

"Successful First Nations Gaming In Canada"

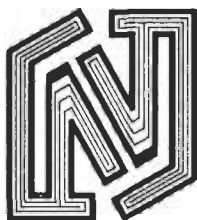
A National Conference

For

Aboriginal Business Leaders, Economic Development Officers,
Senior Government Officials, Financiers and Investors,
Tribal Business and Legal Advisors

**Thursday and Friday
December 10 & 11, 1992**

**Robson Square Conference Centre
800 Robson Street, Vancouver, B.C.**



Sponsored by the Native Investment & Trade Association

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PETERBOROUGH, ONTARIO

"... [In the U.S.] about 140 Indian tribes across the country operate 150 gambling operations. Revenue from gambling has grown from \$287 million in 1987 to more than \$3.2 billion and is making some tribes rich ... They have used the money for housing, education and sewer projects and to pave reservations roads. (feature article in Time magazine titled "Native Peoples Struggling to be Themselves", October 19, 1992)

First Nations in Canada have begun to seriously explore gaming. Early indications suggest that the growth of gaming in Canada may parallel that in U.S. The responsible development of gaming opportunities, however, requires an understanding of the legal and regulatory differences between the U.S. and Canada. In addition, there are further legal, business and planning realities peculiar to gaming operations on aboriginal lands that tribal entrepreneurs, investors and advisors in this area should be aware of.

A comprehensive 2 day program has been prepared to provide practical and timely information in this area.

You will learn:

- what the current law is in Canada with respect to gaming.
 - current regulations
 - variations between provinces
- What changes in the law may be expected with self-government.
 - projected future regulatory framework
- What aboriginal gaming operations currently exist.
- How successful gaming operations are run in the U.S.
- How to develop successful community run operations.
- Who are the key suppliers and players of gaming equipment.

In addition, conference delegates will have the opportunity to network with key players in this area from Canada and the U.S.

Chairs

Chief Philomena Alphonse

Cowichan Tribes,
Vancouver Island, B.C.

Robert Hathaway, Ph.D.

Chief Executive Officer,
Economic Development Commission
Sault Ste. Marie Tribe of Chippewa Indians

AGENDA

Thursday, December 10, 1992
800 Robson Square, Vancouver, B.C.

Will examine the social and economic impact of tribal gaming in the United States since the passage of the Indian Gaming Regulatory Act in 1988; the current legal framework as it applies to gaming in Canada; and, the approaches that are being used by First Nations communities across Canada to resolve legal issues as they relate to the implementation of gaming projects.

8:30 - 12:30 Session 1

The Social and Economic Impact of Tribal Gaming in the U.S. - Success Stories

- Minnesota: The Story of the Mystic Lake Casino
Leonard Prescott,
C.E.O., Mystic Lake Casino, former Chair of National Indian Gaming Association of U.S.
- Michigan: Impact of Gaming on Sault Ste. Marie Tribe of Chippewa Indians
Robert Hathaway, Ph.D.
C.E.O., Economic Development Commission, Sault Ste. Marie Tribe of Chippewa Indians.
- A National Perspective
Steve Sherf,
Associate, Marquette Partners,
Minneapolis, Minnesota

10:30 - 12:30 Session 2

Implementing First Nations Gaming in Canada: The Legal Context

- An Overview of the Current Canadian Law / Regulations
Bill Ferguson,
Senior Partner, Ferguson Gifford
- Inter-Provincial Differences
Colin Campbell,
Associate Professor, School of Criminology,
Simon Fraser University (B.C.)
- An Examination of Recent Events/Issues
British Columbia
Chief Robert Thomas
Nanaimo Indian Band
Glen Williams, Speaker,
Gitksan Western
Saskatchewan
Chief Roland Crowe,
Chief of Fed. of Sask. Indian Nations

Manitoba

Chuck Koppang
Manager, Native Gaming Division
Manitoba Lotteries Foundation

New Brunswick

Chief Len Tomah
Woodstock Indian Band

2:00 - 4:35 Session 3

Paving the Way for Development and Implementation of Gaming Projects

- Impact of Self-Government of Gaming in Canada: Future Developments and Current Initiatives,
Professor Douglas Sanders,
Faculty of Law, University of British Columbia
(subject to availability)
- Provincial Indian Gaming Commissions
Chief Roland Crowe,
Chief of Federation of Saskatchewan Indian Nations
Leonard Prescott,
C.E.O., Mystic Lake Casino, former Chair of Native Indian Gaming Association in the U.S.
- Developing Consensus - The British Columbia Approach,
Steve Letts,
Executive Director,
Public Gaming Branch of British Columbia
Wes Modeste,
Self-Government Coordinator,
Cowichan Band

- * **Wine and Cheese Reception sponsored by Ferguson Gifford's Native Law Group**

Friday, December 11, 1992
800 Robson Square, Vancouver, B.C.

Will examine the pros and cons of implementing First Nations Gaming Projects including:

- the relationship to the broader social and economic objectives of the community;
- community perceptions; and
- risks and benefits

In those communities that have decided to proceed with implementation, Day 2 will also examine the need to:

- determine economic viability;
- establish proper plans for development, including financing and human resource development;
- consider partnerships with professional management companies; and
- establish an effective regulatory and control framework over gaming activity.

9:00 - 12:00 Session 1

Implementation of Gaming Projects: The Community Context

- Responsible Community Run Gaming Operations: Bylaws and Checkpoints
Vina Starr,
Barrister and Solicitor
Wes Modeste,
Self-Government Coordinator,
Cowichan Band
- Aboriginal Gaming: Provincial Interests
Jim Greyeyes,
Senior Policy Analyst, Policy, Planning and Legislation, Management Services Branch, Province of B.C.
- Establishing an Effective Regulatory Framework: Ensuring the Integrity of Gaming Operations
Chuck Koppang,
Manager, Native Gaming Division, Manitoba Lotteries Foundation
- Panel Discussion

1:15 - 4:30 Session 2

Implementing Gaming Projects: The Business Context

- Developing Casino Gaming - Case Studies Tulalip Tribe, Washington State
Steve Griffiths,
Executive Director of Casino Lummi Nations, Washington State
Henry Cagey, Chairman, Lummi Nations
(subject to availability)
- A Framework for Development and Implementation

Feasibility studies and business planning,
Candace Fox, Fox Consulting, Reno, Nevada

Training for Aboriginal Casino Employees and Management
Lou Crowder, Casino Manager,
Lummi Nations

Partnerships/Joint Ventures
R. Cary Corbeil, CMA,
Business Consultant

Financing
Charles E. Peone, Jr., Business Consultant,
Miwok Tribal Enterprises Corporation,
Albuquerque, New Mexico

Question and Answer

- The Future of First Nations Gaming In Canada

Chief Len Tomah,
Woodstock Indian Band, New Brunswick

Other First Nations speakers: TBA

Registration Fees

Before November 27, 1992 - \$350.00
After November 27, 1992 - \$425.00
Fees include all applicable taxes
GST # 126390319
Cheques must be made payable to the
Native Investment and Trade Association.

