

“[S]tates can expect to continue to struggle to resist proliferation within their borders as new tribes, governors, and state politicians try to claim their share of the action.”

A RAW DEAL

Conflicts Over Tribal Sovereignty and Casino Proliferation

TIM MOONEY

FEDERALISM HAS PLAYED AN IMPORTANT ROLE IN THE EXPLOSION OF LEGALIZED GAMBLING IN THE UNITED STATES IN THE LAST TWO DECADES. INDIAN GAMING, IN PARTICULAR, HAS CHALLENGED STATE AND NATIONAL GOVERNMENTS TO COME TO TERMS WITH THE PLACE OF AMERICAN INDIAN TRIBES WITHIN THE FEDERALIST SYSTEM AND ORGANIZE A MEANINGFUL FRAMEWORK FOR THE EXPANSION OF GAMING ON TRIBAL LANDS. NOW LARGELY CONTROLLED BY A FEDERAL STATUTORY FRAMEWORK, INDIAN GAMING HAS LEFT STATES IN A SUBORDINATE POSITION IN NEGOTIATING THE ESTABLISHMENT OF MAJOR CASINO ENTERPRISES WITHIN THEIR OWN BORDERS. CONFUSION IN STATES' RIGHTS DURING NEGOTIATIONS HAS FURTHER WEAKENED THEIR BARGAINING POSITION, LEADING TO EXTENSIVE TRIBAL CASINO DEVELOPMENT. THE COOPERATION BETWEEN STATES AND TRIBES AND STATES AND CASINO CORPORATIONS HAVE FACILITATED CASINO PROLIFERATION THROUGHOUT THE UNITED STATES, A TREND THAT APPEARS DESTINED TO CONTINUE UNTIL THE MARKET IS FULLY SATURATED.

Less than 30 years ago, a legal slot machine or high stakes poker game could not be found anywhere outside Las Vegas or Atlantic City. That all changed in 1987 when the Supreme Court handed down the landmark *California v. Cabazon Band of Mission Indians* case affirming the right of Indian tribes to operate casino enterprises on their sovereign land. Drawing on historical and judicial traditions of American Indian sovereignty, the *Cabazon* court confirmed American Indian tribes as important actors in the Federalist structure and placed their sovereignty on equal footing with that of the states. These developments have strongly affected the way in which states control gambling within their borders. Indian gaming is largely controlled by a federal statutory framework, leaving states in a subordinate position in negotiating the establishment of major casino enterprises within their own borders. Confusion over states' rights during negotiations has further weakened their bargaining position, leading to tribal casino development almost by default. The continued expansion of tribal gaming, especially Vegas-sized projects, unleashed strong pressures for other states to get in on the action by encouraging their own tribal gaming and sanctioning commercial casinos. Since the *Cabazon* case and the subsequent federal Indian Gaming Regulatory Act (IGRA), both tribal and commercial gaming have exploded. Casinos can now be found in 35 states, 28 of which have tribal gaming.ⁱ The combination of state competition and tribal rights has put a strong wind behind casino gambling expansion, making it one of the fastest growing businesses in the country.ⁱⁱ This growth, however, has come at the expense of some of the most time-tested elements of Federalism—local control, state police powers, and democratic accountability. Established as a legitimate (and very profitable) business, the gaming industry has successfully co-opted state governments into a “deal with the devil” to compete with other states and save their bottom lines.

TRIBES AS CONSTITUTIONAL ELEMENTS OF FEDERALISM

American Indian tribes occupy an ambiguous position within the U.S. federal system. Most scholars and politi-

cians typically consider localities, states, and the federal government to be the constituent parts of Federalism in the United States, but miss the important position granted American Indian tribes by the Constitution. By giving the power to make treaties and regulate commerce with tribes to the Federal governmentⁱⁱⁱ and divesting states of their leading role in relation to American Indians, the Constitutional Convention made tribes and states essentially equal sovereign bodies under the national government.^{iv} Established at a time when many tribes were still considered foreign nations, the Constitution grants them a large measure of sovereignty.^v Legally, the status of Indian tribes has slowly settled on what Steven Light and Kathryn Rand call “semi-sovereignty.” Pointing toward complex sovereignty case law, they conclude that:

