at the beginning of this discussion, the issue here is not about the Mashantucket Pequot right to operate a casino they have that right as a sovereign nation. The issue is whether the compact they made under IGRA and agreement they made with the state has been carried forth as a model by the State of Connecticut in its dealings with other tribes such as the Mohegans. It is my argument that the agreement entered into by the Mohegans was identical to the Pequot compact and forced them to agree to similar conditions and enforced additional measures of control that would lessen their ability as a sovereign nation to have effective self-determination over their people.

The situation here is no different. Tribes who because of high unemployment are forced to accept government contracts that allow access to reservation in order to dump and store nuclear or toxic waste. The situation in many communities is so bad that these contracts are required to provide the funding necessary to meet community needs.

In reviewing gaming under IGRA, not only are tribes losing large aspects of sovereignty and self-determination, there is also the danger of being portrayed as rich Indians, leading to the general consensus that all Indians are financially secure and economically viable. Because of the success of Foxwoods and a few other Indian run gaming operations, people have this image in their minds that Indians are all economically sound.

The image has lurked behind various congressional efforts (unsuccessful, so far) to cut federal funds to reservations. Yet a trip into Indian country reveals what should come as no revelation at all: that most of America's 1.7 million Indians, and especially those living on reservations, are poor. Native Americans have a poverty rate 2 ½ times the national average, a suicide rate nearly twice as high, and an alcoholism rate six times greater. And while mega-resorts like billion-dollar-a-year Foxwoods (currently the largest casino on the planet) may be the symbols of Indian gaming, they are also its anomalies. Of the 556 federally recognized tribes, 361 have no gambling operations at all; of the 195 that do, just 23 accounts for 56 per cent of revenues — mostly very small tribes near very big population centres. Even fewer have made the sort of outsized payouts by which individual members could truthfully be called "rich" (Useem, 2000).

Where does it stop? Are we playing into their hands by agreeing to give up a substantial portion of our sovereign rights as a nation to both state and federal officials? How long will it be until we wake up and find that we have no sovereignty left at all? Are not political and economic sovereignty in terms of Native peoples so intertwined that they cannot be separated and sliced up?

I agree that we as Indians have the right to own and operate casinos as part of our sovereign rights as a nation I also believe that we have the responsibility to make sure our grandchildren still have a sovereign nation in which to be citizens. What would happen if the Pequots for example, decided to practice a random act of sovereignty and held back payment for a month or refused to pay at all? Before you say the state would shut them down, consider this: Non-payment of the slot revenue by the Pequots is something state officials have contemplated in the past, as there is a series of letters on the Attorney Generals web page concerning state options should the Mashantuckets decide to stop their payments. The options presented by the state were scant, and they seemed quite perplexed as to how they would enforce any options they took against the tribe that would not drastically affect the employees and therefore the state itself.

As Native people I believe that we have a responsibility to our communities first and foremost, but we must remember that what we

do affects our neighbours on this continent. My opinion leads me to conclude that I would have serious reservations in agreeing with accepting a solution that could spell social, political, or economic disaster to surrounding communities. Gaming under IGRA allows us to gain some sense of economic stability, perhaps even economic sovereignty, but at the expense of political sovereignty and self-determination something this author believes cannot be readily separated from economic, social, or spiritual considerations. Sovereignty is sovereignty. Either you have it or you don't. But first and for most you have to recognize the ways in which all the aspects that make up safe and sustainable communities must be protected at all costs.

Any tribes entering the compact negotiation process should take a serious look at what has gone before in their state. The Pequots ability to get what is in essence a federal compact should be explored further; the state should really have no part in the negotiation at all in respect to implementing their sovereignty over tribal land that belongs to a sovereign tribal nation.

In the end it is up to each nation. Each community is a sovereign nation with the right to gaming facilities if they so choose. Communities also have the sovereign right to refuse to be part of a system that will ultimately remove most of their self-determination. The fact that Tribes are required to drop below the federal level to negotiate with a state over gaming is contrary to the relationship established when Congress passed the first of the Trade And Intercourse Acts in 1790 that demanded the relationship over land sessions and commercial agreements remain at a federal level.

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# ABORIGINAL GAMING IN CANADA: *A Literature Review and Suggestions for Research*

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Yale D. Belanger

## **Introduction**

Despite the fact that Native Studies as a discipline has for more than three decades been a fixture in many Canadian universities, the fact is there are many issues that affect Native people that have yet to be examined from a purely academic perspective. Reasons for this may vary from the issues emerging in need of research being methodologically formidable to too few principal investigators available to implement the required studies. One example that embodies the aforementioned difficulties that is in need of study is Aboriginal gaming. Described by some people in the United States as the 'new buffalo' (Lane, 1995), to date little attention has been paid to the Canadian situation with next to no literature produced about Aboriginal gaming in Canada. This is intriguing as one of Canada's largest casinos operates within the confines of the Mnjikaning Reserve in Ontario and compacts such as the one signed by the Federation of Saskatchewan Indians and the Saskatchewan Government, which directs of all Casino Regina gaming revenues to the province's First Nations, are slowly becoming reality (Saskatche-

wan Gaming Authority, 1998). While Aboriginal gaming is a recent exercise in Canada, possibly explaining why there exists such a poor selection of written material, reservation gaming in the United States has been in operation now for more than 15 years. Notwithstanding the differences in jurisdictional approach which have resulted in market saturation as well as both unprecedented growth and failure in certain cases in the United States, as more First Nations gravitate toward gaming it is important to consider the American reservation gaming experience as portions of the corresponding literature on gaming may inform First Nations leaders as to what the future of reserve gaming may hold.

## **Suggestions for Research**

Since most reserve communities are relatively small in size, any gaming activity will affect most reserve residents. And now that every provincial and territorial government in Canada sponsor gaming activities (McKay, 1997), multiple studies will be required on issues as diverse as how proximity to gaming establishments affects on-

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reserve problem gambling to how increased revenue sources can be utilized as a funding base for use in implementing self-governance. As is the case with most discussions centring on Native issues, whatever occurs on the reserve will have an effect upon the residents and gaming is no different. Not only does gaming have the power to alter all community institutions, its effects will ultimately extend to neighbouring communities. This paper identifies some important areas of research in relation to Aboriginal gaming in Canada. It argues that an increase in Aboriginal gaming is inevitable and that research is required to assure that the difficulties that accompany such endeavours are as painless as possible.

Simply put, there is a considerable amount of research required to provide a better understanding the effects of reserve gaming could have upon not only its constituents but also the surrounding communities' populations. Although Aboriginal gaming in Canada is in its infancy, it is apparent that this idea is gaining in popularity which will result in an expansion in the numbers of establishments Canada-wide. However, much of the reason for the lack of information on Aboriginal gaming in Canada to date has less to do with a lack of interest or desire, rather fundamental methodological barriers which limit the utility of this research are to blame. Realization of these limitations becomes increasingly important since First Nations are for the first time venturing into the gaming arena. As a result, all work produced will be instrumental in providing a foundation from which other researchers can expand upon and information that community leaders can draw from. And with provincial government's loosening the reins and allowing for greater First Nations input and control over gaming, research is needed on myriad issues, some of which are outlined below, to foster better cross-cultural understanding.

### Jurisdiction over Aboriginal Gaming

Gaming in Canada was federally controlled prior to 1985. An amendment to the Criminal Code of Canada effectively transferred control of gaming to the provinces, who continue to determine the extent of gaming within provincial boundaries. Interestingly, this jurisdiction is extended to reserve communities where a tension exists between section 91(24) of the British North America Act and Canada's responsibility for "Indians and lands reserved for Indians" and

that of gaming being recognized as a provincial responsibility. Accordingly, the federal government is responsible for reserves and the people who inhabit those reserves, meaning that theoretically the provinces should have little if any influence over Canada's Native population. In the face of perceived impropriety on the government's part, many Aboriginal leaders have stated that section 81 of the Indian Act provided for band "control and prohibition of public games" and "other amusements," and thereby sanctioned the establishment of reserve gaming, effectively subverting provincial jurisdiction. Responding to this claim, the federal government has denied this claim and maintains provincial regulation over gaming.

Although provincial consent is required to enact gaming guidelines at the reserve level is required, Native leaders later argued that if the federal government recognized the Aboriginal right "to control public games" through the inclusion of section 81, then gaming activities should be able to proceed and run by First Nations interests. In 1991 the Supreme Court of Canada concluded in *R. v. Furtney* that the provinces were simply asserting their Constitutional powers according to section 92 of the BNA Act of 1867. There is a jurisdictional tension here due to an obvious overlap in powers. A cursory examination of the issue indicates that the federal responsibility as delegated by section 91(24) of the BNA Act precedes any provincial control over gaming at the reserve level. There is a need to further clarify this issue due simply to the revenue being generated, research which could possibly lead to greater control by First Nations over reserve-based gaming.

In *R. v. Pamajewon*, First Nations argued that gaming was an Aboriginal right according to section 35(1) of the Constitution Act. It was contended that gambling had existed prior to extended European contact and was used for ceremony and celebration. In 1901, Stewart Culin reported to the Bureau of American Ethnology that in "general, games appeared to be played ceremonially, as pleasing to the gods, with the object of securing fertility, causing rain, giving and prolonging life, expelling demons or curing sickness." In *Pamajewon*, the appellants claimed the right to operate and regulate high-stakes gambling on reserves. The Supreme Court struck down this petition in 1996, articulating that gaming was in fact not an integral part of the distinctive cultures of the Shawanaga or Eagle

Lake First Nations, as such gaming is *not* an Aboriginal right and that on-reserve gaming facilities were not exempt from provincial legislation according to section 35(1) (Isaac, 1999: 526).

Internet gambling is another aspect of gaming that Native groups are currently engaged in trying to circumvent provincial jurisdiction through more inventive means. As of 1998 there were more than 200 gambling web sites throughout the world (Hogan, 1998), providing these operators access to gambling revenues worldwide. Where Internet gambling is permitted in the U.S. (Jordan, 2000: 456), such is not the case in Canada. In October 2000, for example, a group of five File Hills bands in northern Saskatchewan indicated their intention to open an Internet casino to attract gamblers from all over the world (Canadian Press, 2000). Despite the provincial government's ambiguous warnings that what they proposed may be illegal, the question of who governs the Internet in Canada is quite clear and should the File Hills bands have chosen to proceed they would have violated the Criminal Code on two accounts. First, only the provinces can authorize gaming; and second, Internet gambling is illegal. This provides a clear distinction regarding jurisdictional issues, although further legal confrontations are likely as those First Nations striving to open a gaming establishment seek to extend their perceived Aboriginal rights electronically.

### **Impetus for the "Morality of Gaming" Arguments**

Citing gaming as an addiction, opponents to Aboriginal gaming claim that building an economy upon a social pathology is morally reprehensible. At the same time, the latest statistics demonstrate that each provincial and territorial government in addition to the federal government utilize a significant portion of the revenues generated in games of chance to fund their day to day operations (Statistics Canada, 2000). In Ontario alone, 20 per cent of Rama's gross revenues are filtered into the provincial coffers that are utilized for provincial programs (Mandel, 2000). This statistic may be misleading, however, for it is possible for Rama to receive zero net profits for the fiscal year and the province would still benefit from casino operations. This may help answer why two-thirds of respondents indicated "that gambling revenue is a preferred method of raising money" while less than 20 per

cent viewed raising taxes as acceptable (Azmier, 2000: 8) and why only one per cent of respondents believed that First Nations should be the principal operators of gaming establishments (10). One is able to conclude from this brief overview that the majority of Canadians agree that gaming is an acceptable revenue generator, but that First Nations should have little control over these same establishments.