Who Should Attend

- Band and Tribal Council
Representatives
- Members of the Business and
Investment Community
- Professional Advisors to First Nations:
Lawyers
Engineers
Consultants
Accountants
- Industry Representatives including:
General Contractors
Security Control Equipment &
Systems
Restaurant Equipment & Supplies
Gaming Equipment and Supplies

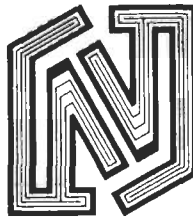
Anyone with an interest in accurate,
plain information on the topic of
aboriginal gaming in Canada.

Accommodation

For airline reservations, Canadian Air-
lines International has provided special
rates for exhibitors and delegates. When
booking, please refer to Convention
0645.

If you require travel and/or accommo-
dation assistance, please contact Karen Ferro,
Renshaw Travel, Vancouver, B.C. Phone
(604) 733-1010; Fax (604) 669-1010.

Sponsored by



Native Investment & Trade Association

Box 10
150 - 1111 Melville Street
Vancouver, B.C. V6E 3V6
Phone (604) 684-0880
Fax (604) 684-0881

What is NITA?

NITA is a non-profit organization. Its
purpose is to promote, establish and
maintain investment and trade oppor-
tunities in native communities. NITA
encourages free enterprise solutions to
economic and social problems that
confront native communities. Non-
governmental investment in native
communities is further viewed as a
means of promoting a greater measure of
self-reliance.

What are NITA's aims?

NITA intends to foster business ventures
that have a high employment potential.
Projects that involve training and skill
development of individual members of
native communities will also be encour-
aged. By working with native com-
munities and the relevant government
organizations NITA will attempt to
fashion business proposals to the specific
economic and social needs of a com-
munity. As an advisory body, NITA will
promote projects with a potential for sus-
tainable economic growth and that are
not environmentally destructive.

Registration Form

Native Investment & Trade Association
Box 10
150 - 1111 Melville Street
Vancouver, B.C. V6E 3V6
Phone (604) 684-0880
Fax (604) 684-0881

Cheque Enclosed Mastercard Visa

Cardholder Name _____

Card Number _____

Expiry Date _____

Signature _____

Registrant Position / Title

Company / Organization

Address

City Province Postal Code Telephone Fax

Successful First Nations Gaming In Canada

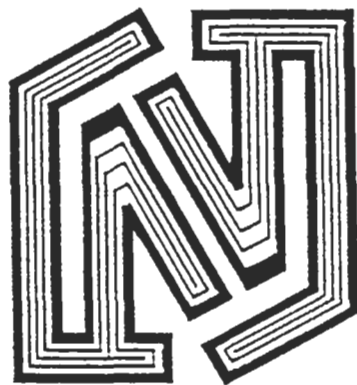
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Successful First Nations Gaming In Canada



Sponsored by the Native Investment & Trade Association
December 10 & 11, 1992
Robson Square Conference Centre, Vancouver, B.C., Canada

SUCCESSFUL FIRST NATIONS GAMING IN CANADA

AGENDA

Thursday, December 10, 1992
Robson Square Conference Centre, Vancouver, B.C.

Chairs

Calvin D. Helin
President
Native Investment and Trade Association

Robert Hathaway, Ph.D.
Chief Executive Officer,
Economic Development Commission
Sault Ste. Marie Tribe of Chippewa Indians

8:25-8:30 Opening Remarks from the Chair

Session 1 *The Social and Economic Impact of Tribal Gaming in the U.S. - Success Stories*

8:30-9:00 Minnesota: The Story of the Mystic Lake Casino
Leonard Prescott,
C.E.O., Mystic Lake Casino, former Chair of National Indian Gaming Association
of U.S.

9:00-9:30 Michigan: Impact of Gaming on Sault Ste. Marie Tribe of Chippewa Indians
Robert Hathaway, Ph.D.
C.E.O., Economic Development Commission, Sault St. Marie Tribe of Chippewa
Indians.

9:30-10:15 A National Perspective
Steve Sherf,
Associate, Marquette Partners, Minneapolis, Minnesota

10:15-10:30 Refreshment Break

Session 2 *Implementing First Nations Gaming in Canada: The Legal Context*

10:30-11:00 An Overview of the Current Canadian Law / Regulations
Bill Ferguson,
Senior Partner, Ferguson Gifford

11:00-11:30 Inter-Provincial Differences
Colin Campbell,
Associate Professor, School of Criminology, Simon Fraser University (B.C.)

Chuck Koppang,
Manager, Native Gaming Division, Manitoba Lotteries Foundation

11:30-12:30 An Examination of Recent Events/Issues

British Columbia
Chief Robert Thomas,
Nanaimo Indian Band

Glen Williams,
Speaker, Gitksan Western

Saskatchewan
Chief Roland Crowe,
Chief of the Federation of Saskatchewan Indian Nations

Manitoba
Chuck Koppang
Manager, Native Gaming Division, Manitoba Lotteries Foundation

12:30-2:00 Lunch Break. Please note that lunch is not being provided today,
however there are several restaurants close by.

Session 3 Paving the Way for Development and Implementation of Gaming Projects

2:00-2:40 Impact of Self-Government of Gaming in Canada:
Future Developments and Current Initiatives,
Professor Douglas Sanders,
Faculty of Law, University of British Columbia

2:40-3:25 Provincial Indian Gaming Commissions
Chief Roland Crowe,
Chief of Federation of Saskatchewan Indian Nations
Leonard Prescott, C.E.O., Mystic Lake Casino,
former Chair of Native Indian Gaming Association in the U.S.

3:25-3:40 Refreshment Break

3:40-4:30 Developing Consensus - The British Columbia Approach,
James J.R. Greyeyes,
Senior Policy Analyst, Policy, Planning and Legislation,
Management Services Branch, Province of B.C.
Wes Modeste,
Self-Government Coordinator, Cowichan Band

4:30-4:35 Closing Remarks from the Chair

* **Wine and Cheese Reception, Robson Square, Meeting Rooms 1 & 2**
Sponsored by Ferguson Gifford's Native Law Group

Friday, December 11, 1992

Robson Square Conference Centre, Vancouver, B.C.