The contemporary legal doctrine of tribal sovereignty essentially means that the United States recognizes tribes as independent sovereign nations whose location within the boundaries of a state does not subject them to the application of state law. At the same time, as “conquered” or “discovered” nations, tribes retain only the political and legal authority that Congress has not expressly abrogated under its asserted plenary power pursuant to the U.S. Constitution’s “Indian Commerce Clause.” The federal legal doctrine of tribal sovereignty effectively means that tribes, in fact, are “semi-sovereign.”^{vi}

THE CONSTRUCTION OF A CASINO ON INDIAN TERRITORY IN CALIFORNIA



This reading of American Indian rights leaves states with almost no control over tribes within their borders.

days after it opened, sparking the lawsuit that eventually affirmed the right to Indian gaming. Citing Ronald Reagan's 1983 statement calling for increased tribal self-government

“States took the passage of this act as an opportunity to air their grievances about the Cabazon case and their general lack of authority over pieces of territory within their boundaries.”

Though some judicial and scholarly arguments hold that tribal sovereignty precludes any state interference,^{vii} many politicians, especially local and state actors, detest being unable to control their own jurisdictions. According to the Harvard Project on American Indian Economic Development, “State politicians have tended to act on the belief that they have responsibility for and attendant regulatory jurisdiction over *all* people and activities that occur within their geographic boundaries.”^{viii} As long as tribes were politically weak and remote from their primary interests, state politicians allowed the federal government to take the lead on American Indian policy. As tribes reorganized and attempted to foster economic activity using bingo parlors and card rooms they set the stage for intergovernmental conflict between their interests and those of the states and the national government. Paul Pasqueretta identifies this phenomenon, saying, “Although state lawmakers and law enforcement officials continually fought to limit the development of the Indian gambling industry, federal courts consistently ruled in favor of the tribes.” With more fundamental interests now at stake, states were much less willing to defer to the federal government on Indian policy. This conflict finally came to a head in the *California v. Cabazon Band of Mission Indians*.

In 1980, the Cabazon band of Mission Indians opened a card room and bingo parlor on their reservation 18 miles outside of Palm Springs. State police raided the operation

and self-sufficiency, Justice Byron White wrote in the majority opinion that “the federal interests in Indian self-government, including the goal of encouraging tribal self-sufficiency and economic development, are important, and federal agencies, acting under federal laws, have sought to implement them by promoting and overseeing tribal bingo and gambling enterprises.”^x The decision turned on White’s reading of California gaming statutes. White held that “in light of the fact that California permits a substantial amount of gambling activity, including bingo, and actually promotes gambling through its state lottery, we must conclude that California regulates rather than prohibits gambling in general and bingo in particular.”^{xi} Though Congress had granted states the right to intervene into tribal affairs in criminal cases, White’s distinction between regulation and prohibition (one which Steven’s dissent rejects) allowed the federal government to pre-empt the state’s right to regulate Indian gaming by removing it from the sphere of criminal law. The court affirmed tribes’ sovereign rights over state regulation while at the same time calling for federal legislative clarification on the issue.

IGRA AND THE STATE FIGHT FOR GAMBLING REGULATION

Congress responded to the court’s call for federal leadership on Indian gaming with the Indian Gaming Regulatory Act. States took the passage of this act as an opportunity to air their grievances about the *Cabazon* case and their gen-

eral lack of authority over pieces of territory within their boundaries. Arizona Attorney General Robert K. Corbin testified before the House Committee of Interior and Internal Affairs, arguing for state control, saying:

I firmly believe that since most of the people who will be gambling will be State [citizens], non-Indians, that there should be State control. If people in my state get rooked off, get loan-sharked and everything else that comes with gambling, I am going to be the one they are going to come to. They're going to say why aren't you protecting me, why aren't you doing something about it?^{xii}

Tribes were equally vocal in asserting their right to self-determination. According to Jim Hena, governor of Tesuque Pueblo:

[Though] the Pueblo support Federal legislation to regulate gaming . . . we do not and will not support any bills which provide for state jurisdiction over gaming on Indian land . . . Tribal governments are part of the federal system of the United States. As a result, proposals to place Indian gaming under state jurisdiction are contrary to the Constitution . . . and inconsistent with 200 years of Federal policy.^{xiii}

What emerged was a compromise. The 1988 law reaffirmed tribal sovereignty with regard to gaming, but allowed some state agency in the regulation of particular types of gambling on American Indian land.