With more First Nations looking to gaming as a solution to their economic problems, more research into why this polarity of opinions exists is required. For instance, does the intensity of complaints about Aboriginal-controlled gaming correspond to whether the economy is in a tail-spin? A review of newspaper and magazine articles, popular opinion polls and televised media reports could be effectively utilized to provide insight into this issue. The Winnipeg Sun two years ago did a good job of covering events in Headingley, Manitoba, located just outside of Winnipeg, where 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 objected to the casino plan claiming that higher crime rates and social problems such as alcoholism would result. At a time when only one per cent of Canadians believe that First Nations should be the primary operators of gaming establishments (Azmier, 2000: 10), it should come as no surprise that as of December 2000, the Swan Lake casino bid had been quashed. It is interesting to note that those who most vigorously opposed the casino plan claimed a moral victory.

Snipp (2000) confronts this issue by claiming that opposition in the United States 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). While the perception in Canada is that reserve casinos are run by First Nations, the fact is that Casino Rama and Casino Regina, for example, are staffed by First Nation workers but are run by casino management firms and provincial gaming corporations. Nevertheless, when First Nations are in a position to exude a modicum of control over gaming at the reserve level, the decisions made about gaming by and for the

community must be considered legitimate due simply to the fact that these decisions need to be made from an "insider's point of view" that outside political leaders are not privy to (Belanger, 2001). Further, "gaming in First Nations communities is not a moral issue for leaders to consider, since theoretically they are guided by their constituents. Should the community choose to allow gaming ... then outside ethical concerns should cease to play a role as these new self-governing bodies begin to assert their sovereignty."

### **Ensure Communities Are Not Overwhelmed by Influx of Gaming Revenues**

Investigating current casino operations in the United States indicates that plans need to be in place that are able to properly handle the influx of money that hits the community if gaming is a success. Although no examples exist in Canada, we can look to a number of bands who in the mid-1980s found themselves suddenly rich from oil royalties and derive from their experiences the potential difficulties that gaming-rich communities could experience. The events that transpired at Hobbema, located 100 km southeast of Edmonton, in the mid-1980s provide us with insight into what can occur when a community is suddenly overwhelmed with large and seemingly free-flowing sums of money (York, 1990). Oil royalties in this case made the band rich enough that land and property could be purchased in Banff, yet today they are bankrupt and under investigation for mismanagement of funds, which is seen by many as a lesson other bands seeking to establish reserve gaming could learn from. Also, many U.S. tribes attempted to establish gaming and failed. In a presentation before the National Gambling Impact Study Commission in 1998, co-director of the Harvard Project on American Indian Economic Development Joseph Kalt stated that of the close to 200 tribes that engaged in on-reserve gaming, eight accounted for more than half of all the revenues generated in the 1990s. A review of the reasons these tribes failed could be useful for Canadian bands currently engaged in studying the gaming issue who are also looking to avoid a similar circumstance. There has been almost no attention paid to how the gaming success of one band influences another band seeking to establish gaming. With so much money to be made, First Nations leaders must be aware of the multitude of variables that must coalesce to make

a gaming establishment a success while avoiding becoming captivated by the substantial revenues that could be made.

There is no doubt that the influx of money will one day have a significant effect. Recently, the province of Ontario distributed the first monies according to the revenue-sharing agreement from the \$400 million in revenue that has been generated since Rama first opened its doors in 1996, from which Rama will get \$140 million. The remaining 133 First Nations will receive to a \$1 million each. The Mnjikaning Band also receives an additional \$8 million yearly (adjusted for inflation) from the casino lease and liquor, restaurant, and parking revenues. When you begin to factor in how much money is to be potentially made, the issue of becoming overwhelmed by money is a significant concern. In 1999 alone, gaming revenue in Canada amounted to \$4.983 billion (Statistics Canada, 75-001-XPE).

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 forty-four 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: 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.

Given the number of people regularly gambling and the proliferation of gaming establishments, will Canadians become more discerning in their spending habits and make the conscious choice not to spend their money at a First Nations-run casino? An internal Mnjikaning document claims that Ontario's new racetrack slot machines will siphon more than \$200 million a year from Rama (Mandel, 2000: 41). There is also the threat of a waterfront casino opening that was part of Toronto's failed Olympic bid,

which Mayor Mel Lastman vows is going to occur. Should gaming at an Native-run establishment become a novelty that is abandoned in search of closer betting opportunities, reserve-based gaming in Canada could become a failure of immense proportions.

### **Effectiveness of Rama Compact in Appeasing Multiple Interests**

Following the announcement that an agreement had been reached over revenue-sharing, it was clear that the Mnjikaning First Nations would receive the bulk of the revenue (40 per cent) designated for Ontario First Nations (who all receive an equal 1/133 of the revenue). As well, Metis and Aboriginal peoples were left out of the equation completely. A court case followed in which a group of non-Status Natives led by Robert Lovelace challenged that their exclusion from the revenue-sharing agreement violated the Charter of Rights and Freedoms (Mofina, 2000). In June 2000, the Court of Ontario in its Lovelace decision stated 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. Further investigation into the effectiveness of the Rama gaming agreement is warranted to determine how effective such compacts are at appeasing all parties and whether they play a role in keeping other bands from striking out on their own in search revenues.

Aside from these difficulties, the Rama gaming compact does have the opportunity to provide the funding for projects that would otherwise be ignored due to a lack of resources. In the United States, gaming revenues have been utilized to improve community infrastructure, including improved 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 (Antell, Blevins & Jensen, 2000: 4; Hill, 1994: 61). Similarly, the Saskatchewan Provincial government decided in 1994 to develop the Casino industry in both Regina and Saskatoon, with Casino Regina emerging from these discussions (the Saskatoon plans were scrapped) followed by the First Nations entering into negotiations with the Saskatchewan government and develop-

ing the Federation of Saskatchewan Indian Nations-Province of Saskatchewan Partnership Agreement. Further, the First Nations Gaming Act was created to govern the legislative and management regime. This Agreement was signed February 10, 1995 and fully recognizes the right of First Nations to operate provincial gaming facilities. The agreement included a revenue sharing agreement for Casino Regina, of which 25 per cent of all profits are to be paid to the First Nations. In return, First Nations casinos have to contribute one-quarter of their profits to provincial coffers (Poelking, 1996: 7), although the province agreed to allow Saskatchewan First Nations to negotiate up to five casinos in the province under their management and control (Connor, 1996: 38). It is interesting that the revenue sharing agreement in both cases did not provide the First Nations with more than a one-quarter share. This is occurring in spite of the communities bearing the brunt of the difficulties associated with gaming, such as constant noise, excessive traffic and the corresponding rise in pollution, or the additional stress placed on existing infrastructure.

In Ontario and Saskatchewan alone, comparative studies examining the use of revenue for community development are required; as well, qualitative and quantitative studies looking at public perception of these casinos would be effective in shedding light on how the public views Native run gaming establishments. 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 (this is the sole responsibility of the provincial governments). 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. Cozzetto (1995) echoes these concerns by asking how many more casinos can the American market handle. In California, where 40 of the state's 130 tribes already have gambling (Garrity, 1998: 24), it is projected that these tribes have the chance to push past Nevada as the largest gambling market in the country (Palermo, 2000). It is apparent that in the United States market saturation will become more pronounced; keeping this in mind, what is the Canadian govern-



ment doing to ensure that the same trend does not occur north of the border, thereby permitting First Nations the chance to secure the revenue needed to promote self-governance? Similarly, should non-Status or Metis groups decide to challenge the government to permit their opening of gaming establishments, the Canadian market could quickly become saturated and ineffective. And will market saturation effect the number of patrons who currently frequent Native gaming outfits? These are but some of the questions that require investigation.

### **Will Reserve Gaming Result in Increased Problem Gaming among Native Peoples**

Many opponents to Aboriginal gaming claim that the introduction of gaming to reserve communities has the potential to increase problem gambling amongst community members, and is a question worthy of consideration at this point. There is unfortunately a tremendous lack of information available concerning to the negative effects gaming could potentially have upon an Aboriginal community, and the literature that is available presents at best an ambiguous picture. 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. Interestingly the authors accept the rise in social pathologies that corresponded to the opening of gaming establishments as a byproduct in the push toward greater economic benefits. They do not, in this case, tackle the question of what measures could be taken to avoid such problems prior to opening gaming establishments. Zitgow's (1992) study of Indian and non-Indian gamblers in Montana suggested gambling among adolescents to be higher than in any other group.

Only one study in Canada has been conducted to date: *The Alberta Alcohol and Drug Abuse Commission on Aboriginal Adolescent Gambling*, conducted by the Nechi Institute of Alberta. The results of the study of 961 Aboriginal students indicated that almost half of the sample (49 per cent) were either problem gamblers or were at risk of becoming problem gamblers. The study also indicated that this was a learned behaviour from parents and peers. 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). 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). With gambling on the rise, issues of problem gambling among Aboriginal people will likely become more prevalent.

In certain cases, the issue of gaming has been a divisive issue with the communities. The most visible example of this divisiveness occurred at Akwesasne through late 1989 and early 1990, where the issue of casino gambling sparked much publicized violent confrontations between Mohawks that ultimately left two men dead (Desbrisay, 1996). Harvey's (1996) study of Pequot and Navajo approaches to dealing with the gaming issue indicates that culture plays an integral role in whether a tribal community is prepared to deal with the exigencies of gaming. In the end, the Pequot's embraced gaming while the Navajo decided against gaming despite the potential economic benefits. Similar studies could be conducted at Mnjikaning as well as in The Pas, Manitoba or Regina, Saskatchewan to offer indicators as to whether or not gaming is in certain cases culturally applicable and how this will affect the success of proposed gaming operations.

### **Economic versus Community Development**

Following on the issue of whether gaming is culturally relevant, there is currently a debate regarding how Native people should approach developing their economy and what initiatives have the potential to be most successful. One school of thought suggests that sovereignty must first be attained and that the evolution of the economy will flow accordingly (Cornell & Kalt, 1993, 1998; Trospen, 1993) while others argue that economic strength and sovereignty are more



intertwined than they realize and therefore must be developed simultaneously (Harvey, 1996).

Mohawk and Lyons (1994) stress that while many tribes claim their opening casinos as an act of sovereignty, investors integral to launching such enterprises may in the end play a more significant role in directing community initiatives than first anticipated (58–60). This is an issue that will become more pronounced as the sovereignty card is utilized by First Nations seeking to improve their economic lot. Although investment of lands claims settlement monies have been utilized to fund casino constructions, investors are often sought out by First Nations who wish to initiate casinos but lack economic stability do so. According to Desbrisay (1996):

It appears that the First Nations are not having any problem finding investors, despite not having provincial approval to go ahead with their project. Not long after the Mohawks at Kahnawake expressed interest in building a casino on their reserve, it was reported by a member of the Kahnawake Mohawk Council that “seven to 10 American gaming firms are wooing reserve leaders” (*Montreal Gazette*, 6 November 1993, p. A6). The Council eventually chose Grand Casinos Inc. who already manages two reservation-based casinos in Minnesota, and is developing three others in Louisiana and California (*Montreal Gazette*, 17 April 1994, p. A1).

Since it is apparent that investors are ample and fully prepared to direct money toward potential gaming opportunities, how influential these investors will one day become within First Nations communities is important to investigate. Currently, RamCorps is partnered with the Province of Ontario and U.S.-based Penn Gaming out of necessity, due primarily to the fact that provincial leaders refused Mnjikaning reserve leaders the opportunity to manage the casino. In all, what effect does this tripartite agreement have? Further, how influential are these partners in the day-to-day operations not only at the casino but within the community?

### **Effect of Gaming on Peripheral Economies/Populations**

Gaming revenues not only aid in reserve development, the surrounding communities also benefit from this influx of money. Speaking in 1994, then-chairman of the Oneida Tribe in Wisconsin,

Richard Hill stated “Surrounding communities near Indian gaming operations report boosts in their own economies. Oneida’s gaming operations add to our local economy more than \$50 million in new income” (61). In short, to better understand the effect of reserve gaming is to examine how it affects those communities peripheral to reserve communities that have chosen to become involved with gaming. The early data suggests that peripheral economies and populations will benefit economically from localized gaming establishments, although there is limited data available for a more definitive conclusion. In Windsor, for instance, one year following the opening of a 50,000 square foot casino, and economic evaluation conducted concluded that the casino contributed \$752 million to Canada’s GDP and that Windsor’s unemployment rate, until then 1.6 per cent above the national average, dropped to 8.5 per cent, which was below the 9.7 national average (McKay, 1997).