Session 1 Implementation of Gaming Projects: The Community Context

- 9:00-10:00 Responsible Community Run Gaming Operations: Bylaws and Checkpoints
Vina Starr,
Barrister and Solicitor
Wes Modeste,
Self-Government Coordinator, Cowichan Band
- 10:00-10:30 Current B.C. Gaming Regulatory Structure
Rick Seville,
Director, Licensing and Reporting Compliance,
Public Gaming Branch, Province of B.C.
- 10:30-10:45 Refreshment Break
- 10:45-11:40 Establishing an Effective Regulatory Framework:
Ensuring the Integrity of Gaming Operations
Chuck Koppang,
Manager, Native Gaming Division, Manitoba Lotteries Foundation
- 11:40-12:00 Panel Discussion
- 12:00-1:15 Lunch Break and Presentation, Robson Square Ballroom,
Sponsored by Grand Casinos, Inc.

Session 2 Implementing Gaming Projects: The Business Context

- 1:15-2:00 Developing Casino Gaming - Case Studies
Tulalip Tribe, Washington State
Steve Griffiths,
Executive Director of Casino Lummi Nations, Washington State
- 2:00-3:20 A Framework for Development and Implementation

Feasibility studies and business planning,
Candace Fox,
Fox Consulting, Reno, Nevada

Training for Aboriginal Casino Employees and Management
Lou Crowder,
Casino Manager, Lummi Nations

Considering a Management Company - What are the Implications?
Andrew Tottenham,
Gaming Consultant, Tottenham & Co.

Partnerships/Joint Ventures
R. Cary Corbeil, CMA,
Business Consultant

3:40-4:00 Refreshment Break

Financing
Charles E. Peone, Jr.,
Business Consultant, Miwok Tribal Enterprises Corporation,
Albuquerque, New Mexico

3:20-3:40 Question & Answer

3:40-4:00 Refreshment Break

4:00-4:30 The Future of First Nations Gaming In Canada
Marion Meadmore
President, Arrowfax Canada Inc.

4:30-4:35 Closing Remarks from the Chair

DAY ONE
THURSDAY, DECEMBER 10, 1992
ROBSON SQUARE CONFERENCE CENTRE

CHAIR

Calvin Helin is a member of the Lax Kw'alaams Band of the Tsimshian Nation. He has a practical background in business with a special emphasis on the commercial fishing industry. Currently, he is a lawyer and Co-Chairs the Native Law Group at the law firm Ferguson Gifford, with Dr. Andrew Thompson.

As founding President of the Native Investment and Trade Association (NITA), and as author of various publications on doing business with native people and of a syndicated newspaper column ("First Nations Business"), Mr. Helin has developed considerable expertise in this area. He is also founding Director of the recently established Canadian Aboriginal Minerals Association. Mr. Helin is a former Director of the Vancouver Board of Trade and recently he was Chair of the highly successful national First Nations Trade Show and Symposium, NEXUS, sponsored by the Native Investment and Trade Association.

CHAIR

Robert Hathaway is the Chief Executive Officer of the Sault Sainte Marie Tribe of Chippewa Indians Economic Development Commission in Michigan. He is responsible for the operations, development and expansion of tribal ventures. His current business portfolio includes two hotels, a restaurant, newspaper, arts and crafts mail order, convenience stores, and the infamous Vegas Kewadin. Tribal business operations are currently generating over \$27 million in revenues and employ more than 325 people.

Mr. Hathaway graduated from Northeastern State University in Tahlequah, Oklahoma in 1967. He then spent five years in the US Navy where he achieved the level of Aviation Officer. In 1977 he received his Ph.D. from Oklahoma State University and spent the next 10 years as Deputy Director of Commerce and Chief Operating Officer for the Cherokee Nation of Oklahoma. He developed an operations and marketing plan to expand tribal venture employment to over 100. He went on to obtain \$5.3 million from the U. S. Government Economic Development Administration and Department of Labor to expand the Tribal Business Base. This included ventures in tourism, real estate, ranching, and oil and gas.

Before accepting his current position at Sault Sainte Marie, he served as the Product Manager of Marketing at B Four corporation in Houston Texas.

Session 1
The Social and Economic Impact of Tribal
Gaming in the United States: Success Stories

Leonard L. Prescott

Leonard L. Prescott served as Secretary Treasurer, Vice-Chairman, and most recently as Chairman of the Shakopee Mdewakanton Sioux Community from 1983 to 1992. As Chairman, he guided the Community and Little Six, Inc. through an period of expansion which has included opening the Little 6 Casino, more than tripling the Little Six workforce and planning for the construction and opening of the new \$15 million Mystic Lake Casino. He was instrumental in donating more than \$2 million to various charities on behalf of the Shakopee Mdewakanton Sioux Community including a \$50,000 endowment to Augsburg College in Minneapolis for their Native American Studies Program.

Currently, Mr. Prescott serves as Chairman of the Board of Little Six, Inc. which is responsible for the daily operations of the business and planning for diversification into other industries. He also serves on the Board of Directors for both Upper Midwest Gaming and SMS Gaming.

Mr. Prescott has been a national leader in the Indian Gaming legislation efforts and was involved in the National Indian Gaming Association for over 7 years. He founded the Minnesota Indian Gaming Association and served for eight years in various capacities.

MINNESOTA: THE STORY OF THE MYSTIC LAKE CASINO

- Indian History
- Plight of American Indians in the United States
- State and Tribal Relations
- Competition With Non-Indian Interests
- Positive Impacts of Indian Gaming
- Principals of Sovereign-to-Sovereign Negotiations

Session 1
The Social and Economic Impact of Tribal
Gaming in the United States: Success Stories

**MICHIGAN:
IMPACT OF GAMING ON SAULT STE. MARIE
TRIBE OF CHIPPEWA INDIANS**

In the late 1960's and early 1970's Shunk Road in Sault Ste. Marie, the current site of Vegas Kewadin Casino, had no paved road; it had no public housing; it had no businesses. The roads were so bad school buses wouldn't drive down to pick up children for school. The ditches were cesspools especially in the Spring and fall because there were no water or sewer services provided.

In 1972, a delegation of the Original Bands of the Sault Ste. Marie Chippewa Indians met in Washington with the Commissioner of Indian Affairs. The Commissioner determined that the Original Bands was an entity eligible for federal organization under the Indian Reorganization Act and accordingly extended federal recognition to the group. The federal government subsequently accepted the land in trust in March, 1974.