IGRA divided gaming into three classes: Class I—“social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations,” Class II—“the game of chance commonly known as bingo including pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo” as well as any card game allowed in the state, and Class III—“all forms of gaming that are not Class I gaming or Class II gaming” (usually slot machines, blackjack, and baccarat).^{xiv} Like *Cabazon*, the provisions of IGRA allow tribes to oper-

ate gambling up to the point that it is legal for charitable organizations (usually Class II) without any state interference or tax.^{xv} This means that even without an agreement with the hosting state, tribes can usually open at least a bingo parlor or card room. IGRA compromises with the states, however, by allowing them to negotiate terms and conditions on methods of gaming *not* legally allowed in the state.^{xvi} Because bingo and cards only allow for small-scale gaming and therefore small-scale profits, tribes wanted the life-blood of any casino: slot machines.^{xvii} Since these are illegal for all organizations in most states, tribes and states were usually forced to negotiate a fee or percentage payment for the right to operate a Class III casino within the state.

As with any good compromise, neither side was entirely satisfied by the new law. As W. Dale Mason points out, “Rather than resolving intergovernmental conflict over gaming the Congress had in some ways opened the door to more conflict . . . the result was a classic intergovernmental confrontation, sovereign against sovereign on an issue of fundamental import: which government, federal, state, or tribal had the greatest authority on deciding what occurs in its respective borders.”^{xviii} Tribes resented *any* state imposition on their sovereignty, while states felt railroaded into hosting gaming they did not approve. With so much at stake, both sides were compelled to negotiate. With each party perceiving the other as violating its sovereignty, these negotiations often faltered. As Bays and Fouberg point out, “Since tribes and states have so little experience working together and negotiating, and since the relationship between tribes and the states is often contentious and concerns vital issues to both parties, the tribes and the states frequently end up in court or in long, drawn-out negotiations.”^{xix} In many cases, this frustration resulted from difficulties inherent in the compacting process.

LOADED DICE IN THE COMPACTING PROCESS

The requirement that states and tribes meet at the negotiating table was an attempt by the federal government to allow

Indian gaming expansion without totally excluding the states. Provisions within IGRA, however, seemed to make Class III compacts a forgone conclusion. According to the National Indian Gaming Association's IGRA facts:

Under IGRA, a state is obligated to negotiate compacts that lay out the conditions, regulations and limitations for Class III gaming operations. If a state refuses to negotiate or to negotiate in good faith, tribes can sue in federal court to force mediation. If a state refuses to implement a mediator's recommendations, the Secretary of the Interior establishes the procedures for Class III gaming within the state.^{xx}

Needless to say, states hostile toward gaming violently resisted this provision. Eventually, states won a legal victory over this provision in *Seminole Tribe of Florida v. Florida* where the court held that states could claim sovereign immunity under the 11th Amendment to avoid forced mediation.^{xxi} A series of court cases further muddled the issue, however. In *Northern Arapaho Tribe v. State of Wyoming*, the court forced Wyoming to reach a gaming agreement with the Arapaho Indians, and, when it refused, imposed a Class III compact written by the Secretary of Interior.^{xxii} Inconsistent rulings and confusion about so-called "compact forcing" favored tribes. By granting Class III gaming with *no* compensation or regulatory authority, federally established compacts like Wyoming's were a worst-case scenario for states. In order to protect themselves from the possibility of being shut out entirely from future gaming revenue, states typically approached the negotiating table with settlement as the only possible option.

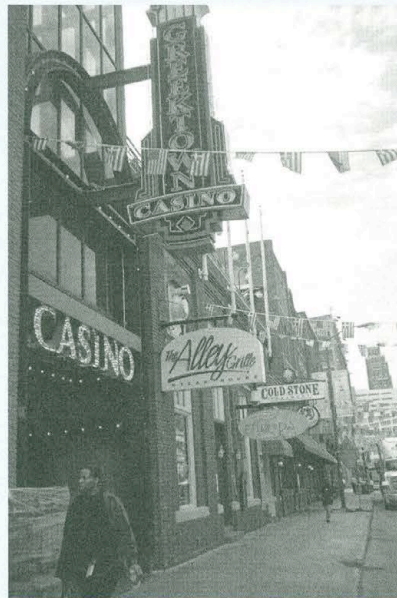
In Michigan, the Gun Lake Band of Pottawatomi Indians used the Wyoming case to bring pressure on Governor Jennifer Granholm to come to the negotiating table. In a release following the *Arapaho* decision, the tribe argued that "The decision paves the way for the Gun Lake Tribe to operate a Class III casino without a compact should the Governor fail to sign the Tribe's compact" and that the "decision confirms that the State of Michigan will lose the ability to obtain any revenues from the Gun Lake casino unless it enters into a compact."^{xxiii} Though a spokesperson for