The numbers are such that there is optimism that the economic benefit peripheral economies realize will be substantial, although these benefits will not be realized by all First Nations across the board. Although not a Canadian example, take for instance the Foxwoods Casino run by the Mashantucket Pequots in Connecticut, where more than \$9 billion was wagered in 1999–2000 alone (State of Connecticut, 2000). It has been estimated that every new Foxwoods job supports roughly 1.23 additional non-casino jobs, meaning that 20,017 new jobs have been created in New London County where the casino is located (Boger, Spears, Wolfe & Lin, 1999: 141). A similar example is in Minnesota, where it is estimated that the reservation casinos drew an approximate 19.6 million patrons in 1994, including 3.3 million from outside the state (Boger, Spears, Wolfe & Lin, 1999: 147). These figures indicate the impact Native American gaming has had on tourism not only for the casinos themselves but for the State of Minnesota (Marquette Advisors, 1997). Take into consideration that the Rama casino has only been in operation for five years, it is difficult to yet determine the effects to the peripheral economies. At Mnjikaning, however, over 80 buses arrive each day packed with gamers who spend an average of \$65 (Mandel, 2000: 41). This interest in gaming has resulted in Rama now being able to employ more than 3,000 people, of which approximately 2,300 come from the surrounding communities (Mandel, 2000: 41). Further, 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).

## Conclusion

As has been demonstrated, Aboriginal gaming in Canada is relatively new and little has been written on the subject to date. And although the U.S. experience can provide Canada's First Nations with useful lessons, the fact of the matter is the Canadian situation is much different than what is occurring south of the border. There are large enough enterprises currently operating in Canada from which preliminary information can be produced. Rama and the Saskatchewan Aboriginal casinos have been in operation for more five years, more than long enough to provide an adequate data base from which many of these aforementioned projects can be centred. This data would also be extensive enough for comparative purposes with reports and studies conducted in the United States. This will provide researchers information to determine whether trends are evident and how to either promote or alleviate these trends, depending on their influence upon the community.

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REVIEWS OF  
CURRENT BOOKS  
AND LITERATURE



## Editor's Introduction

David Newhouse

This issue we present reviews of three books that address two themes that are at the heart of aboriginal economic development strategies: urban poverty and aboriginal government.

In *Solutions That Work: Fighting Poverty in Winnipeg* (Jim Silver, Editor, Fernwood Press, 2000), the authors argue that addressing poverty is a complex issue: local initiatives alone cannot adequately address the issue. one needs a broad coalition of community groups and organizations that can provide a strong political voice for local concerns and to carry out local initiatives. This strong political voice also needs an activist government that listens and invests in local community effort as well as creating a policy environment conducive to local initiative.

*Citizens Plus: Aboriginal Peoples and the Canadian State* (Alan Cairns, UBC Press, 2000) and *First Nations, Second Thoughts* (Thomas Flanagan, McGill-Queens Press, 200) outline the long-standing debate about the Indian problem: what ought to be done with the Indians? Cairns and Flanagan represent quite well contemporary thinking about Aboriginal-state relationships. Cairns, now a



retired political science professor, coined the term Citizen's plus to characterize the position of Indians within Canadian society while a researcher on the Hawthorne Report in the mid 1960's. Flanagan, also a political scientist, writes of the Aboriginal orthodoxy which he claims undelies contemporary Aboriginal public policy. Both present provocative ideas that need much debate and discussion. We invite you to join it.

*Solutions that Work: Fighting Poverty in Winnipeg*  
Edited by Jim Silver  
Canadian Centre for Policy Alternatives — Manitoba  
& Fernwood Press, 1999  
120 pp., \$13.95

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Eric Shragge

I was asked to prepare a review article on this book as I was beginning a new job as director of a new graduate diploma in Community Economic Development (CED). This book, at least from its title, held promise to contribute to an important debate. CED practice is controversial because it promises gains that can be made but also because of its potential to draw community organizations into dead-ends. It can play a role in alleviating poverty through the creation of businesses and jobs or providing programs that would help those excluded from the labour market gain access to training and subsequently work. Further, the development of CED initiatives can provide an opportunity for citizens to participate in decision-making processes that may influence the type of economic and social development taking place in their communities. In other words, CED can act as a vehicle for collective action. However, despite the hopes for CED practice, it is unrealistic to believe that this type of local work, by itself, can have an impact on poverty without government social and economic policies that are designed to at least provide a floor for all citizens. In addition, the state

must be an active participant in legislating high standards for working conditions and adequate salaries. This edited book is timely because it explores these themes focusing on Winnipeg, particularly the poverty in its inner-city.

Three themes are explored in this collection. The first is a discussion of poverty that provides the context for the chapters that follow. Jim Silver provides an excellent description and analysis of poverty in Canada. He observes that even with the resumption of economic growth in the mid-1990s and the related decline in unemployment, poverty did not decline as it is expected to do in periods of growth. He argues that changes in the pattern of employment constitute a major contributing factor to the persistent and high levels of poverty. These include part-time jobs, self-employment and the growth of low wage work in general. These changes are linked to the “flexible labour force” required under the new globalized capitalism. These conditions have been worsened by a reduction in social spending coupled with a restructured of social programs designed to “free-up” the labour market. There is nothing particularly new about these argu-

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ments but they are succinctly stated and form a necessary framework for the chapters that follow.

The second chapter examines the socio-economic circumstances of people living in Winnipeg's inner city. It argues that the levels of poverty there are at a crisis level with half of all inner city households and 4/5 of the native population living below the poverty line, thus, creating a situation approaching Third World living conditions. These chapters point out the incredibly difficult conditions faced by the residents of the inner city in Winnipeg. These are not the result of a small glitch in the system that can be put right through incremental amelioration of welfare state programs. They are tied to much wider economic, political and social processes.

The next two chapters cover aspects of social and economic policy. Shauna MacKinnon develops a critique of workfare in the third chapter, and Errol Black and Lisa Shaw make a convincing case for a strong minimum wage policy in chapter 4. Both chapters are well written and clearly argued. Workfare is viewed as part of a wider attack on poor people. This attack is documented through a list of social policy changes from 1993 to 1999. Finally, the impact of the workfare program is discussed. MacKinnon argues that it created a "revolving door phenomenon with no permanent gains in full-time employment" (78). The Manitoba program was terminated when the N.D.P. came into power. The chapter concludes with policy recommendations including job creation, increased spending on day care and an increase in social assistance rates. The chapter on the minimum wage documents its relative decline under the provincial Conservative government after 1988, and then reviews the arguments for and against a high minimum wage, concluding that an increase would benefit both workers with low incomes and the economy as a whole.

Both of these chapters provide strong support for their arguments and are convincing. However, I found the focus on these two aspects of social policy too narrow and tied the idea of wage labour as the key element required in social and economic policy to reduce poverty. It's ironic that both the traditional left and the right view the solution to poverty as increasing participation in the labour market. In recent years, there has been a debate about the impact of changes in the nature of work brought about by the combination of technological change and globalization. These arguments imply that there

are limits to the growth in the number of jobs. In addition, the transformation of the economy that we have witnessed in recent years, has polarized the labour market between those jobs in the new high tech that pay well and those that are unstable, part-time and low-paying that perpetuate borderline poverty. Thus, even raising the minimum wage will have little impact on this sector. The situation in the United States and its duplication in Canada — simultaneous high levels of employment and poverty — require a rethinking of what approaches to social policy can have an impact on poverty.

Two recent books challenge traditional thinking on social and economic policy and the relationship of these policies to waged work. These types of ideas would have broadened the thinking in this volume. Anders Hayden's book<sup>1</sup> on work time reduction and Sally Lerner et al.'s<sup>2</sup> on basic income provides new directions for the policy. I will not enter into a long discussion of these excellent works. Both challenge the assumptions that we should be working more and expanding or marginally improving working conditions can come to grips with the basic changes we are facing. Hayden argues for a reduction in work time as a way to deal with the ecological crisis and the problems associated with changes in the labour market. As a consequence, more "good jobs" would be available to be shared if both over-time and the hours worked per week were reduced. This is particularly important because many in "good jobs" are working longer hours. In addition, free time would allow greater opportunities for community participation and other activities. As Hayden points out, there is a long tradition in the labour movement of demanding fewer hours of work.

Sally Lerner et al. argue for the provision of a basic income at least partially to free us from wage labour. Further, basic income policies, depending on their levels of provision, can be an anti-poverty strategy and allow the creation of alternative forms of employment that can strengthen the community sector. In addition, the types of employment discussed below created in the community sector, tend to pay poverty level wages and are highly unstable, and if this sector is to develop then new policies such as basic income are required that provide resources make these jobs viable in the long-term. Neither of these alternatives directly contradict the discussions in the book — the critique of workfare nor advocating for a higher minimum wage but

they have a broader historical sweep that attempts to link social policy discussions to the changes in technology. The debate is really about what is viable in the short and longer term. From this point of view, these positions should not be separated. A stronger community sector—one of the goals of this book—requires a viable foundation that supports people enough to create the opportunities for participation. In order to create those conditions, we should advocate for social policies that go beyond the limits of simply earning more money in jobs that seem to condemn people to poverty. The debate on alternatives has been opened and these discussions would have strengthened the book and contributed to a wider social and economic vision.

The third theme in this book is the role of projects in local communities as a strategy for the struggle against poverty. For me it is these three chapters that make the most original contribution. Three types of initiatives are described. The first is the practice of Aboriginal and Métis groups in the inner city in Winnipeg. A project of the teachers and parents organized by a local school to affect social change through innovative projects and local leadership is described in another chapter, and finally, the book concludes with an overview and analysis of a variety of inner city approaches.

John Loxley's chapter on Aboriginal economic development in Winnipeg presents a stimulating overview of the variety of economic initiatives undertaken in the inner city. These diverse activities begin with creating an economic base but their goals are wider and include combatting the social problems and economic exclusion faced by native and Métis peoples. The Aboriginal Council argues for the creation of "self-determining institutions" in a context in which there is no land base. The principles of CED operate to shape the practices. These include the building of a strong economy through the use of local employment, buying policies and reinvestment, that is the recognition of "the potential of the inner city market to sustain economic livelihoods" (134). Training for and creating long-term employment is central. Part of this comprehensive strategy is using democratic decision-making and cooperative processes to shape economic development. Examples include a Métis capital and investment fund that has been used to support the creation of a construction company and a warehouse, new

employment and training programs for the aboriginal community, and the creation of the Aboriginal Business Development Centre in a building owned by that community. The Thunder Bird House was another centre created as a commercial complex and business incubator and to promote aboriginal culture. Perhaps the most comprehensive program was the Winnipeg Core Area Initiative. This project, jointly funded by three levels of government, provided a range of programs and services such as job training, housing and a range of other services. However like many government programs, funding was withdrawn and then replaced by a city wide program for Aboriginal projects. The chapter points out the problems and limits associated with the short-term view and lack of accountability of government programs as a way to combat inner city problems. The chapter elaborates the complex interaction of local initiative and control versus governments' funding and decision-making in local programs.

The final chapters of the book continue the discussion of local action. Heather Hunter describes the role of a local school's contribution to CED and leadership building. Jim Silver then pulls together the discussion on local action and development. He argues that neither the market-based approach advocated by the former Filmon Conservative government nor the "top-down" public sector programs have been effective remedies for poverty. For the former, the trickledown assumptions were predicated on economic growth with a low, minimum wage, state cutbacks, poor-bashing and a rediscovery of charity. These factors could only make poverty worse. The critique of the latter is based on the way it turns recipients of service into passive clients rather than active citizens. Further, the programs offered were too limited to have their desired impact. He argues for a revitalization strategy through indigenous organizations along with a strong supportive role from government to promote job creation and provide generous public funding for the process of local development. These ideas are tested in interviews with leaders in 25 local organizations and generally supported. This chapter presents the core argument in the book. Fighting poverty requires a combination of strong local leadership and organizations coupled with accountable state support.