The Tribe's Constitution and By-Laws, adopted pursuant to the Indian reorganization Act, were approved in November, 1975.

The name adopted in this constitution was "The Sault Ste. Marie Tribe of Chippewa Indians." A Board of Directors serves as the governing body, with 13 members, elected for terms of four years each.

In 1980-81, the Sault Ste. Marie Tribe of Chippewa Indians Overall Economic Development Plan was adopted in cooperation with the Michigan Department of Labor, Office of Industrial Training, in June, 1981. The 1981 Prioritized Project rankings, for which there were 43 projects ranked, 47% of projects are inactive, 53% of projects are listed as active. Additional projects not covered or anticipated in 1981 included tribal gaming enterprises, stores in Sault Ste. Marie and St. Ignace, hotels, services & supply, Pow-Wows, Sault Tribe Accounting Services, and others. These projects generated a 1990 annual budget of \$27,838,380 and an annual payroll of \$5,139,771 for both Indian and non-Indian tribal employees, making the Tribe one of the largest employers in the Upper Peninsula.

The Sault Ste. Marie Tribe of Chippewa Indians has sustained rapid economic growth since its formal organization in 1975. It now has approximately 1,500 employees. This is due principally to the Tribe's development and operation of successful businesses.

In 1991 the Tribe established an Economic Development Commission (EDC) to oversee tribal businesses and direct economic growth. Established by a Charter issue by the Tribal Council, the EDC operates independent of Tribal Government, like a corporate Board of Directors.

We offer an Elderly Program which provides services to our elders including a care facility designed to accommodate 32 elders which opened March 1, 1992, congregate meals and home delivered meals for the elders, transportation, outreach, clinics, medical programs, information and referral, and other support services. We recently completed the construction and opening of a \$1+million elderly care facility located on Shunk road, which is supported in part by revenues from tribal businesses.

Each year for more than ten years we have hosted a traditional Pow-Wow on Shunk Road. Last year we had 14 drums, in excess of 400 Dancers and an estimated 5,000+ visitors.

Vegas Kewadin Casino in Sault Ste. Marie opened in November, 1985 and provides gaming activities, such as slot machines, blackjack or twenty-one, craps, big wheel, pull tabs, poker and \$25,000 keno. In 1987 we opened Kewadin Shores Casino in St. Ignace which offers the same games. The Midjim Convenience store was opened was opened in 1984 on Shunk Road in Sault Ste. Marie. This Business provides food items, gas and oil, pull tabs, and cigarettes. In 1991, the Tribe built another convenience store located at our St. Ignace site.

In June 1988 the Commodore motel was purchased and renamed "Kewadin Inn". Without adding rooms but promoting the motel with Casino packages, revenue has increased from \$125,000 in 1988 to over \$633,800 in 1992 (revenues through Nov). In May of 1991 the Tribe's new Clarion Hotel opened and has operated near maximum capacity since opening. The "Dreamcatcher" restaurant opened in June 1991. The Casino, restaurant and hotel are all under the same roof, providing complete hospitality and entertainment facilities at one location.

In 1989 the Tribe purchased Chippewa Service & Supply Company, Inc. a janitorial services and cleaning supplies outlet. This business is located on the main street in Sault Ste. Marie. Progress in business development during the last year has been substantial.

Phoenix Accudrive, an automotive remanufacturing operation began production on September 3, 1992. Sales in the first 3 months have saturated the plant capacity and expansion is underway.

Other tribal services include:

- Enrolment

- Housing Authority
- Legal Counsel
- Treaty Fishing
- Health: Community Health Services;
- Contract Health Services;
- Community Health Nurses
- Food Distribution
- Tribal Newspaper
- Tribal Court

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Session 1

The Social and Economic Impact of Tribal
Gaming in the United States: Success Stories

Stephen W. Sherf

Stephen Sherf has more than 18 years of experience assisting his clients in the successful development and operation of hotels, restaurants and other real estate ventures. His experience includes emphasis in the areas of development counselling and operational consulting for high-stakes Native gaming operations. He has also been actively involved in market analysis and feasibility determination of hotels, restaurants, casinos, convention centres, ice arenas, and resorts. His clients include developers, operators, lenders, and public agencies.

Mr. Sherf is a Certified Public Accountant. He has directed the hospitality consulting practice of the Minneapolis office of the international public accounting firm of Laventhos & Horwath for 14 years.

Mr. Sherf also has a Bachelor's degree in Economics and a Master of Business Administration degree from Cornell University. He is the Vice President at Marquette Partners in Minneapolis.

SOCIAL AND ECONOMIC IMPACT OF TRIBAL GAMING IN THE U.S.

I. HISTORY OF INDIAN GAMING

- A. High Stakes Bingo in the 1980's
- B. Bingo to Black Jack
- C. Present Magnitude of Indian Gaming

II. ECONOMIC IMPACT

- A. Gaming Revenues in the U.S.
- B. Employment
 - 1. Bingo Hall
 - 2. Casino
 - 3. Total Industry
 - 4. Wage Levels
 - 5. Payroll
- C. Use of Profits
 - 1. Community Facilities
 - 2. Infrastructure
 - 3. Housing
 - 4. Education Funds
 - 5. Acquire/Develop Companies - Diversify
- D. Tourism
 - 1. Patronage
 - a. 20,000+ Patrons per day
 - 2. Drawing Power
 - a. Local Market
 - b. Busing
 - c. Air Charters

3. Expenditures

- a. Gas
- b. Lodging
- c. Food and beverage
- d. Retail

4. Area Attraction

- a. Goods and supplies
- b. Marketing Expenditures
- c. Construction

III. SOCIAL IMPACT

A. Minnesota Experience

- 1. AFDC
- 2. Unemployment

B. Alcoholism

C. Gambling Addiction

D. Crime

IV. FUTURE

A. Expansion of Gaming into New States

- 1. Indian Casinos
- 2. Dockside Casinos

B. Expansion into Major U.S. Cities

C. Markets will Stabilize

- 1. Area Casinos
- 2. Regional Casino Complexes

Session 2
Implementing First Nations Gaming In
Canada: The Legal Context

Bill Ferguson

W. A. Ferguson (Bill), of Ferguson Gifford Barristers and Solicitors, practices in the areas of civil litigation and administrative law. He has acted on numerous occasions for First Nations interests in areas that have covered the whole spectrum of general litigation, employment and administrative law issues. He has also represented native interests in commercial issues. His experience has made him a natural candidate to lead Ferguson Gifford's Native Law Group's litigation division.