Granholm denied that the situations were as yet analogous (the tribe was still embroiled in lawsuits over the status of its reservation), she did not deny that the Department of Interior could force a compact on the states.^{xxiv} After settling outstanding lawsuits over its reservation, the Gun Lake Band and the State of Michigan signed a gaming compact. In her letter explaining her decision to State Senate Majority Leader Mike Bishop, Granholm said:

Once the tribe's land goes into trust, the tribe will almost certainly have the right under federal law to open a commercial gaming facility—with or without a compact with the state. Given these circumstances it is in the best interest of the state to enter into

a gaming compact to ensure that the state has both some say in the operation of the facility and an opportunity to share its revenue.^{xxv}

With all forms of gaming seemingly on the table even in the face of state opposition, Granholm felt compelled to come to an agreement to ensure Michigan received *some* benefits from tribal gaming.



GREEKTOWN CASINO IS MAJORITY OWNED BY THE SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS.

Confusion in other elements of IGRA further hamstrung states in negotiations. Technology increasingly blurred distinctions made by IGRA's classes of gambling as slot machine companies created video machines that look and feel like slots, but technically are still considered Class II gaming.^{xxvi} Again, this gave leverage to the tribes. Should states fail to cooperate in compacting for Class III gaming, IGRA's provisions have allowed them to circumvent many prohibitions on slot machines and threaten to create full-scale, but still technically Class II, casinos.^{xxvii} Like compact forcing, Class II casinos threaten to establish full-scale gaming without any payment to states or localities. Confusion over what types of gambling are allowed creates serious disincentives for states to obstruct tribes trying to build major casinos within their borders. The consequences of saying "no" may be a casino that looks and feels like a real casino but doesn't pay a dime to its host communities.^{xxviii}



SLOT MACHINES ARE A COMMON SOURCE OF REVENUE FOR MANY CASINOS.

The end result of *Seminole Tribe of Florida v. Florida* demonstrates the danger of Class II casinos. As cited above, *Seminole* upheld Florida's sovereign right to resist court-ordered mediation for Class III gaming, seemingly granting the state veto power over full-scale gaming within its borders. When the state refused to negotiate with the tribe, however, the Seminoles responded by opening seven Class II casinos on their reservations. Using electronic bingo

machines in lieu of slots, the tribe was able to sustain even large-scale casino enterprises.^{xxix} As of 2005, the Seminole tribe operated 7,840 electronic bingo machines in its various locations.^{xxx} Assuming these machines bring in the national Class II machine average of \$156 per day,^{xxxi} the seven casinos bring in a total of \$446.4 million a year in revenue through electronic Class II gaming. Of this flood of gambling money, not one drop goes to the state of Florida. Left on the outside looking in, Florida has begun rapprochement with the Seminoles. According to the *Miami Herald*, Governor Charlie Crist has called for a Class III compact to "give the tribe new games [slot machines] at their seven casinos in exchange for as much as \$200 million a year in revenue."^{xxxii} With major gaming already going on without a compact, Florida has backed off its refusal to allow slot machines in order to gain a stake in the casino revenue.

INCENTIVES TO PROLIFERATE

Amidst these serious disincentives for opposing gaming expansion are equally compelling reasons to approve plans. States stand to gain enormous sums of cash from casino projects in their states. Connecticut's two tribal mega-casinos have paid over \$4.1 billion to the state over the course of their fifteen years of existence,^{xxxiii} amounting to almost 3 percent of the state's annual revenue.^{xxxiv} Casino proliferation, once affirmed in its legitimacy by the *Cabazon* case has sustained itself on its own momentum, building pressure to expand both tribal *and* commercial gaming. While gaming was confined to Las Vegas and Atlantic City, states resisted the urge to try their luck because of the perceived social costs and stigmas associated with gambling.^{xxxv} After IGRA, however, gaming rapidly expanded within the borders of many different states. This removed many of the cultural pressures not to gamble and created many of the incentives discussed above. As states became aware of the benefits of casino cash, they often encouraged tribal casinos and moved to license their own private ones.