## General Comments

I found the most interesting part of the book to be the discussion of the community initiatives. Like much of the literature on community development, it is assumed that these new practices can contribute to the reduction of poverty. To the credit of this collection, however, an active government that supports local work is promoted. It is here that the discussion becomes clouded. What is the appropriate role for government and how can a community get the various departments that support their work to act accountably? This is not an easy question but it holds the key to understanding the role and potential contribution of community organizations toward social change. A historical perspective on community organizing is useful here. I would argue that the community organizing attempts beginning in the 1960s were based on an assumption that local work was part of a wider strategy of social change. Organizing locally was a means of bringing people together who could not only make changes in their own communities but who could participate in wider alliances and mobilizations to challenge established power in the society. In other words, this organizing was directed outside of the community, with a local power base. During that period, for example, in many low-income neighbourhoods welfare recipients organized welfare rights groups, as part of wider mobilizations and campaigns. Similarly woman organized shelters and rape crisis centres but built alliances to fight for the legitimacy of these new services and for wider social and political rights. In both instances local work was linked to a broader political-social movement. In addition, local organizing was stimulated and supported by the wider social movements in that period.

Within the last three decades, there has been a change in the community sector. I have recently argued with Bob Fisher<sup>3</sup> that the dominant perspective is shaped by what we describe as community development. The underlying assumptions in this perspective is that community work aims at modifying internal structures and processes in the community and thus contributing to the improvement of living condition. It is an inward focused strategy and ignores the wider questions of policy and power. The positive outcomes are innovative services and projects and new forms of local collaboration and partnership. These projects can also lead to and sup-

port democracy opportunities defined in terms of greater control of local processes. New leadership can come forward as groups previously excluded from local processes can gain a voice. This is potential of the projects described in the book, and the authors privilege this aspect of the work. The negative aspect of the approach is that it is based on the assumption that service and economic development can replace active political engagement and advocacy. It is almost inevitable that groups that successfully provide service or support economic development will not be able to act as a political voice for larger concerns. There are many reasons for this, such as the pressures of professionalization, slowly developing bureaucratic structures, and pressures from fund providers, for example. The poverty described in the book is at a level that cannot be ameliorated by community programs. A loud political voice is needed in order to promote the local interests. It is rare in community development practices for that voice to emerge except to protect their organizational interests.

Various authors raise the complex issue of the relationship between community and state.<sup>4</sup> It is difficult to come to a resolution of this problem, but I think the book did not go far enough along that path. It is argued that there has to be a strong role for the state in promoting and facilitating a local development strategy. However, what is to prevent the state from shaping the process as part of its own agenda, or from withdrawing support when something new comes up. The example of the federal government's withdrawing funds from the Winnipeg Core Area Initiative is an example discussed in the book. In other words, where is the political base to protect and to promote community development and push for policies that can have a positive impact on poverty?

Community organizing practice has lost its interest in mobilization of people as its source of legitimacy and power. Unless there is a capacity to mobilize and organize a strong local citizens' voice, there is very little in the way of power that can influence and shape the relationship between the local community and outside authorities. Further, if as the book implies we need a combination of progressive social policies and local action, then broad-based alliances are a necessary component for this to happen. I believe that we have to revisit the histories of community organizing and relearn the lessons of previous periods, particularly we should draw on



the legacies of people mobilizing together to demand social change. There is a role for self-help and development strategies but without a strong political voice it is condemned to managing the limits of the local. Poverty will not be challenged without an active government that is committed to policies of redistribution of income and wealth. In the current context this seems to be impossible and it will become inevitable if community organizations withdraw and only perform local work and do not at the same time, promote at least a debate about the necessity of broader political and social struggles for social and economic justice.

#### NOTES

1. Anders Hayden, *Sharing the Work, Sparing the Planet: Work Time, Consumption, and Ecology* (Toronto: Between the Lines, 1999).
2. S. Lerner, C.M.A. Clark, and W.R. Needham, *Basic Income: Economic Security for All Canadians* (Toronto: Between the Lines, 1999).
3. Robert Fisher and Eric Shragge "Challenging Community Organizing: Facing the 21st Century." *Journal of Community Practice* (forthcoming 2000).
4. See for example Roxana Ng, *The Politics of Community Services: Immigrant Women, Class and State*, 2nd Ed. (Toronto: Garamond, 1988); R. Ng, G. Walker, and J. Muller (Eds.), *Community Organization and the Canadian State* (Garamond: Toronto, 1990); and E. Shragge and J-M. Fontan "Workfare and Community economic development in Montréal: Community Work in the late twentieth century." In P. Hamel, H. Lustiger-Thaler, and M. Mayer (Eds.), *Urban Movements in a Globalizing World* (London: Routledge (forthcoming)).

*Citizen's Plus: Aboriginal Peoples and the Canadian  
Nation State*

by Alan Cairns, UBC Press, 2000

viii + 280 pp., \$39.95 cloth

*First Nations? Second Thoughts*

by Thomas Flanagan, McGill-Queen's Press, 2000

vii + 245 pp., \$24.95 paper

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Yale D. Belanger

The issue of how Aboriginal people choose to identify themselves has become a growing concern as the push for Aboriginal self-governance in Canada gains momentum, a position echoed by two recent publications whose authors investigate the complexities of Aboriginal/Canadian citizenship. *Citizen's Plus: Aboriginal Peoples and the Canadian Nation State*, by Alan Cairns, and *First Nations? Second Thoughts*, by Thomas Flanagan, both examine the consequences enacting Aboriginal self-governance will have upon an already culturally fragmented Canadian society. Surprisingly, for two books written from such dissimilar positions, they are splendid companion pieces that serve to provide an excellent overview of the current debate's principal issues. Cairns debates the advantages of recognizing a Canadian federation made up of a culturally diverse citizenship, while Flanagan attempts to persuade the reader as to the reasons why Aboriginal people would benefit by assimilating into the greater Canadian social fabric.

Following an initial review of both volumes, it became clear that evaluating these books in a

combined review posed a problem. This was due primarily to the audience each author was writing to. It is apparent that Cairns is writing to an informed audience composed primarily of academics and lawyers, both groups of which are cognizant of the materials he utilizes and the purpose of his discussion. Flanagan, on the other hand, is writing not for the academician but rather the lay reader who may be interested in Aboriginal issues and how they currently affect Aboriginal policy development in Canada. The best example of this disparity is in how each author details the history of Aboriginal/non-Aboriginal relations, histories which are quite dissimilar, each designed to meet the each author's specific needs. Read together, however, these two works provide ample insight and a well-rounded view into the myriad issues currently surrounding the push for Aboriginal self-governance and economic development.

*Citizen's Plus* represents a significant contribution to the discussion of how relations between Aboriginal and non-Aboriginal peoples can be better promoted and nurtured, albeit

from a strictly Canadian-centric point of view. As such, there are ample examples of Cairn's reliance upon western political theory in the development of his arguments with minimal concern paid to examining these issues from a strictly Native perspective. Despite these limitations, Cairns argues that the establishment of a middle ground from which legislative and policy decisions can be effectively created is possible, encouraging from Aboriginal people input into the policy process. Drawing extensively on an impressively in-depth bibliography and more than four decades analysis of Canadian Aboriginal issues, this contributor to the Hawthorn Report not only submits that cultural conflicts can be minimized, he goes so far as to outline how he sees this middle ground evolving. Stating that Aboriginal peoples can pursue self-governance and retain their cultural identity all the while acknowledging their role as citizens within the Canadian federation, Cairns rails against a culturally fragmented citizenry while also stressing the interconnectedness of contemporary Canadian society.

Utilizing the Royal Commission on Aboriginal Peoples (RCAP) proceedings as the catalyst for his discussions, Cairns provides a comprehensive appraisal of the RCAP's accomplishments without being apologetic for what he views as weaknesses in both approach and conclusions. Arguing that RCAP was too concentrated on promoting Aboriginal bands as nations, Cairns suggests it is possible for a unique and inclusive Canadian culture to evolve. He then proceeds with a logical, structured essay which deals with many of the pitfalls that will accompany the evolution of this middle ground, a realm that will be achieved *sans* influence of the Canadian political elite who may view cultural homogeneity as a positive step in the evolution of Aboriginal/Canadian relations. In this instance, citizenship is viewed as the key factor, although Cairns pays little attention in his analysis to allowing Aboriginal peoples and their representative nations the time required to find their niche within the Canadian political superstructure. For instance, when one looks at how long it took a country such as Canada to establish its political and economic foundations, a period which encompasses centuries, it is somewhat optimistic to assert that the Canadian Aboriginal community should be able to quickly reestablish the necessary political and economic infrastructure.

Cairns is adamant in his assessment although he neglects to recognize that Aboriginal people in Canada must first gain an effective economic foothold combined with the reintegration of cultural institutions, prior to making the enormous leap to Canadian citizenship as proposed. This results in the feeling that *Citizen's Plus* is somewhat premature, and that until these economic foundations take root, the arguments presented here will remain peripheral to the issues that consume Aboriginal leaders, the foremost being the establishment of stable and productive local economies which aid in nation building. All limitations aside, *Citizen's Plus* will be an invaluable resource to aid in fostering a society which Aboriginal people and Canadian citizens can be viewed as distinct peoples whose cultural foundations are diverse and varied, yet who are able to live with one another under the Canadian aegis. However, what is not presented clearly is whether or not Aboriginal people, be it the political elite or those community members representing the grassroots, view these issues similarly; hence, this book will act simply as one opinion in the evolving discourse on Canadian/Aboriginal relations.

But for now, those looking for a comprehensive vehicle to better understanding the many issues surrounding self-governance and Aboriginal/non-Aboriginal relations, *Citizen's Plus* should be their first choice. It is well-balanced as Cairns takes the time to present both the positive and negative aspects behind the current push for self-governance. There are some dubious suggestions the reader needs to be aware of. For instance, Cairns lobbies for Aboriginal people to adopt blinders to shield themselves from the memory of past injustices, the goal being to progress toward accepting Canadian citizenship for ease of self-government negotiations and relationship-building with Canada's citizenry. Additionally, the author often ignores how RCAP was seeking to preserve the current reserve system, but not at the expense of urban-Aboriginal populations as he alludes. These are, however, multi-faceted questions that, while in this case left unanswered, were at least included in his overall evaluation and viewed as contributing factors that will undoubtedly require analysis in the near future.

Interestingly, *First Nations? Second Thoughts* acts as an excellent companion piece to *Citizen's Plus*, although Flanagan rejects Cairns' notion of Aboriginal peoples as Canadian citizens in favour

of a more militant tone that echoes assimilation rhetoric of the late 19th century policy-makers and politicians. Unfortunately, to come out with a meandering diatribe such as this takes neither courage nor ambition. This represents at the most subtle level the racist dogma that has evolved of late of which Aboriginal peoples are the targets, a book veiled in the language of equality all the while espousing the need to ignore the rights of a minority population for the benefit of the greater Canadian society. Flanagan achieves this through the perpetuation of stereotypes and the biased application of statistics designed to fit the author's overall goal of presenting Aboriginal peoples as an uncivilized populace who are unwilling to shake the social pathologies he suggests proliferate all reserve communities. Further, it is implied that the reason for this is so Aboriginal people may prosper from the accompanying welfare monies, which in turn are utilized to form the base of these communities' economies.