Bill Ferguson was called to the B.C. Bar in 1971 after receiving his L.L.B. from the University of B.C. in 1970. He is a senior partner in Ferguson Gifford, a member of the West Vancouver Police Board and the Vancouver Board of Trade. He has also served UBC as a member of its Senate from 1968 to 1970, and then as an Adjunct Professor at the Faculty of Law, in Principles of Civil Litigation and in Advocacy.

Mr. Ferguson was a speaker at a seminar in Las Vegas, May 1992, on "Enforcement of Foreign Gambling Debts in British Columbia and Western Canada".

FIRST NATIONS GAMING IN CANADA:
AN OVERVIEW OF THE CURRENT CANADIAN LAW

Bill Ferguson

Conference Date: December 10, 1992

Legal gaming in Canada is now common and rapidly expanding. The current rules and regulations will undoubtedly change. There will likely be creative interpretations, amendments to policies, regulations and the Criminal Code, and Court decisions which will alter the current rules. There could also be unilateral action by the federal or provincial governments or by First Nations that affect the status quo. Changes may also come about as a result of successful negotiations that include the active participation of First Nations.

The purpose of this presentation is to give a picture of "Canadian" law as it now stands. Some First Nations are proceeding with gaming plans as a right of self-government. There will be a discussion of self-government claims later in the agenda. First Nations' concerns over gaming have been taken to court, but I was not aware until November 30, 1992 of any gaming case that has been argued on the basis of self-government. I have not yet seen the Reasons for Judgment, but I am told by Glen Williams that the Judgment of the Provincial Court in R. v. Jim has just come down where self-government was argued and rejected at the trial level in this bingo prosecution case. The Reasons for Judgment in this case will be available for discussion at the Conference. Along with the general policies, regulations and the legislation, I will discuss the senior court cases which provide us with the current context within which organized gaming activities by First Nations in Canada are seen to be governed by the courts.

History

Canadian laws regulating gaming have their roots in the old gaming laws of England. A moralistic view of gaming as a vice has been passed down through seven centuries of statute law. It is claimed that the first statute on gaming in England was enacted in 1388 and was the legal product of the reigning monarch at the time who feared that his archers were not getting enough practice as a result of their frequent dice playing. To solve his problem he enacted a statute which prohibited all gaming except for the practice of archery. It is from this statute viewing gaming as a vice that all later statutes have their origin. Prohibition therefore has always been the foundation for gaming legislation with all legal gambling permitted as statutory exceptions to the general rule. This particularly British perspective on gaming came to Canada and became incorporated in our first Criminal Code in 1892. Being a matter of criminal law, the regulation of gaming came within federal jurisdiction.

Gaming legislation in the Criminal Code of Canada remained substantially unchanged until the end of 1969. There were bingo games and some minor social gambling before then, but it was not until after the 1969 changes to the Criminal Code that we started to consider that legalized gaming had arrived. Lotteries and other games of chance were now seen as a means to make money both for the federal and provincial governments and for charities and community interests which traditionally leaned heavily on the government for support. It was with a basically financial motive in mind that changes were made to the Criminal Code loosening the restrictions on gaming in Canada.

In 1969 s.190 of the Criminal Code was created to provide new exceptions to the general prohibition on gambling. One exception permitted the federal and provincial governments to conduct lottery schemes which, by definition, included true lotteries such as 6/49 and quasi lotteries such as Bingo, Black Jack and Roulette. Section 190 of the Criminal Code also permitted charitable or religious organizations to conduct lottery schemes, under the authority of a licence by the provincial Lieutenant Governor in Council, provided the proceeds of the lottery scheme are used for a charitable or religious purpose.

Unless permitted by the Criminal Code, gambling activities are illegal. For instance, pari-mutual betting at horse races has been around for some time. It is legal by reason of s.204 of the Criminal Code, and in this province is regulated by the B.C. Racing Commission. The Criminal Code from Sections 197 to 209 contain lengthy provisions that prohibit gambling by dealing with such matters as "common gaming houses", "gaming equipment", "betting" and "book-making". Section 206 lists offences in relation to lotteries and games of chance. What was s.190 of the Criminal Code in 1970 is now s.207 which has remained basically intact for the last 22 years. A copy of s.207 which sets out the provisions relating to permitted lottery schemes is attached as Appendix 1. One change to this legislation is that the federal government in 1985, following disputes with the provincial governments over the implementation of true lotteries, agreed to amend the Criminal Code to divest itself of the ability to conduct lottery schemes. Another change was to allow the provincial governments, but not others, to operate slot machines and video games that pay a winner.

Gambling in casinos in Canada is much less varied than that permitted in Nevada and New Jersey and the stakes are much lower, but permitted forms of gambling are growing and there is an increasing demand for "Las Vegas style" casinos.

Current Legal Situation

At the present time it is s.207 of the Criminal Code, as an exception to the general prohibition on gambling, that permits provincial or territorial governments to conduct lottery schemes and to regulate any lottery schemes conducted by the people of their province under the authority of the provincial Lieutenant Governor-in-Council. Other parts of S.207 provide for inter-provincial cooperation, special lottery schemes for fairs and exhibitions, and other particular situations. For the purposes of this paper these will not be discussed.

In order to conduct a lottery scheme it is necessary to apply for a licence to the appropriate authority in the province or territory in which the gaming is to be held. In British Columbia, for example, a licence must be obtained from the B.C. Gaming Commission which has been delegated the power to licence and regulate lottery schemes since 1987 through an Order-in-Council. Terms and conditions of licence approval and the conduct of gaming activity are published by the B.C. Gaming Commission. The most recent revision is effective August, 1992. This document and other guidelines are available from the Commission.

The Criminal Code permits only certain kinds of gaming, but the field has been expanding. Slot machines that pay the winner were made possible in Manitoba through the operation of a Crown corporation, The Manitoba Lottery Foundation. As agents of the Crown, its employees are employed by the provincial government and are therefore permitted to operate establishments with slot machines. I am told that British Columbia is considering a similar procedure to permit the use of video lottery terminals. This new provincial legislation is presently being drafted and may be ready next year.

First Nations Gaming

Many Bands have passed by-laws enacted pursuant to S.81 of the Indian Act to regulate gaming. The practice of the federal government has been to disallow these by-laws and maintain the position that the Criminal Code takes precedence over the Indian Act.