Casino expansion is a classic "race to the bottom," with growth driven by taxation envy. Each state bordering a

casino state watches as its residents cross state lines and hemorrhage precious taxable dollars on the other side of the border. Michael Nelson uses the spread of casinos from Iowa to Illinois to demonstrate this fact, saying that “because a state leaks revenue when its citizens cross the border to [gamble in] neighboring states, it has a strong incentive to keep its betters at home.”^{xxxvi} Pressed to react by dwindling tax returns, non-casino states responded by establishing gambling of their own. This trend has only accelerated as states struggle to keep abreast of the rising cost of administering a large bureaucracy and satisfying the regulations and mandates coming down from the Federal government. In a political climate where tax increases are met with recalls and referenda,^{xxxvii} “sin taxes” like gambling have become ever more popular.^{xxxviii}

Additionally, casinos have come to be regarded as agents of urban renewal. Their ability to provide many jobs while bringing out-of-state customers conforms to the model of urban planning that Altshuler and Luberoff see in contemporary state and local capital investment. Describing changing trends, they point out that “while cities have always competed to attract investment, they had traditionally directed their services . . . toward local residents and businesses. Today, by contrast, they are often engaged in ‘the

“By affirming tribal rights to operate casinos on sovereign land, the Cabazon court hoped to provide for economic self-sufficiency for Indian tribes.”

construction of expensive entertainment amenities, often in partnership with private investors, designed to appeal primarily to out-of-town visitors.”^{xxxix} Casinos have joined convention centers and sports facilities as new fads of urban planning. Like the other venues, the hope of these public-private partnerships is to draw in visitors using entertainment attractions and capitalize on the spin-off effects of tourism. As with other private partners, the gaming industry has pressed the government to relax restrictions on its development. Casino expansion follows what Altshuler and Luberoff call “the most notable recent trend in American politics”—“the ascendancy of organized business at all levels of American government . . . [and thereby] growing pressure to relax or eliminate many of the barriers to physical development.”^{xl} As a result of the growing cooperation between states and the gaming industry, state laws and constitutions have been changed to provide a more liberal gaming environment.

The current gambling debate in Massachusetts provides a good example of these mechanisms at work. Facing a ballooning budget and sick of watching his citizens cross state lines into Connecticut to gamble, Governor Deval Patrick proposed three commercial casinos and moved to help foster an Indian casino within Massachusetts. Galled by the profits made off Bay Staters at the two massive tribal casinos in Connecticut,^{xli} Patrick’s proposal expressed the hopes of raising revenue, boosting tourism, providing jobs, and revitalizing different regions of the state. In a press release on the proposal, Housing and Economic Development Secretary Dan O’Connell, explained that the proposal would “expand economic development and job creation broadly throughout the Commonwealth” and “diversify employment, support tourism and convention industry and continue to position Massachusetts as an economic leader.”^{xlii} Further analyzing the proposal, Fr. Richard McGowan, an economist at Boston College, explained the competitive side of the governor’s rationale to the *Boston Globe*, saying, “For Foxwoods and Mohegan Sun, this will hurt them to no end, but if I am the governor of Massachusetts, I don’t care. I’m reclaiming revenue for my

state, thank you very much.”^{xliii} The pressure of out-of-state competition and in-state needs have combined to make casino gaming an attractive option for Massachusetts.