Although the presentation is somewhat sensationalistic, a brief background about the author is required to better understand his approach. Flanagan, it must be remembered, was one of the key architects of Reform Party policy that has endured into the 21<sup>st</sup> century. Reform (present-day Canadian Alliance Party) policy is steeped also in the language of equality that simultaneously emphasizes that Aboriginal peoples are entitled to special privileges other Canadians are not simply due to racial difference. Further, Flanagan is a political scientist whose education is steeped in the discourse that not only permitted but encouraged the dispossession of North American Aboriginal peoples, as evidenced by his generous use of Hobbes, Locke, and Vattel (to name a few) to aid in the formation of his arguments regarding civilization and current Aboriginal land utilization policies he deems inefficient. All that said, for the informed reader, it is readily apparent why one of Flanagan's main arguments, that "it is only a matter of time until the former (civilized) extend their sway over the latter (uncivilized)," (60) reads as it does.

At the heart of *First Nations? Second Thoughts* is the notion that there is an Aboriginal orthodoxy that determines public policy towards Canada's Aboriginal peoples, and with the exception of the elite few who benefit financially, this orthodoxy exacerbates the social and economic difficulties currently being experienced

at the community level. He then follows by systematically deconstructing this orthodoxy, which consists of eight points (pp. 6-8). He tackles issues such as Aboriginal sovereignty (he does not believe pre-contact Aboriginal people were sovereign), Aboriginal nationhood (Flanagan states these were tribal communities, not nations), and first occupation, which the author claims is irrelevant since the entire North American population is composed of immigrants.

In doing so, Flanagan proposes the abolition of the reserve system, and that Aboriginal individuals be given the opportunity to own private parcels of land. Not only will this encourage in Aboriginal people the want to seek out work required to purchase and maintain said holdings, the author also views this approach as the most effective means of integrating reserve economies with those micro-economies that combine to form the larger Canadian economy. Flanagan is unyielding in his promotion of private property as the key to promoting economic self-sufficiency at the reserve level, although he states that "Canada's aboriginal people seem . . . far from attaining a workable system of property rights" (133). This is interesting as nowhere in his book does he quote an Aboriginal leader who is fully supportive of exchanging the reserve system for one that promotes private land ownership; nor does he give an example of a reserve community actively engaged in this process.

Even more troubling is the fact that his statistical base is gleaned almost exclusively from journalism articles, which in many cases appear to have been chosen to fit his thesis. Upon closer scrutiny, close to twenty per cent of the sources utilized for the production of this book were newspaper clippings culled from sources as diverse as the Calgary Herald, The National Post, and the Globe and Mail, which were bolstered by larger pieces from magazines such as Alberta Report. This is troublesome as these journalists, who may be recognized as experts in their field, are not experts in the field of statistical analysis nor political studies. The extensive use of news clips should be questioned, especially when a professional academic such as Flanagan has access to the resources which could easily confirm the veracity of the data he chooses to utilize.

Flanagan does take time to outline his concerns regarding economy as a prerequisite for legitimate government, although these potentially significant arguments pale in comparison to the

number of inconsistencies that obscure the reading of *First Nations? Second Thoughts*. For example, the author rails against stereotypes being utilized by the courts that typecast "aboriginal title as collective" which in turn makes entrance into a modern market economy difficult. Yet Flanagan clearly states that funding for housing on reserves should come under closer scrutiny simply due to the fact that driving "through almost any reserve . . . you will see derelict houses with windows broken, doors askew, holes in the walls and roof" (108). And this from a man who admits to never having visited a Canadian reserve community!<sup>1</sup>

Ironically, this is a useful book in the sense that it will force Aboriginal politicians and academics and lawyers working within Native Studies to shore up their arguments, allowing a more holistic and complete discourse surrounding Aboriginal rights and self-government to emerge. To his credit, Flanagan does recognize these logic gaps, although he pounces on them in a rather unforgiving manner. This book also provides those of us in Native Studies with a reveal-

ing glimpse of how the extreme right views Aboriginal issues. In my view, *First Nations? Second Thoughts* has the potential to become the Canadian Alliance Party's modern-day Indian policy from which Stockwell Day (or his predecessor) may one day be unmercifully quoting from.

As distasteful as Flanagan's position is, it is important that these ideas be made publicly available. Although his approach is old school in that he takes it upon himself to explain how the 'Native problem' in Canada can be solved, for those of us who work in Native Studies, this is an historical trend that will not soon abate and one we will regularly be faced with. On the other hand, Cairns approach is more holistic and indicative of the new course embraced by Native Studies, which takes a variety of opinions into account in the formation of his conclusions.

#### NOTE

1. "Assimilate Natives: Best way to end the welfare trap." *Winnipeg Sun*, 17 April 2000, p. 7





THE ROYAL  
COMMISSION ON  
ABORIGINAL  
PEOPLES



## Editor's Introduction

David Newhouse

As this issue goes to press, it is now four years since the federal response to the *Final Report of the Royal Commission on Aboriginal Peoples* was released and six years since the report itself appeared in public. The *Final Report*, which represents the most comprehensive view of Aboriginal thinking about their future within Canada, has largely disappeared from public view, although it may be still in the minds of government officials and academics. While the report's recommendations have not been adopted in their entirety, the report itself has helped to create increased public awareness of the need for a new relationship between Aboriginal peoples and other Canadians. In this respect, the report may have helped to create opportunities for local solutions and better understandings between Aboriginal and non-Aboriginal peoples. This may indeed be the legacy of the report, notwithstanding its cost.

In this issue, Marlene Brant-Castellano, Professor Emeritus, Native Studies, Trent University, who served as Co-Director of Research

for the Royal Commission on Aboriginal Peoples presents a retrospective commentary on the report and its effects.

We are grateful to Purich Press for permission to reprint this article.

# RENEWING THE RELATIONSHIP

## *A Perspective on the Impact of the Royal Commission on Aboriginal Peoples*

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Marlene Brant Castellano

The report of the Royal Commission on Aboriginal Peoples (1996) is a monumental work. Its scope extends to virtually every aspect of Aboriginal life and, by implication, to every sector of Canadian public affairs. Its presentation of history challenges prevailing assumptions and argues for a different understanding of the origins and the constituent elements of Canadian society. Its proposals for renewing the relationship between Aboriginal and non-Aboriginal people call for a partnership, grounded in principle, that will produce mutual benefit.

Woven through the report is the affirmation that renewal in one aspect of policy or intercultural relations must go hand in hand with renewal in the whole spectrum of political, economical, and social life. The 440 recommendations contained in the report are, therefore, put forward as a holistic agenda for change; action is required on many fronts to achieve resolution of long-standing and resistant problems and to improve the quality of life of Aboriginal individuals, families, and communities.

My perspective on these matters is far from disinterested. I served as co-director of research throughout the life of the commission, and I

participated in drafting the text and recommendations, particularly on social and cultural issues. Since the release of the report, I have also contributed to public forums discussing its contents. My purpose in writing this chapter is to reiterate briefly the overall thrust of the commission's work and to comment on the impact the report appears to be having after two years in the public domain. I would be presumptuous to claim that these few pages could provide a balanced synopsis of the five volumes and 3500 pages of the commission's report. My comments represent a perspective, much of it grounded in the words of the commission itself that is highly selective in emphasis. I am grateful to colleagues who shared their experiences with me as this chapter was in preparation,<sup>1</sup> but the interpretations are my own responsibility.

### **The Commission's Mandate**

The Royal Commission on Aboriginal Peoples was appointed by Prime Minister Brian Mulroney in August 1991 in the aftermath of armed confrontations between Aboriginal people and the Canadian army at Oka. Seven distinguished men

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and women were named as commissioners, four of them Aboriginal persons. The commission held hearings across the country, heard testimony from over two thousand people and organizations, commissioned hundreds of research reports, and spent \$58 million over the course of five years. The commission presented its report to the government of Canada in November 1996. The scope of the commission's mandate was delineated by the Right Honourable Brian Dickson, former chief justice of the Supreme Court of Canada. His recommendations as special representative respecting the Royal Commission on Aboriginal Peoples were incorporated into the Order-in-Council establishing the commission:

The Commission of Inquiry should investigate the evolution of the relationship among aboriginal peoples (Indian, Inuit, and Metis), the Canadian government, and Canadian society as a whole. It should propose specific solutions, rooted in domestic and international experience, to the problems which have plagued those relationships and which confront aboriginal peoples today. The commission should examine all issues which it deems to be relevant to any or all of the aboriginal peoples of Canada, and in particular, should investigate and make concrete recommendations concerning ... [16 specific terms of reference] (Government of Canada, 1991; Dickson, 1991).

The comprehensive mandate of the commission, placed in the context of an evolving relationship between peoples, opened the way to address the interconnectedness of specific issues. The genius of the report is that it states clearly and consistently "everything is related," thereby reflecting and understanding basic to Aboriginal systems of knowledge.

### A Different View of History

The commission devoted the first volume of its report to a history of relations between Aboriginal and non-Aboriginal peoples because the commissioners were convinced that "consideration of this history will surely persuade the thoughtful reader that the false assumptions and abuses of power that have persuaded Canada's treatment of Aboriginal peoples are inconsistent with the morality of an enlightened nation" (RCAP, 1996, Vol. 1: 3). The emphasis on history was also a response to the oft-repeated plea from Aborigi-

nal speakers in public hearings to "set the record straight."

Canada is typically characterized as a young country that started its progress to modern civilization with the arrival of European explorers. It is now customary to begin Canadian history texts with an acknowledgement that there were tribes of Indians inhabiting the wilderness before the settlers came, but the First Nations disappear even as minor actors in historical drama after about 1800. The concept of *terra nullius*, Canada as an empty land in which settlers planted law and government, and over which nation-builders pushed iron rails from sea, is the prevailing image. The commission's report presents another view. It describes the history of the relationship between Aboriginal peoples and newcomers as passing through four stages.

The first stage was that of separate worlds, illustrated by vignettes of several nations at the time of early contact in different regions of the country. These societies provided for the sustenance of their members, regulated relations internally and with their neighbours, and developed arts and technology adapted to the environment. One of the stories describes the well-established trade routes of First Nations on the coast and in the interior of what is now British Columbia. Excerpts from the diary of Alexander Mackenzie, the first European to record a journey to the Pacific Ocean by land, are quoted. They show how he was led by First Nation guides over well-worn routes, watching Carrier people passing his party on the trail with processed furs to trade for coastal goods, being welcomed and fed along the way, until he finally reached the channel where he inscribed on a rock face: "Alexander Mackenzie, from Canada, by land, the twenty-second of July, one thousand, seven hundred and ninety-three." In this, as in many other historical encounters, the achievement of the explorer is celebrated while the vitality of Aboriginal economies is obscured and forgotten.

The second historical stage was that of contact and co-operation. It extended in eastern regions roughly from 1500 to 1800. During this period, Aboriginal and non-Aboriginal peoples established trading relations, travelled together, and shared food and knowledge of medicines. Olive Dickason (1992), in her *History of First Peoples*, for example, reports that some five hundred drugs used in modern medicine were originally used by First Nations of the Americas.



Aboriginal peoples and newcomers made treaties to cement relations of peace and friendship, and to formalize their commitment to share the land as neighbours and kin. The relationship even gave rise to a new people, the “people-in-between.” The Metis, who were known by different names in different regions, embraced their heritage from two cultures and established settlements that survive to this day.

The third historical stage involved displacement and assimilation; it extended roughly from 1812 to 1969. During this period, Aboriginal societies were ravaged by new diseases — smallpox, tuberculosis, and measles. They saw their land bases and the source of their livelihoods eroded in large chunks with the sanction of treaties, while smaller chunks passed through the hands and authority of Indian agents. The *Indian Act* deposed traditional leaders and dismissed Aboriginal laws as mere “customs.” Assaults on spirituality were mounted through the prohibition of medicine practices and ceremonies; spiritual teachings were labelled pagan beliefs that were incompatible with Christian civilization.