To qualify for gaming licences under the present legislation a band organization has had to apply to the designated provincial authority claiming itself as a charitable organization and that it will use the proceeds of any gaming for community objectives. This situation has caused discontent and over the last few years a body of case law has been developed as a result of native challenges to the gaming laws. These challenges have reached the Supreme Court of Canada and the decisions which have been handed down are current precedents that further define the federal-provincial relationship with First Peoples within the context of the gaming legislation. In none of these cases has the Court been asked to decide on self-government arguments. But now the issue will likely be pursued through the various levels of appeal in R. v. Jim.

A large source of contention over the gaming legislation has concerned the ability of the federal government to delegate its Criminal Code powers over gaming to a provincial authority. Aboriginal leaders have seen this as providing the provincial government with the green light to regulate gaming on reserves, previously a power thought solely to be within the federal sphere. This net increase in provincial authority over native communities has been challenged in the courts on the basis of the claim that natives have the legal right to gamble on reserves without a provincial licence.

This was the basis of the case R. v. Furtney 3 S.C.R. 89 (1991) which reached the Supreme Court of Canada last year. In this case, members of a band were charged with counselling their members to violate the terms of their licences. The band members challenged s.207 of the Criminal Code which as discussed above was enacted to permit the provinces to regulate lottery schemes. At the Supreme Court of Canada, the band members claimed that the federal government had no right to give its powers over lottery schemes to the provinces.

The decision of the Supreme Court of Canada was unanimous. It was found that while the federal parliament may not delegate its law-making powers to a provincial legislature, there is no such prohibition against a delegation to the provincial Lieutenant Governor-in-Council. More fundamental to the case at hand, it was found that the gaming exceptions under the Criminal Code are not a delegation of power to the provinces at all, but rather a move by the federal government to limit its own powers in a specified area. The provinces, by choosing to regulate activities within the vacuum created by the removal of federal authority, have not been the recipient of delegated power but have asserted their rights to exercise

provincial powers under s.92 of the Constitution Act, 1867. The court similarly found that s.207(2) dealing with "any law enacted by the legislature of that province" was an act by the federal government to incorporate by reference any provincial legislation which properly provided for regulation within the vacuum created by the removal of federal power.

This case effectively closes off the argument that the provisions providing exceptions to gaming in the Criminal Code were outside the authority of the federal government. Not only were these provisions seen as valid but provincial enactments consistent with the Criminal Code exceptions to gaming were also seen as within legitimate provincial constitutional power. This was affirmed in a similar case decided concurrently with Furtney based on the same issues and considerations, R. v. Jones 3 S.C.R. 110 (1991).

R. v. Jones can be noted for specifically requesting the court not to make any statements which may adversely affect legal issues concerning native self-government. The court respected that request.

Another significant case involving the Canadian gaming legislation is the case of R. v. Bob held in the Saskatchewan Court of Appeal 88 Sask.R. 302 (1991). The facts of this case involve six individuals belonging to three different native bands. These individuals applied for licences under the gaming provisions but refused to pay the licensing fees which were required by the provincial authorities on the basis that the fees constituted a tax and that this tax was in violation of s.87 of the Indian Act and therefore not payable by members covered under the Indian Act legislation. The Registrar refused or revoked the licences of the band members. These band members held their gaming activities without the licences but maintained all other aspects of their activities within the appropriate regulations. The band members were arrested and charged under the Criminal Code provisions.

The issue before the court was whether or not the money charged by the licensing authority was a tax or simply a fee. While the provincial Crown conceded that for the purposes of this case the charge was indeed a tax, the court quoted a previous case in outlining the definition for the distinction between a fee and a tax. This definition was given in the case of R. v. National Fish Company Limited (1931), Ex.C.R. 75. The distinction was put this way:

"A licence charge however may be either a licence fee or a licence tax. When the licence is imposed to cover the cost of regulation or to meet the outlay incurred for some improvement of special advantage to the business it may truly be said that the licensee gets a special benefit from the privilege, a special benefit measured by the cost. The charge would then be a fee. When however, the charge for the licence is to carry on a business which before the imposition of the restrictive law was open to anyone is purposely so high as to bring in a distinct net revenue to the government above the cost of regulation we can no longer properly speak of special benefits to the licensee since the special benefit is converted into a special burden; the charge is then no longer a licence fee but a licence tax."

Despite the fact that the charge was regarded as a tax the provincial Crown prosecutor still sought the conviction of the defendants under the Criminal Code provisions on the basis that they still should have had a licence and were therefore in violation of the Criminal Code. The defendant band members for their part used as their defence s.15(1) of the Canadian Charter of Rights and Freedoms. The band members claimed that the requirement to pay a tax for the right to a licence had the effect of discriminating against First Peoples covered under the Indian Act, by forcing them to give up rights which they had under s.87. These rights are the rights of exemption from taxation.

The court agreed with the defendants and found that the actions by the Registrar in not providing the defendants with a licence under the gaming laws had in fact discriminated against the defendants under s.15 of the Charter. The acts of the Registrar while not intended to discriminate had the effect of imposing a burden or disadvantage on the defendants. That burden or disadvantage came in the form of requiring the defendants to sacrifice their rights to exemption from taxation. The effect of this burden was based upon the defendants' race, one of the enumerated grounds under s.15 of the Charter, and thus all the essential elements of discrimination under s.15 were found to have been met.

Having found that the defendants' rights under s.15 of the Charter were violated, the court now had to deal with s.24(1) of the Charter in deciding whether or not an acquittal of the defendants was a proper form of relief. It was decided that an acquittal for the defendants was an appropriate and just remedy and as a result the defendants were acquitted.

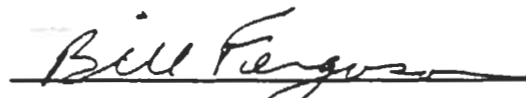
While this case can be regarded as a victory for freedom from taxation illegally imposed in violation of s.87 of the Indian Act, it should be noted that the court specifically upheld the legitimacy of the provincial government to require licences for gaming on native reserves.

These cases reveal the scope of the present gaming law in Canada. The courts have found the present Criminal Code provisions permitting the regulation of gaming by the provincial Lieutenant Governor-in-Council as legitimate and licences are therefore required on native reserves. So far, with the exception of R. v. Jim, assertions of self-government of gaming activities have not been argued in Canada's courts.

As mentioned above in R. v. Jones the Court was asked to not consider whether First Nations can regulate gaming as part of an inherent right of self-government. Despite the failure of the Referendum, self-government arguments will continue to be pursued by unilateral First Nations action, by negotiations or by Court challenges. First Nations will rely on the existing aboriginal right to engage in gaming affirmed by Section 35 of the Constitution Act.