CONSEQUENCES FOR FEDERALISM

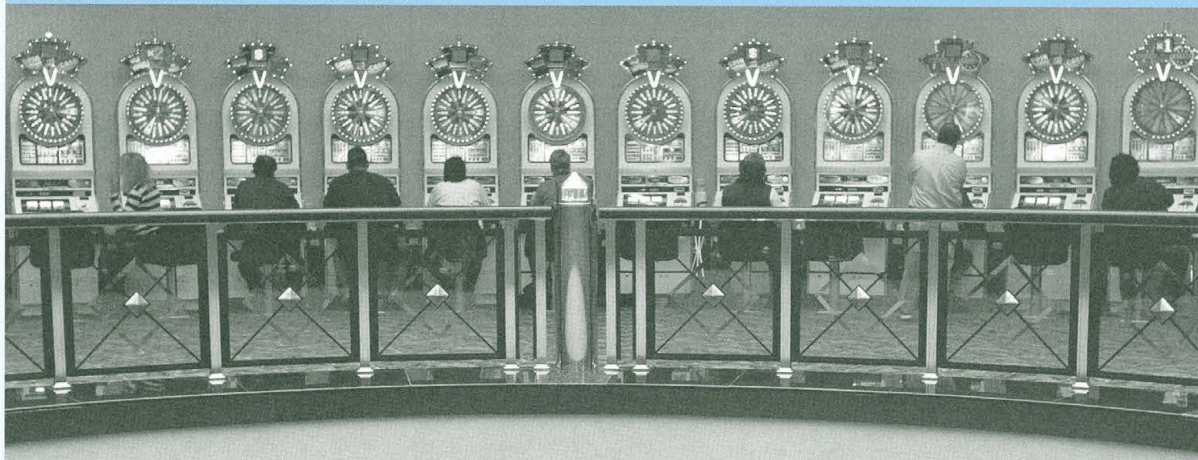
The rapid changes in gambling policy throughout the United States have made a serious impact on the federalistic structure of its government. By affirming tribal rights to operate casinos on sovereign land, the *Cabazon* court hoped to provide for economic self-sufficiency for American Indian tribes. On one level, the case affirmed the sovereign rights of tribes that date back to the Constitution and the Marshall court. On another, however, it fostered intergovernmental conflict. Until the 20th century, state-tribal conflict remained in the background because of the relative weakness of tribes. After *Cabazon*, tribes were affirmed in their authority to create major gaming developments—a power normally squarely within states’ police powers. This created classic intergovernmental conflict: “sovereign against sovereign conflict on an issue of fundamental import.”^{xliv}

IGRA, the Congressional answer to the *Cabazon* case, attempted to balance state concerns with tribal sovereignty.

In actuality, it created a system that established a new major industry with almost no state regulatory power. The framework it provided contained a confusing series of mechanisms for establishing gaming that essentially compelled states to accept gambling within their territory as a forgone conclusion. With gaming revenue and regulatory authority on the line, the risk of opposition was too high. These factors, combined with recent trends in urban renewal and competition between states, created positive incentives to proliferation. With no real ability or incentive to dissent, state governments increasingly focused on tribal and private casinos as panaceas for unemployment, state budget shortfalls, and gaming drains.

The lack of a strong negative check for states on the industry allowed gaming to grow far out of proportion with the original aims of IGRA. As a National Indian Gaming Commission summary put it, “Since the enactment of IGRA in 1988, Indian gaming has grown into a \$26 billion business, perhaps far eclipsing any limits which Congress may have envisioned [at that time].”^{xlv} This has brought sovereignty conflict between states and tribes to a new level. As *The State of the Native Nations* points out, “Controversies continue to roil tribe-state relations in some locales as tribes spar with each other and with states over taxation and revenue sharing, off-reservation gambling, reservations for

GAMBLERS AT FOXWOODS RESORT CASINO IN CONNECTICUT



newly recognized tribes, regulation, campaign contributions and other issues.”^{xlvi} As tribes continue to see real gains in political power, it will be interesting to watch to see if the court intervenes to shore up states’ powers over gaming within their boundaries.

As the situation stands, the momentum behind gaming makes it seem all but unstoppable. The sheer size and influence of the gaming industry have made rewriting regulations extremely difficult.^{xlvii} Increasingly, it appears that market forces, not governmental ones will finally restrain gaming. With the current incentives for proliferation, political opposition is almost unsustainable. As Eadington points out, saturation, not political opposition, will likely be the force that finally retards proliferation:

If permitted gambling continues to expand in society, then the role of gaming in tourism will likely decline unless gambling—especially casino-style—becomes part of a wider range of complementary entertainment offerings ... Usually, casinos become tourism generators primarily because of prohibitions of gambling in places where people live. As those prohibitions disappear, then much of tourism-based gambling will diminish as well.^{xlviii}

Until then, states can expect to continue to struggle to resist proliferation within their borders as new tribes, governors, and state politicians try to claim their share of the action. Barring a major change in public feeling over taxes or clear federal leadership on the issue, casino gaming, both tribal and commercial, will continue to expand across the United States.