In attacking the validity of the Aboriginal worldview, the missionaries of church and state undermined the basis of ethical order in Aboriginal communities. Assaults on the structure of the Aboriginal family were carried out in the name of education and protection; children were compelled to attend residential schools and day schools that espoused the same assimilation goals. Thousands of children were scooped up from their communities to be irretrievably placed in foster and adoption homes outside their Aboriginal communities and, in some instances, even outside Canada.

All this history portraying the vitality inherent in Aboriginal cultures, the wisdom of Aboriginal teachings, the capacity for self-government that was exercised for the time immemorial, and the tragic story of displacement and loss has been neglected and suppressed. The common perception of non-Aboriginal Canadians, including many who have recently immigrated to this land, is that Aboriginal people are stuck in their savage ways and need only to join the mainstream to catch up in the march of civilized society.

The fourth historical stage, in which we now find ourselves, is that of negotiation and renewal. This stage was initiated with the rejection of the 1969 White Paper that proposed to terminate historic treaties and make Indians citizens like

any other (Government of Canada, 1969). This stage has proceeded through court battles to assert historic rights to land, but it has also involved more turbulent confrontations, such as those at Oka in Quebec, Haida Gwaii in British Columbia, and Ipperwash in Ontario. The patriation of the Constitution in 1982, and the entrenchment of existing Aboriginal and treaty rights of the Indian, Inuit, and Metis peoples, was a landmark in this period. The creation of the Royal Commission, the Supreme Court decision in *Delgamuukw v. British Columbia* ([1998] 1 C.N.L.R. 14) in 1997, and the 1998 initialling of a modern treaty with Nisga'a Nation, are other important events whose effects are still unfolding. A number of developments in this historical period are discussed in detail in other chapters of this volume.

### The Legacy of History

We are living today with the legacy of the period of displacement and assimilation. Aboriginal people are engaged in a powerful process of renewal of culture and community life to which they often give the generic name of *healing*. The healing process gains strength from many sources, but principally from rekindled confidence in traditional wisdom and a political-historical analysis of genesis of present distress.

Aboriginal people look back to a time when oral traditions and colonial records agree that communities and nations were self-regulating, self-reliant, and in remarkably good health. They examine the forces that disrupted the equilibrium — new diseases, loss of lands and livelihood, relocations that tore the fabric of community relations, the imposition of alien forms of government, and assaults on spirituality and family life. They reclaim the history that for long period was systematically erased from the story of Canada. And they acquire an analysis of present dysfunction in their midst.

The legacy of history is in the poverty, powerlessness, and breakdown of social cohesion that plague so many Aboriginal families and communities. These conditions did not come about by chance, or through a failure to modernize, or through some moral deficiency on the part of Aboriginal people. They were created by past policies that systematically dispossessed Aboriginal people of their lands and economic resources, their cultures and languages, and the

social and political institutions through which they took care of their own.

Without a political-historical analysis of the genesis of present distress, Aboriginal people are caught in self-blame. In an ironic twist they may blame their parents, thereby mirroring the colonial and racist judgments of their savagery and inferiority. Without an analysis that goes to the root of distressing conditions, non-Aboriginal governments and agencies offer programs and services that deal with symptoms of malaise. Symptomatic treatment in some cases makes the problems worse by reinforcing perceptions of incapacity.

The community of Hollow Water in southern Manitoba illustrates this problem. I had the privilege of co-leading a workshop on Aboriginal child and family issues with Burma Bushie, one of a handful of women who initiated community holistic circle healing in Hollow Water. This initiative is usually associated with Hollow Water, although it actually serves four First Nations and Metis communities in the district.

When the awful secret of child sexual abuse at Hollow Water began to come to light in 1987, existing services were deemed to be woefully inadequate to respond. Bushie (1997) reports: "The child welfare and legal system were at our door. The Community had no involvement. Offenders were sent to jail where they had to deny their offence to survive, and two or three years later they were sent back into the community to offend again."

Community holistic circle healing is a deliberate strategy to protect and empower victims of abuse, to confront offenders, and to create environments where they admit and take responsibility for their behaviour. The whole community, along with the families of victims and offenders (who are often one and the same), is helped to assume responsibility for restoring safety, health, and balance. There is a step-by-step program in which the violent behaviour and the impact on the community are laid bare to public scrutiny. Expectations of behavioural change are published and enforced by the whole community, and the possibility of reconciliation is embraced as the motive for change.

The Hollow Water approach was devised and refined in relation to the knowledge and experience of the citizens of the affected communities. It uses traditional communal talking ceremonies and sweat lodges. But it also draws in the expertise of psychologists and lawyers as adjuncts

to culture-based therapies, when required by law or when this is the preference of the participants,

The restoration of community authority to apply culturally appropriate healing methods does not come easily. As Bushie (1997) reports: "We will work within the law and in cooperation with the RCMP and the courts, but if we had to follow agency and police protocols and regulations we would be doing damage in our community." Nevertheless, Hollow Water makes use of the array of social and health services funded by government agencies to support the personnel involved in holistic healing, and to engage professional therapists as required.

Community holistic circle healing goes far beyond the administration of services designed and monitored by external agencies. It does not stop with addressing individual needs. It goes to the heart of the malaise in those communities — the internalized sense that they are powerless to confront and resolve the violence and pain in their midst. The Hollow Water experience illustrates why it is essential for Aboriginal people to resume control of healing services, so that they can institute effective, cost-efficient, holistic responses to their self-defined needs. Nevertheless, even the most sensitive, culturally appropriate efforts at healing will be short-lived, patchwork solutions, unless the authority for self-determined choices and the foundations of self-reliant economics are restored to Aboriginal peoples.

### *Restructuring the Relationship*

The central thrust of the commission's proposals revolve around the strongly related concepts of: (1) a *renewed relationship* between Aboriginal and non-Aboriginal peoples in Canada; (2) *self-determination* expressed in new structures of self-government; (3) *self-reliance* through restoration of a land base and economic development; and, (4) *healing* to achieve vibrant communities and healthy individuals equipped to fulfill the responsibilities of citizenship.

A renewed relationship is the necessary context and an essential contributor to change in other spheres. Self-determination is an important element in achieving self-reliance. A greater degree of autonomy in the political realm is illusory without a strong economic base. And both of these elements will contribute to and be nourished by the process of healing. The commission emphasized that "[t]he challenge ... is not only to recognize interdependence among the elements

but also to change the dynamic among them so that a positive cycle of development occurs" (RCAP, 1996, Vol. 1: 697).

### Principles of a Renewed Relationship<sup>2</sup>

The first principle proposed by the commission is *mutual recognition*. This means that Aboriginal and non-Aboriginal peoples acknowledge and relate to one another as equals, co-existing side by side, and governing themselves according to their own laws and institutions. The commission argues that mutual recognition is already formalized in historic treaties and that it is entirely consistent with the federal makeup of Canada.

The second principle is *mutual respect*, "the quality of courtesy, consideration and esteem extended to people whose languages, cultures, and ways differ from our own but who are valued fellow-members of the larger communities to which we all belong" (RCAP, 1996, Vol. 1: 682). The failure to extend respect in the past treatment of Aboriginal peoples, and the importance of public institutions modelling respectful attitudes, are underlined.

The third principle is *sharing*. The reciprocity that characterized early relations between Aboriginal and non-Aboriginal people has become unbalanced as Aboriginal people have been displaced from their traditional sources of wealth. The principle of sharing would restore Aboriginal peoples' access to resources in their homelands and open avenues of participation that would result in mutual benefits for all partners. The commission cites the congruence of this vision with prevailing values about the benefits to be derived from participation in the Canadian federation.

The fourth principle is *mutual responsibility*. The commission proposes that, in the future, Aboriginal peoples and Canada should seek to actualize relationships as partners who have a duty to act responsibly towards one another and also towards the land they share. This will require deliberate measures to transform the colonial relationship of dominance and dependence and to rebuild trust between partners so that both can fulfill their responsibilities.

The commission proposes that treaties (or today what might also be referred to as agreements or accords) are the most appropriate vehicles for achieving relationships consistent with the foregoing principles. The commission sees the need to interpret anew the terms, spirit, and

intent of historic treaties, and to enter into modern agreements and accords that restructure political and economic relations to reflect true partnership. Treaties were the instruments through which Aboriginal nations and the French and British Crowns recognized each other's prerogatives as nations, and agreed to peaceful co-existence and sharing of the land. Treaties continue to be the means preferred by most Aboriginal peoples for ordering intergovernmental relations. They are also important to Aboriginal peoples because, since 1982, treaties enjoy protection from the highest law of the land—the Constitution.

### Self-Determination and Self Government

The commission concludes that Aboriginal nations have a unique legal and historical right to govern themselves within the Canadian federation. This right derives from their status as peoples with an inherent right to freely determine their political status and to pursue their economic, social, and cultural development.<sup>3</sup> This right is recognized in emerging international law, affirmed in historic treaties, and protected in the Constitution. From the commission's perspective, the right of self-government vests in nations or peoples rather than in the bands defined by the *Indian Act*. Self-government can be exercised in a variety of forms—within defined territories, in relation to citizens in dispersed locations, or through public forms of government that also include non-Aboriginal constituents.<sup>4</sup>

#### *Self-Reliance*

The commission proposes a multi-pronged strategy for restoring economic vitality to Aboriginal communities, a requisite for sustaining political autonomy. Just and timely settlement of outstanding land claims, and reconsideration of the commitments made in historic treaties, will contribute substantially to re-establishing economic bases for some nations. Co-management and sharing of the resources derived from traditional lands will benefit others. Investments in education and training, and support for entrepreneurial activity to participate in the market economy, will also be necessary to improve prospects for the burgeoning population of young Aboriginal people and for the large numbers of Aboriginal people who make their homes in urban society (see RCAP, 1996, Vol. 2.2, chaps. 4,5).

## Healing

The commission's recommendations on healing are presented with passion and urgency. They are directed to mitigating the harsh legacy of past abuse and neglect; to removing excessive threats to health and well-being; and to expanding opportunities for education, employment, and community participation. They touch on family life, health and social services, housing, education, and cultural conservation and expression. Although the commission's recommendations clearly favour collective solutions, placing authority and resources for responding to social and cultural needs under Aboriginal control, they also acknowledge that immediate threats to well-being require prompt responses within current regimes. Moreover, even when self-government is fully realized, the commission points out that there will be a civic obligation to acknowledge, affirm, and accommodate the Aboriginal presence in Canadian life through culturally responsive public institutions and services.

### "In two short years . . ."

As I write this chapter, two years have elapsed since the release of the commission's report. It is just over one year since the Honourable Jane Stewart minister of Indian Affairs and northern development, along with the Honourable Ralph Goodale, federal interlocutor for Metis and Non-Status Indians, responded to the report on behalf of the Government of Canada. Much has happened in the interval, although some would say little has changed.

This section sketches some recent developments in the context of the major thrusts of the report. References to relations between the federal government and First Nations predominate in this discussion; this reflects the focus of the government's response, since there has been relatively little movement in restructuring relations with the Metis or with off-reserve Aboriginal people. Inuit affairs are a specialized area with which I have limited contact and on which I will refrain from comment, except to say that the formation of Nunavut on April 1, 1999, marked a watershed event in the history of Inuit-Canada relations.

In a meeting when commissioners were grappling with the enormous responsibility of finding the right solution and consensus on a

critical, conflict-ridden issue, Georges Erasmus, co-chair of the commission, made the observation: "The movement of Aboriginal people to take charge of their lives didn't start with the Commission and it won't end with our Report" (Erasmus, 1999). It is useful to remember that wisdom when reflecting on the impact of the commission's work.

It would be futile to try to determine what came about as a result of the commission and what was the outcome of generations of struggle on the part of Aboriginal nations and individuals, and the efforts of a comparable progression of ministers of the Crown, officials, and negotiators on the government side. In the next section I note convergences as well as some divergences between recent developments and the commission's recommendations. I do not try to establish causes and effects.