Self-government arguments will be discussed as we proceed through the agenda.

Dated: November 30, 1992


BILL FERGUSON

0948n/3-10

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5. Canadian Charter of Rights and Freedoms Part I of the Constitution Act, 1982, being Schedule B of the Canada Act 1982 (U.K.), 1982, c.11.
6. Constitution Act, 1867 (U.K.), 30 & 31 Vict., c.3.
7. Criminal Code, R.S.C. 1985, c.46 as from Martin's Annual Criminal Code 1993 (Canada Law Book Inc., 1991).
8. British Columbia Order of the Lieutenant Governor-in-Council, 1987/579.
9. R. v. Bob (1991) 88 Sask.R. 302 (Sask.C.A.).
10. R. v. Furney (1991) 3 S.C.R. 89 (S.C.C.).
11. R. v. Jones (1991) 3 S.C.R. 110 (S.C.C.).
12. Interpretation Act, R.S.C. 1991, c.I-23 s.35
13. Interpretation Act, R.S.B.C. 1979, c.206 s.29
14. Meeting Summary of a one-day Program on First Nations Gambling in British Columbia: An Opportunity for Cooperative Change and Improvement, prepared by Margit Nance, October 1, 1992, SFU

Appendix

1. Criminal Code, R.S.C. 1985, c.46 as from Martin's Annual Criminal Code 1993 (Canada Law Book Inc., 1991).

SYNOPSIS

Sections 206 and 207, when read together, create liability for acts in relation to *lotteries and games of chance* and create *exceptions* to such liability.

Section 206(1) creates the indictable offence of doing the acts specified on paras. (a) to (j). No purpose beyond the doing of the acts described need be proven. The maximum sentence upon imprisonment is two years.

Section 206(2) defines "three-card monte" for the purposes of this section.

Section 206(3) creates an exception from s. 206(1)(f) to (g) for the use of a board located at an *annual fair or exhibition* or the operator of such a board. However, the exemption does not include dice games, three-card monte, punch board or coin tables. Subsection (3.1) sets out an exhaustive definition of the phrase "fair or exhibition" - see where it is used in subsec. (3).

Section 206(4) creates a summary conviction offence applicable to any one who takes or receives a lot, ticket or other item mentioned in subsec. (1).

Section 206(5) provides that any right of property involved in the specified acts relating to lotteries and games of chance is void and is forfeited to the Crown. However, s. 206(6) is a saving provision which states that if a person acquires the property as a *bona fide purchaser for valuable consideration* without notice their rights are protected.

Section 206(7) sets out that application of this section to a foreign lottery.

Section 206(8) sets out additional general exemptions to the operation of this section.

ANNOTATIONS

Subsec. (1)(a) - A conviction was upheld where the scheme was that 20 ticket holders would be chosen by chance and then those 20 would compete in a potato-peeling contest to see who would win the 10 cars which were offered as prizes. The Court held that the whole scheme was one of chance determining the result, as "the twenty drawn to enter the contest might well be without any real skill in paring a potato, and the cars would go to the ten least unskilful or inefficient . . . or what is also important, if any of the twenty should prove skilful, they were chosen as contestants by chance": *R. v. Wallace* (1954), 109 C.C.C. 351, 20 C.R. 39 (Alta. S.C. App. Div.). This case was distinguished in *R. v. Young* (1957), 119 C.C.C. 389, 27 C.R. 226 (B.C.C.A.) where it was held that the selection by chance of the persons entitled to participate in the contest of skill did not render the whole scheme a lottery.

The burden is on the Crown to prove that the proposed disposition of property was by mode of chance alone, involving the absence of any genuine skill and if the "skill testing question" constitutes an exercise of skill then the scheme is not a prohibited lottery. Where the police halt the lottery before the draw is held there is no burden on the accused to prove that the intended question would be a genuine test of skill: *R. v. Young* (1978), 45 C.C.C. (2d) 565, [1979] 2 W.W.R. 231 (Alta. S.C. App. Div.).

Subsec. (1)(d) - Where the lucky draw and skill-testing scheme was found to simply be a device to attempt to avoid prosecution, a conviction for operating a lottery was affirmed: *R. v. Robert Simpson (Regina) Limited* (1958), 121 C.C.C. 39 (Sask. C.A.).

A scheme which is one of skill or mixed skill and chance does not contravene this subsection: *Roe v. The King* (1949), 94 C.C.C. 273, 8 C.R. 135, [1949] S.C.R. 652.

The Montreal voluntary tax plan was reviewed under appeal in *City of Montreal v. A.-G. Que.*, [1970] 2 C.C.C. 1, 10 D.L.R. (3d) 315 (S.C.C.). The Court, agreeing that the prize offering of silver ingots was a cash prize and that the scheme was based essentially on chance, held (7:0) that the plan was a lottery.

The accused's belief that the Criminal Code lottery provisions did not apply to bingo games held on an Indian Reserve was a mistake of law and, thus, no defence to the charge under this paragraph: *R. v. Jones* (1991), 66 C.C.C. (3d) 512 (S.C.C.) (7:0).

Subsec. (1)(e) - Chance and skill are not factors in the offence of conducting a lottery as the offence is committed if a purchaser stands to receive back a larger amount than he

contributed because other persons have contributed. Further, the offence was committed even where the accused deposited with the trust company running the contest sufficient funds to pay for the prize even if only one ticket was sold. The deposit of the funds with the trust company was only made by the accused by reason of the fact that it was part of a scheme by which contestants would pay money to enter the contest and such contest clearly contemplated, at its inception and throughout, that the prize would be awarded at the conclusion of the contest by reason of the payments for tickets of all the non-successful contestants: *Dream Home Contests (Edmonton) Ltd. v. The Queen, Hodges v. The Queen* (1960), 126 C.C.O. 241, [1960] S.C.R. 414 (5:0). *Folld: R. v. Ganus Of North America Ltd.*, [1965] 1 C.C.C. 91, 43 C.R. 321 (Sask. C.A.).

The legitimacy of a business is not a factor to be considered if a part of its operation is a lottery scheme. Furthermore, the key to this offence is that a participant shall become entitled to receive from others under the scheme an amount larger than his investment, and accordingly it does not matter whether that larger amount was in existence in the scheme before or after he joined it: *R. v. Golden Canada Products* (1973), 15 C.C.C. (2d) 1, 43 D.L.R. (3d) 251 (Alta. C.A.).