ENDNOTES

- i. Bloom and Opton (100)
- ii. *Ibid.* (100-103)
- iii. U.S. Constitution (Article I. Section 8 and Article II. Section 2)
- iv. Jay (37-38, 39)
- v. Ward (150, 153)
- vi. Rand and Light (13)
- vii. *Ibid.*
- viii. The State of the Native Nations (70)

- ix. Reagan (98-102)
- x. *California v. Cabazon Band Of Mission Indians*, 480 U.S. 202 (1987)
- xi. *Ibid.*
- xii. House Committee on Interior (28)
- xiii. House Committee on Interior (373)
- xiv. Indian Game Regulatory
- xv. *Ibid.*
- xvi. *Ibid.*
- xvii. Ranjana (401-412)
- xviii. W. Dale Mason (89)
- xix. Tribes and the States (XIV)
- xx. National Indian Gaming Association
- xxi. *Seminole Tribe of Florida v. Florida*
- xxii. Northern Arapho expands gaming
- xxiii. The Gun Lake Tribe
- xxiv. The Grand Rapids Press
- xxv. Granholm
- xxvi. Indian Gaming Regulatory Act
- xxvii. *Ibid.*
- xxviii. Federal Register (60484)
- xxix. Casino City’s North American Gaming Almanac (166)
- xxx. *Ibid.* (165)
- xxxi. Meister (39)
- xxxii. “Crist set for showdown over gambling deal”
- xxxiii. State of Connecticut Division
- xxxiv. FY 2008-2009 Governor’s Budget
- xxxv. Nelson
- xxxvi. *Ibid.* (5,8)
- xxxvii. *Ibid.* (9)
- xxxviii. Douglas (10)
- xxxix. Altshuler and Luberoff (18)
- xl. *Ibid.* (31, 43)
- xli. New England Gaming Research Project
- xlii. The Commonwealth of Massachusetts
- xliii. Market will support multiple casino (A12)
- xliv. *Ibid.* (xviii)
- xlv. Federal Register (60484)
- xlvi. The State of the Native Nations (156)
- xlvii. Indian Country Today
- xlviii. Eadington (134)

REFERENCES

- Alan Altshuler and David Luberoff, *Mega-Projects: The Changing Politics of Urban Public Investment* (Washington D.C.: The Brookings Institution Press, 2003) p. 18.
- Alan Meister, “The Potential Economic Impact of Proposed Changes to Class II Gaming Regulations,” to the National Indian Gaming Commission, (Nov 3, 2006) Oklahoma Indian Gaming Association, 5 Nov. 2007, <<http://www.okindiangaming.org/PDFs/Analysis%20Group%20Economic%20Impact%20Document.pdf>> p. 39, fn. 136.

California v. Cabazon Band Of Mission Indians, 480 U.S. 202 (1987)

Casino City's North American Gaming Almanac, eds. Steve Bloom, Michael Opton, (Newton: Casino City Press, 2005) p. 100.

"Class II regulation changes cause conflict," Indian Country Today (June 7, 2005) www.indiancountry.com, 6 Nov. 2007 <<http://www.indiancountry.com/content.cfm?id=1096411043>>.

"Crist set for showdown over gambling deal," The Miami Herald (September 25, 2007), miamiherald.com, 5 Nov 2007, <<http://www.miamiherald.com/news/politics/story/249305.html>>.

Douglas M. Walker, *The Economics of Casino Gambling* (New York: Springer Berlin Heidelberg, 2007) p. 10.

FY 2008-2009 Governor's Budget, Budget and Fiscal Management Division (August 24, 2007), The State of Connecticut, 5 Nov 2007 <http://www.ct.gov/opm/LIB/opm/Budget/20082009BudgetBooks/BigBook/BigBook_PartL_FrontOfBookSchedules.pdf> p. 5.

House Committee on the Interior and Insular Affairs. *Indian Gaming Control Act, Part I: Hearing before the Committee on the Interior and Insular Affairs. 1st Session (June 25, 1985) Serial 99-55* (Washington D.C.: Government Print Office, 1985) p: 28.

"House rejects limits on off-reservation casinos," San Diego Union-Tribune (September 23, 2006) www.signonsandiego.com, 6 Nov. 2007 <http://www.signonsandiego.com/uniontrib/20060914/news_1114casino.html>

"Indian Gaming Regulatory Act: Definition and Classification Standards; Proposed Rules," 72 Federal Register 205 (October 24, 2007), pp. 60482.