## On Reconciliation

The ceremonial gathering in Ottawa on January 7, 1998, at which ministers of the Crown responded to the commission's final report, was a moving occasion for those who attended, as well as for the limited audience that was able to observe the proceedings on cable or satellite television. On behalf of the government of Canada, the Honourable Jane Stewart, in a statement of reconciliation, formally expressed to all Aboriginal people in Canada "profound regret for the past actions of the federal government which have contributed to ... difficult pages in the history of our relationship together" (Indian and Northern Affairs, 1998b). To give substance to the offer of reconciliation, Minister Stewart announced the commitment of \$350 million for community-based healing—a first step to deal with the legacy of physical and sexual abuse at residential schools. She further announced a comprehensive framework for action to renew the partnership between Aboriginal and non-Aboriginal people in Canada, to strengthen Aboriginal governance, to design a new fiscal relationship, and to sustain the growth of strong, healthy Aboriginal communities. Details of the framework are published as *Gathering Strength: Canada's Aboriginal Action Plan* (Indian and Northern Affairs, 1997).

Minister Stewart acknowledged the fundamental thrust of the commission's work when she observed that "over and above hundreds of individuals recommendations, the Commissioners



directed us to examine the very core of how we have lived together in this country” (Indian and Northern Affairs, 1998b). Accordingly, *Gathering Strength* reflects the federal government’s commitment to set a new, non-adversarial course in its relations with Aboriginal people and their representatives. *Gathering Strength* parallels closely the content of *An Agenda for Action with First Nations*, which was developed in consultation with the Assembly of First Nations and released only days after the gathering in Ottawa (Indian and Northern Affairs, 1998a). Metis and other Aboriginal groups that were included late in the process were critical of the lack of consultation with them in the preparation of the statement of reconciliation, but they have accepted subsequent opportunities to negotiate new relationships with the federal government.<sup>5</sup>

For First Nations people, those affiliated with historic nations and particular territories, the statements in the action plan that treaties are “the basic building blocks in the creation of our country” and “a basis for developing a strengthened and forward-looking partnership” has been very encouraging (Indian and Northern Affairs, 1998a: 10). A concrete expression of these sentiments is seen in the *Statement of Treaty Issues: Treaties as a Bridge to the Future* (Arnot, 1998) published by the Office of the Treaty Commissioner for Saskatchewan. Saskatchewan First Nations and representatives of the government of Canada met at an exploratory treaty table with the province of Saskatchewan represented as an observer. The parties explicitly adopted the principles of mutual recognition, mutual respect, reciprocity, and mutual responsibility articulated in the commission’s report. The progress made in finding common positions provides a basis for the major work of restructuring relations to implement treaty-based self-government among Saskatchewan First Nations.

Treaty-making as the basis for redefining ongoing relations is at the core if the Nisga’a Agreement initialled on August 4, 1998 (Nisga’a Tribal Council, Government of Canada, Province of British Columbia, 1998). Initiatives of the Nisga’a Nation to settle “the land question” date back to 1887. However, the course of the relationship changed significantly after the 1973 Supreme Court decision on Nisga’a claims in *Calder v. Attorney-General of British Columbia* (7 C.N.L.C. 91). This decision prompted the government of Canada to finally enter into settlement negotiations. The *Nisga’a Final Agreement*,

and the ceremonies surrounding initialling of the document, reflect the spirit of co-existence and mutual responsibility advocated by the commission and taken up in *Gathering Strength* (Indian and Northern Affairs, 1997).

In its 1995 special report, *Treaty Making in the Spirit of Co-existence*, the Royal Commission proposed an approach whereby

Negotiations would aim to describe the territory in question in terms of several categories of land in order to identify, as exhaustively and precisely as possible, the rights of each of the parties with respect to lands and governance (Royal Commission, 1995: 60).

As Minister Stewart noted in her remarks, in addition to being British Columbia’s first modern-day treaty, the Nisga’a agreement will become the first treaty in Canada to deal explicitly with land claims and self-government together (Indian and Northern Affairs, 1998c). The significance of treaties in realizing new relationships was reiterated by Minister Stewart in these words:

Treaties provide the basis for a common vision. They offer a framework for a vibrant and respectful relationship between people. They offer us a way to live together without imposing our values on each other. They speak directly to the Canadian way of life. In our shared land, people can live together in both harmony and diversity.

At the time of writing, the Nisga’a agreement has hurdles to pass before it becomes a constitutionally protected treaty. Nevertheless, it is a substantial expression of the firm intention of Canadian and Aboriginal governments to negotiate rather than litigate.

The readiness of Canadian governments to listen more respectfully to Aboriginal views of reality and to engage in negotiations has been advanced by rulings of the Supreme Court of Canada, most recently the judgement in *Delgamuukw v. British Columbia* ([1998] 1 C.N.L.R. 14). On the claim of the Gitsan and Wet’suwet’en Nations to Aboriginal title to their traditional lands, Chief Justice Lamer found that the trial judge had erred in dismissing the claims without giving adequate weight to the oral histories presented by the Aboriginal claimants. He ordered a new trial but noted:



By ordering a new trial, I do not necessarily encourage the parties to proceed to litigation and settle their dispute through courts.... Ultimately it is through negotiated settlements, with good faith and give and take on all sides, reinforced by the judgements of this Court, that we will achieve ... the reconciliation of the pre-existence of aboriginal societies with the sovereignty of the Crown. Let us face it, we are all here to stay (para. 186).

Chief Justice Lamer made reference to the Royal Commission's commentary on oral history to elaborate the context of legal reasons for the decision. Again, without attributing degrees of influence, we see a convergence between the analysis and conclusions of the commission and the pronouncements of influential public institutions agreement.

On the path to reconciliation between peoples, the leadership of public institutions in adopting a more respectful stance is extremely important. In elaborating the principle of *respect*, the commission noted:

We emphasize the idea of public attitudes because respect involves more than a change of heart within individuals. It requires us to examine our public institutions, their make-up, practices and symbols, to ensure that they embody the basic consideration and esteem that are owed to Aboriginal and non-Aboriginal languages and cultures alike.... Respect for the unique position of Canada's First Peoples — and more generally for the diversity of peoples and cultures making up this country — should be a fundamental characteristics of Canada's civic ethos (RCAP, 1996, Vol. 1: 683, 685).

### Self-Government

The *Nisga'a Final Agreement* was cited earlier as an expression of new approaches to treaty-making. It is also a practical expression of the hard-won recognition of the inherent right of Aboriginal self-government. Although the Nisga'a maintain that the terms of agreement are particular to their nation and territory, the agreement will undoubtedly influence the course of self-government negotiations proceeding at eighty discussion tables established across the country.

The agreement is between the Nisga'a Nation, Canada, and British Columbia. It transfers title of 1992 square kilometres of land in

the lower Nass Valley, including lands previously set aside as Indian reserves, to the Nisga'a Nation. It protects existing third-party interests, and it secures Nisga'a rights to fish, wildlife, and water resources in the region. It withdraws application of the *Indian Act* to the Nisga'a, except for the purpose of defining who is and "Indian" eligible for programs and services. Fiscal transfers from Canada and British Columbia to support community services roughly equal to public services available in the rest of the region will continue, taking into account the capacity of the Nisga'a government to generate own-source revenues, including taxation revenues. Current exemptions from taxation under the Indian Act will be eliminated after an eight- to twelve-year transition period. The Nisga'a continue to be an Aboriginal rights, including their Aboriginal title, to the limits set out in the agreement (Nisga'a Tribal Council, Government of Canada, Province of British Columbia, 1998).

The Nisga'a agreement differs from the previous land claims settlements in recognizing the authority of the Aboriginal government to enact legislation that will prevail in specific areas of jurisdiction in the event of conflict with federal or provincial law. The areas where Nisga'a law is paramount are Nisga'a government, citizenship, culture, language lands, and assets (Nisga'a Tribal Council, Government of Canada, Province of British Columbia, 1998). In other areas, such as public order, peace and safety on Nisga'a lands, traffic and transportation, health, education, and child protection, Nisga'a law must be harmonized with federal and provincial laws. In the case of conflict, the latter will prevail. In some areas, such as criminal law, the Nisga'a government does not have authority to legislate. In the case of adoption and solemnization of marriages, and in the case of Nisga'a constitutional provisions relating to the participation in Nisga'a government of Nisga'a citizens residing outside the Nass area, Nisga'a laws have effect outside Nisga'a lands. The *Canadian Charter of Rights and Freedoms* applies to Nisga'a government in respect of all matters within its authority (Nisga'a Tribal Council, Government of Canada, Province of British Columbia, 1998).

In publications on the subject of governance, including its final report, the Royal Commission on Aboriginal Peoples consistently took the position that Aboriginal self-government could provide a large degree of the autonomy sought by Aboriginal peoples without doing violence to the

principles of federalism on which the Canadian law and government are founded.<sup>6</sup> Accommodation of Aboriginal nation governments in Canada would, however, require re-conceptualizing the nature of the Canadian federation to give due regard to the role of Aboriginal peoples in the evolution of this country, and give effect to the Aboriginal and treaty rights protected by section 35 of the Constitution.

The *Nisga'a Final Agreement*, after decades of negotiation, embodies some important breakthroughs in gaining Canada's recognition of positions long held by Aboriginal peoples. These positions include, for example, the Aboriginal nations relate to the Crown as nations, that they have the right to self-government as an order of government with jurisdictions concurrent with federal and provincial laws and not subordinate to them, and that treaties be seen as the means of sharing the wealth of the land, not relinquishing all rights forever.

Some of the limitations specified in the agreement are more restrictive than the commission's proposals. For example, the jurisdiction of the Nisga'a government to enact laws is more narrowly defined than in the "core" areas proposed by the commission.<sup>7</sup> Further, the agreement that the Nisga'a will release all further claim to Aboriginal rights under section 35 of the Constitution varies from the commission's recommendation that "agreements be worded to allow the Aboriginal rights they recognize to evolve in light of favourable legal developments" (Royal Commission, 1995: 71).

Relinquishment of all section 35 rights could make it difficult for the Nisga'a to opt for a different model of self-government in the future. The commission was of the view that "an Aboriginal group's right of self-determination is not exhausted for all time when it agrees to a particular governmental structure" (RCAP, 1996, Vol. 2: 175). Circumstances could change in ways that might affect the justness or viability of the original arrangement. In such a case, the commission was of the view that the Aboriginal governments should be entitled to exercise their right of self-determination afresh. Not everyone applauds the terms of the *Nisga'a Final Agreement*. The president of the Union of B.C. Indian Chiefs, for example, has argued that the provisions designed to bring "certainty" with respect to land rights in the Nass Valley are really about extinguishing the Indian nations (Terry, 1998).

Differences of opinions on the most favourable resolution of contentious issues will continue. Nevertheless, the disclosure on Aboriginal self-government has been transformed in the decade since 1987, when a series of first ministers' conferences foundered on irreconcilable differences about the meaning of "the inherent right of self-government." The resolve of the Nisga'a Nation has contributed immensely to bringing about the present degree of recognition. The work of the Royal Commission has also advanced the dialogue. The optimum terms and the practical interpretation of agreements will be continued to be debated, but it is also appropriate to celebrate the historic moment described by Nisga'a chief Joseph Gosnell (1998) in these words:

We have worked for justice for more than a century. Now, it is time to ratify the Nisga'a Treaty, for aboriginal and non-aboriginal people to come together and write a new chapter in the history of our Nation, our province, our country and indeed the world. The world is our witness.

### Self-Reliance

Wien (1999) reviews the major recommendations of the commission's report to promote economic development and self-reliance of Aboriginal communities. He also examines related government responses (proposed or implemented) since the release of the report. He notes that the report appears to have become the dominant framework guiding policy and process, at least within the department of Indian affairs. Further, he states the tone of relations has become more supportive of partnership and Aboriginal authority, significant initiatives are largely confined to First Nations and Inuit concerns. Land claims and treaty land entitlements are boosting economic activity for some First Nations, but are leaving most untouched, and Metis and off-reserve Aboriginal groups continue to be excluded from many programs.

