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Casino Journal  
November 2000

## **Where Sovereignty Leads, Gaming Follows?**

*When Sovereignty Becomes Synonymous With Gambling, No One Wins*

It's a sad fact, but given the entire history of state and Native American interaction in this country, no one could expect either side to take the other at their word. Thus we depend on mutually recognized arbiters and frameworks to keep everyone honest.

When those guidelines crumble, we see the delicate state-tribal relationships dissolve once again into bitter stalemates and battles of broken promises. That's what's happening to the National Indian Gaming Regulatory Act today, and it's resulting in a strategic bluffing game between states and tribes that could impact all aspects of tribal sovereignty.

The theoretical function of the NIGRA - which requires that states negotiate in good faith with tribes to establish any types of gaming already legal in those jurisdictions - is to protect both parties from unregulated or unfair gambling policy. According to the National Indian Gaming Commission, since the Act was passed in 1988 nearly 200 of the nation's 555 Native American tribes have reached legal agreements with governments in 28 states to operate more than 150 casinos.

But because states were not provided any enforcement mechanisms by the NIGRA, and because the federal government has been reluctant to squash illegal gaming operations, dozens of tribes learned they could operate casinos in defiance of state regulators when negotiations fell through.

California is probably the best example. For 12 years tribes operated illegal casinos in bitter defiance of state and federal regulators. Despite pleas to the Interior Department by state officials, the federal government refused to confront and close the casinos - instead issuing warning after empty warning. The casinos became so entrenched in the state's economy and public perception that support was unshakable when the matter finally went to a vote early this year.

After years of federal non-enforcement and tribal defiance from coast to coast, states are now terrified to accept any development that might eventually -- sometime down the road -- create the possibility of tribal gambling. Across the nation state officials and anti-gamblers are even fighting petitions for federal recognition, as a pre-emptive move against theoretical future tribal casinos.

In West Virginia, for example, several state leaders like Governor James Gilmore and U.S. Rep. Frank Wolf, are fighting a measure to acknowledge the sovereignty rights of eight small tribes -- about 1,500 individuals -- in the state.

The measure's sponsors say the tribes were victimized by racial segregation laws in the 1920's that classified Native Americans as "colored," thereby compromising their legal claims on Native American heritage.

Now the tribes say they want federal recognition in order to claim the land rights, entrepreneurial freedoms and federal aid enjoyed by other Indian nations. Together, they are asking for

autonomy for over 2,000 acres of land in King William County, along with a few smaller parcels of turf in other areas of the state.

Anticipating attacks from anti-gamblers, the tribes have been emphatic that casinos do not play into their plans. At a September press conference in Washington, D.C., tribal leaders assured lawmakers and the media once again that they have no interest or intention of pursuing gambling when and if sovereignty is granted.

That promise isn't good enough, though, for staunch gambling opponents like Rep. Wolf. Wolf says the present guarantee means nothing about the motivations of future tribal leaders. In a state that already has a lottery and parimutuel betting, Wolf warns the tribes would consider sovereign status a license to operate tribal casinos.

In a recent letter to Virginia newspapers, Wolf warned that federal recognition could lead to gambling, which in turn would cause corruption, crime and even death. Dismissing the NIGRA as a meaningless formality, Wolf is warning business and community groups that once the tribes have recognition, there will be nothing to stop them from peppering their lands with casinos to the detriment of neighboring communities.

As an alternative to sovereignty, a spokeswoman for Wolf reportedly said he would be willing to accept a compromise that would grant the tribes federal aid benefits without actually giving them federal recognition.

In Connecticut, the case is a little less extreme. There, the motivations of the tribes seeking legalization are clear: they do want to build casinos, no bones about it.

About nine Connecticut tribes are currently seeking federal recognition as a precursor to setting up tribal casinos like the legendary Foxwoods and Mohegan Sun casinos already operating in the state.

Bridgeport is currently the favored location by several of the tribes, though federal recognition is by no means a sure bet for any of them.

Federal recognition itself is likely years away - but already community leaders are panicking about the potential burden to infrastructure and environment that would result. At a public hearing one traffic consultant warned that casino traffic to Bridgeport could result in bumper-to-bumper traffic on Interstate 95. At the same meeting an official from a town near Foxwoods lamented that the casino resulted not only in traffic jams, but prostitution and porn shops.

Now, let's dismiss from this conversation the actual validity of these fears. The issue of tribal obligations to their neighboring communities should be hashed out during casino negotiations.

The point is, the very prospect of sovereignty translates immediately to Indian gaming in the minds of lawmakers and community planners. Without an effective buffer between federal recognition and the right to operate tribal casinos, gambling opponents have reason to oppose land rights, government aid and all the other dimensions of sovereignty.

What's the remedy? It's simple enough. For their own good, Indian tribes and states should respect the stipulations of the National Indian Gaming Regulatory Act. In the short term a few tribes may have profited from defying the authority of state governors, but the result is that no tribes seeking sovereign status are free from suspicion.

Likewise, tribes shouldn't be asked to declare their gaming intentions as a criteria for sovereignty. The potential for Indian gaming should have nothing to do with their rights to land, business and aid.

Unless they want sovereignty to become synonymous with tribal gambling, Native American groups should support an effort to keep the two issues separate in law and policy.

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