Indian Gaming Regulatory Act (P.L. 100-497) 25 USC 2703 (1988).

Jennifer Granholm, Governor of Michigan, to Mike Bishop, Michigan Senate Majority Leader (March 9, 2007) *The Gun Lake Band of Pottawatomi Indians*, 5 Nov. 2007, <<http://www.mbpi.org/PDF/News/Press%20Releases/L-Gov%20SML%203.9.07.pdf>>

John Jay, "Federalist #3," in *The Federalist Papers*, ed. Clinton Rossiter (New York: New American Library, 1961) p. 37-38, 39.

"Legal Gambling's Historic Triumph at the Polls," *Gaming Law*

Review, Vol. 1:1 (November 1997)

"Market will support multiple casino plan, state officials say," *The Boston Globe* (September 18, 2007) A12.

Michael Nelson, "The Politics of Sovereignty and Policy toward Gaming," Presented at *Gambling and the American Moral Landscape*, Boston College (October 25, 2007) p. 5, 8

National Indian Gaming Association (April 7, 2005) "Indian Gaming Regulatory Act History & Facts." Media Release, <<http://www.indiangaming.org/info/pr/presskit/STATES.pdf>>

"New England Casino Gaming Update 2007," New England Gaming Research Project (March 2007) Center for Policy Analysis, University of Massachusetts Dartmouth, 5 Nov. 2007, <http://www.umassd.edu/cfpa/gaming_reports.cfm>

Rand and Light, *Indian Gaming and Tribal Sovereignty: The Casino Compromise*.

Ranjana G. Madhusudhan, "Betting on Casino Revenues: Lessons from State Experiences," *National Tax Journal* Vol. 49:3 (September 1996) pp. 401-12.

Ronald Reagan, (January 1983) "Statement on Indian Policy," Weekly compilation of presidential documents, 19 (pp. 98-102). Washington, DC: United States Government Printing Office, 1983.

Seminole Tribe of Florida v. Florida, 517 U.S. 14 (1996)

State of Connecticut Division of Special Revenue, "Statistics for Tribal Gaming," September 30, 2007, The State of Connecticut, 5 Nov 2007 <<http://www.ct.gov/dosr/lib/dosr/Fosltweb.pdf>> and <<http://www.ct.gov/dosr/lib/dosr/Mosltweb.pdf>>

Steven Light and Kathryn Rand, "Moral Policymaking and Indian Gaming," Presented at *Gambling and the American Moral Landscape*, Boston College (October 25, 2007) p. 13.

The Casino Compromise (Lawrence, Kansas: University of Kansas Press, 2005) pp. 28-29.

The Commonwealth of Massachusetts Executive Department (September 17, 2007) "Governor Patrick Unveils Plan for Casino Gambling in Massachusetts." Press Release, <http://www.mass.gov/?pageID=pressreleases&agId=Agov3&prModName=gov3pr essrelease&prFile=070917_casino_gaming.xml>

The Constitution of the United States, Article I, Section 8, and Article II, Section 2.

The Grand Rapids Press (Sept 24, 2005): A3. InfoTrac Custom Newspapers. 5 Nov. 2007, <<http://find.galegroup.com/itx/start.do?prodId=SPN.SP02>>

The Gun Lake Tribe (September 23, 2005) "No State Compact Needed for Casino." Press Release, <<http://www.mbpi.org/PDF/Secretarial%20Procedures%20-%20Sept.%2023.pdf>>

The State of the Native Nations: Conditions Under US Policies of Self-Determination, The Harvard Project on American Indian Economic Development (New York: Oxford University Press, 2008) p. 70.

Tribes and the States: Geographies of Intergovernmental Interaction, eds. Brad A. Bays and Erin Hogan Fouberg (Oxford: Rowman & Littlefield, 2002) p. xiv.

Ward, Churchill. "Implications of Treaty Relationships Between the United States and Various American Indian Nations," in Native Americans and Public Policy, eds. Fremont J. Lyden and Lyman H. Legters, (Pittsburgh: University of Pittsburgh Press, 1992) p. 150, 153

W. Dale Mason, "Tribes and States: A New Ear in Intergovernmental Affairs," in Tribes and States: Geographies of Intergovernmental Interaction (Lanham: Rowman & Littlefield, 2002) p. 89.