Much broader provincial involvement will be necessary to increase the land and resource base for the majority of Aboriginal communities and to implement policies inclusive of all Aboriginal groups. In areas including education and training, capacity-building for effective governance, and development of Aboriginal institutions for economic leadership, Wien concludes that the

range and scale of effort is not commensurate with the dimensions of the issues or with the commission's recommendations. On the other hand, initiatives to engage the private sector in strengthening Aboriginal participation, as well as an emphasis on technological innovation, go beyond the public sector strategies that were the focus of the commission's economic recommendations.

## Healing

As mentioned earlier, in conjunction with the *Statement of Reconciliation*, the minister of Indian affairs announced a \$350-million fund for community-based healing of the legacy of physical and sexual abuse in residential schools. Although the terms and implications of most measures to implement a new relationship remain as good intentions, agreements in principle, or initiatives just getting underway, the healing fund is an immediate and substantive commitment. In some ways, it can be seen as foreshadowing how other practical arrangements for developing Aboriginal institutions and organizing program delivery could take shape.

The commission came down squarely in favour of developing Aboriginal institutions with stable funding to serve social needs and maintain the cultural identities of Aboriginal peoples. However, the report also argued that responding to urgent needs should not await the implementation of self-government, and that priorities for immediate action should be identified in consultation with diverse Aboriginal peoples and communities.

Awareness of the trauma inflicted on countless numbers of Aboriginal people by the residential school experience has been growing in recent years, among both Aboriginal and non-Aboriginal people. Disclosures of abuse have prompted community healing initiatives, legal actions, and public apologies from churches. The government's decision to focus on healing the legacy of residential schools, therefore, responded to the concerns of Aboriginal people, symbolized the federal intent to take a less litigious and more responsive course in relations with Aboriginal people, and created an opportunity to prove the effectiveness of broadly based, self-directed Aboriginal initiatives.

In consultation with representative of five national Aboriginal organizations, a founding board of directors was constituted to apply for

incorporation as the Aboriginal Healing Foundation<sup>8</sup> and to conclude an agreement with the federal government to administer the healing fund. Although the foundation operates as a non-profit corporation governed by a board of directors, it is bound not to enact bylaws in conflict with the funding agreement. The bylaws require that relatively fixed numbers of board members be drawn from particular Aboriginal constituencies — First Nations, Metis, Inuit, off-reserve Aboriginal people, and Native women. There is also a provision for two federal government representatives (Aboriginal Healing Foundation, 1998).

In many respects, the Aboriginal Healing Foundation resembles a government program; objectives, functions, funding resources, and reporting requirements are defined by formal regulations that reflect federal government norms. On the other hand, the board of directors, which to date has been made up entirely of Aboriginal persons, is free to set priorities and organize its activities in response to direction from the Aboriginal community. The foundation has fixed funding that is to be allocated over five years and dispersed over a maximum of ten years. It is the first national organization to represent the interests of all Aboriginal constituencies as a unitary body. It has a mandate to be innovative and to collaborate with other government services (rather than take direction from them). The board has already considered the need to create a charitable foundation with a parallel mandate to pursue healing initiatives not covered by the present bylaws, and to extend activities beyond the term set by the funding agreement now in place.

In *Gathering Strength*, Indian Affairs (1997) identified program developments on many other fronts as goals or priorities. Economic development, and labour market and other initiatives designed to boost Aboriginal economies are detailed elsewhere in this volume. Capacity-building to support community vitality and human resource development also appear to be priorities endorsed both by governments and by Aboriginal organizations. Furthermore, despite fiscal restraint, new funds have been allocated for Aboriginal language conservation, for on-reserve housing, and for extending coverage of Aboriginal Headstart programs, which assist Aboriginal children to prepare for entry into the regular school system. Moreover, Aboriginal organiza-

tions acknowledge that the partnership approach has improved the environment for interaction.

At the same time, there is scepticism about federal government's commitment to address fundamental concerns. An official with the Assembly of First Nations, for example, characterizes the new partnership approach to political development as a good beginning, but he cautions that the assembly has concerns about the federal government's political will to follow through on key commitments, notably the creation of an independent specific claims commission (Switzer, 1998).

For the Metis, the lack of movement towards recognizing federal responsibility under section 91(24) of the Constitution is a roadblock to substantive change on key issues such as a land base for the Metis. Since there is no acknowledgement of federal responsibility, there is no infrastructure analogous to Indian Affairs through which Metis concerns can be addressed. However, where provinces are amenable, the Metis are involved in tripartite discussions about the delivery of health, child welfare, training, education, and other programs. As one example, the Louis Riel Institute, chartered some years ago as a provincially recognized educational agency in Manitoba, has taken on new life in an atmosphere where Metis participation is officially encouraged (Chartrand, 1998).

Engagement of urban and off-reserve constituencies in policy development has likewise been evolving slowly. A 1997 position statement of the Congress of Aboriginal Peoples cited the board's two primary concerns: the exclusion of the congress from consultations leading to the federal government's response to the Royal Commission's report, and the potential for the federal government to ignore the commission's recommendations concerning its responsibility under the Constitution for all Aboriginal people (Congress of Aboriginal Peoples, 1997).

The signing of a 1998 political accord has paved the way for Congress of Aboriginal Peoples' involvement in future consultations. The accord establishes a general forum with the federal interlocutor for Metis and Non-Status Indians, and a special forum with the minister of Indian affairs. These will provide opportunities to discuss implementation of *Gathering Strength* as it affects the congress's off-reserve Aboriginal constituency.

The congress is handicapped by not having an infrastructure for service delivery that would

raise its profile among potential urban constituents. Urban services are typically delivered by friendship centres or by specifically mandated service agencies such as those for child, family, or women's services. The role of friendship centres as vehicles for service delivery has been strengthened by the devolution of the administration of national program funding to the National Association of Friendship Centres. However this transition has not been accompanied by an increasing voice in discussions about urban policy. Nor does there appear to be increased funding available to address the needs of an expanding urban Aboriginal population (Maracle, 1998).

Friendship centres do not claim to be political representatives of off-reserve Aboriginal people. Nevertheless, their commitment to community development obliges them to reflect the will of the community. In what may become a more common response to ongoing jurisdictional uncertainty, at least one regional organization has urged friendship centres to become more involved in governance issues. The Ontario Federation of Indian Friendship Centres sees the need to establish co-operative relationships with local governments, First Nations communities, and treaty organizations, and to develop protocols that address both service co-ordination and co-operative action on governance issues (Ontario Federation of Friendship Centres, n.d.).

## Conclusion

This chapter has cited many indications that there is a will among Aboriginal leaders and the governments of Canada to renew a relationship based on mutuality and respect. Stimulated and in some cases guided by the work of the Royal Commission on Aboriginal Peoples, governments and Aboriginal nations and organizations have achieved some landmark understandings and agreements. However, in most quarters, the gap between the quality of life enjoyed by Aboriginal people and the standards available to others in Canada remains stubbornly wide.

Implementation of an Aboriginal/non-Aboriginal partnership is most visible where vehicles like treaties, or well-advanced land claims negotiations, already exist. Pre-existing forums and accords to engage the participation of Metis and urban Aboriginal people have taken on some new vigour, but they await commitments from governments to support substantive change. Aboriginal institutions for residential school heal-



ing and education are garnering resources, but most services are still bound by departmental mandates that frustrate Aboriginal efforts towards holistic well-being. Respect for Aboriginal worldviews and cultures are expressed by public institutions, but governments move cautiously to avoid a popular backlash against “giving away” too much to Aboriginal people. The language of recognition, respect, sharing, and responsibility has found a place in the vocabulary of relationships, but most participants and observers consider that it is too early to make judgements about what substance will follow the words.

As I look at the uneven progress towards a more just and balanced relationship between Aboriginal people and the rest of Canadian society, I wonder whether the promises being voiced now, with palpable sincerity, will survive past the next election campaign. The history of the relationship between Aboriginal and non-Aboriginal peoples is littered with failed promises.

In an analysis of policy disclosure on Aboriginal affairs from 1965 to 1992, researchers have observed that

Concepts such as partnership, self-government, and Aboriginal rights have been used consistently in different periods, by different people talking about different issues.... Problems arise ... when two key policy participants talk about different things using the same words. This dissonance frustrates efforts to achieve a common vision and ultimately undermines dialogue (Graham, Dittburner, and Abele, 1996: 352-53).

The report of the Royal Commission of Aboriginal Peoples unmaskes the false assumptions that have informed policy decisions in the past, calls for reconciliation in the present, and clearly articulates the principles and conditions that will facilitate partnership in the future. There are indications in public statements from governments and Aboriginal leaders that the commission has helped to establish both a language and benchmarks for productive dialogue. There are also indications that some of the specific solutions proposed by the commission, such as recognition of the inherent right of Aboriginal self-government within the federal structure of Canada, are proving influential in negotiations.

The commission's report is not being adopted in its entirety. It would probably be a disaster if it were, not because its recommenda-

tions are faulty, but because no commission or document should pre-empt the right of Aboriginal peoples to set their own courses, to define their own priorities, and to negotiate the terms of their own relationships. However, the commission pointed out that an unambiguous commitment to changing the structure of a historically flawed relationship is required in addition to reforms on particular policy fronts. It recommended that the sovereign issue a Royal Proclamation to signal that commitment, and to establish a new framework for government ministries and legislation. To correct the wrongs that continue to distort the relationship between Aboriginal and non-Aboriginal peoples in Canada will require transformation on a broader scale than we see thus far.

Introducing its report, the commission (Royal Commission, 1996, 1: 18) wrote:

It is our conviction that appreciation of the distinctive place that Aboriginal nations occupy in the Canadian federation and of the mutual, continuing responsibilities engendered by that relationship, must permeate Canadian intellectual and ceremonial life.

The large work of transforming consciousness has begun. The challenge for Aboriginal and non-Aboriginal people alike is to ensure that it continues and reaches into every corner of Canadian life. In this undertaking, the commission's report is an instrument forged with reason, passion, and good will—one which will become effective to the extent that it is taken up and used by citizens who share the vision of a renewed relationship that serves the common good.

#### NOTES

1. Paul Chartrand, former commissioner of the Royal Commission, and David Hawkes and Fred Wien of the commission's research directorate generously shared their recent experiences and writings.
2. This discussion of principles draws substantially on Royal Commission 1996, 1: 675-97.
3. See “Draft Declaration on the Rights of Indigenous Peoples” ((1994) 1 C.N.L.R. 40). The draft was drawn up by the Working Group on Indigenous Populations and has been under consideration by the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities.
4. For a full discussion of this subject see the chapter on governance in the commission's report (1996, vol. 2.1, chap. 3).



5. The Metis National Council leads consultants on implementation of *Gathering Strength* on behalf of its constituency. In 1998, the Congress of Aboriginal Peoples renewed an earlier accord with the government of Canada that affirmed that the congress would have access to forums on the action plan as its affects off-reserve and Non-Status Aboriginal people.
6. Royal Commission publications on governance issues include *The Right of Aboriginal Self-Government and the Constitution: A Commentary* (1992), *Partners in Confederation, Aboriginal Peoples, Self-Government and the Constitution* (1993), and vol. 3 of the final report (1996).
7. In recommendation 2.3.5, the commission proposed that the core area of jurisdiction for the exercise of the inherent right of Aboriginal self-government should include "all matters that are vital concern for the life and welfare of a particular Aboriginal people, its culture and identity, do not have a major impact on adjacent jurisdictions, and are not otherwise the object of transcendent federal or provincial concern" (Royal Commission, 1996, Vol. 2: 225).
8. Members of the founding board of the Aboriginal Healing Foundation included representatives of the Assembly of First Nations, the Metis National Council, the Inuit Tapirisat, the Congress of Aboriginal Peoples, the Native Women's Association of Canada and the government of Canada.

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# Journal of Aboriginal Economic Development

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