The essential element of this offence is the scheme and it is not necessary that money has been paid by the new recruits so long as it is contemplated that it will be payable and that a participant will receive a larger sum than he paid in as a result of the participation of others. It is not a requisite of the scheme that there be a banker: *R. v. Mackenzie, Ennis and Meilleur* (1982), 66 C.C.C. (2d) 528, 135 D.L.R. (3d) 374, 36 O.R. (2d) 562 (C.A.); *R. v. Fehr et al.* (1983), 4 C.C.C. (3d) 382 (B.C.C.A.).

The Crown is not required to prove that at the time of the alleged offence other people had already paid money so that one of the persons in the scheme had already been paid a sum greater than what he had earlier paid. It is sufficient that the Crown establishes that the scheme whereby that result could obtain was in existence: *R. v. Steud et al.* (1981), 60 C.C.C. (2d) 397 (Sask. Prov. Ct.).

Where a significant part of the scheme operated in the province it is no defence that part of the scheme, such as the actual payment of the money, also operated in the United States: *R. v. Stead et al.*, *supra*.

Subsec. (1)(g) - A wheel of fortune is a gambling device bearing some resemblance to a revolving wheel with sections indicating chances taken or bets placed: *R. v. Andrews and five others* (1975), 28 C.C.C. (2d) 450, 32 C.R.N.S. 358 (Sask. C.A.).

Subsec. (3) - An accused who can bring himself within this subsection is entitled to its protection even on a charge of keeping a common gaming house under s. 201: *R. v. Andrews and Five Others*, *supra*.

However, this principle does not apply where the games involved are slot machines: *R. v. Cross* (1978), 40 C.C.C. (2d) 505, [1978] 4 W.W.R. 644 (Alta. S.C. App. Div.).

Subsec. (8) - The exemption in para. (a) does not apply to a bingo game where, although all participants must be members of the sponsoring association, the prize money is derived from the sale of the bingo cards: *R. v. Gladue and Kirby* (1986), 30 C.C.C. (3d) 308 (Alta. Prov. Ct.).

PERMITTED LOTTERIES / Terms and conditions of licence / Offence / Definition of "lottery scheme" / Exception re: pari-mutuel betting.

207. (1) Notwithstanding any of the provisions of this Part relating to gaming and betting, it is lawful

- (a) for the government of a province, either alone or in conjunction with the government of another province, to conduct and manage a lottery scheme in that province, or in that and the other province, in accordance with any law enacted by the legislature of that province;
- (b) for a charitable or religious organization, pursuant to a licence issued by the

- Lieutenant Governor in Council of a province or by such other person or authority in the province as may be specified by the Lieutenant Governor in Council thereof, to conduct and manage a lottery scheme in that province if the proceeds from the lottery scheme are used for a charitable or religious object or purpose;
- (c) for the board of a fair or of an exhibition or an operator of a concession leased by that board, to conduct and manage a lottery scheme in a province where the Lieutenant Governor in Council of the province or such other person or authority in the province as may be specified by the Lieutenant Governor in Council thereof has
- (i) designated that fair or exhibition as a fair or exhibition where a lottery scheme may be conducted and managed, and
 - (ii) issued a licence for the conduct and management of a lottery scheme to that board or operator;
- (d) for any person, pursuant to a licence issued by the Lieutenant Governor in Council of a province or by such other person or authority in the province as may be specified by the Lieutenant Governor in Council thereof, to conduct and manage a lottery scheme at a public place of amusement in that province if
- (i) the amount or value of each prize awarded does not exceed five hundred dollars, and
 - (ii) the money or other valuable consideration paid to secure a chance to win a prize does not exceed two dollars;
- (e) for the government of a province to agree with the government of another province that lots, cards or tickets in relation to a lottery scheme that is by any of paragraphs (a) to (d) authorized to be conducted and managed in that other province may be sold in the province;
- (f) for any person, pursuant to a licence issued by the Lieutenant Governor in Council of a province or such other person or authority in the province as may be designated by the Lieutenant Governor in Council thereof, to conduct and manage in the province a lottery scheme that is authorized to be conducted and managed in one or more other provinces where the authority by which the lottery scheme was first authorized to be conducted and managed consents thereto;
- (g) for any person, for the purpose of a lottery scheme that is lawful in a province under any of paragraphs (a) to (f), to do anything in the province, in accordance with the applicable law or licence, that is required for the conduct, management or operation of the lottery scheme or for the person to participate in the scheme; and
- (h) for any person to make or print anywhere in Canada or to cause to be made or printed anywhere in Canada anything relating to gaming and betting that is to be used in a place where it is or would, if certain conditions provided by law are met, be lawful to use such a thing, or to send, transmit, mail, ship, deliver or allow to be sent, transmitted, mailed, shipped or delivered or to accept for carriage or transport or convey any such thing where the destination thereof is such a place.

(2) Subject to this Act, a licence issued by or under the authority of the Lieutenant Governor in Council of a province as described in paragraph 1(b), (c), (d) or (f) may contain such terms and conditions relating to the conduct, management and operation of or participation in the lottery scheme to which the licence relates as the Lieutenant Governor in Council of that province, the person or authority in the province designated by the Lieutenant Governor in Council thereof or any law enacted by the legislature of that province may prescribe.

(3) Every one who, for the purposes of a lottery scheme, does anything that is not authorized by or pursuant to a provision of this section

- (a) in the case of the conduct, management or operation of that lottery scheme,
 - (i) is guilty of an indictable offence and liable to imprisonment for two years, or
 - (ii) is guilty of an offence punishable on summary conviction; or
- (b) in the case of participating in that lottery scheme, is guilty of an offence punishable on summary conviction.

(4) In this section, "lottery scheme" means a game or any proposal, scheme, plan, means, device, contrivance or operation described in any of paragraphs 206(1)(a) to (g), whether or not it involves betting, pool selling or a pool system of betting other than

- (a) a dice game, three-card monte, punch board or coin table;
- (b) bookmaking, pool selling or the making or recording of bets, including bets made through the agency of a pool or pari-mutuel system, on any race or fight, or on a single sport event or athletic contest; or
- (c) for the purposes of paragraphs (1)(b) to (f), a game or proposal, scheme, plan, means, device, contrivance or operation described in any of paragraphs 206(1)(a) to (g) that is operated on or through a computer, video device or slot machine, within the meaning of subsection 198(3).

(5) For greater certainty, nothing in this section shall be construed as authorizing the making or recording of bets on horse-races through the agency of a pari-mutuel system other than in accordance with section 204. R.S., c. C-34, s. 190; 1974-75-76, c. 93, s. 12; R.S.C. 1985, c. 27 (1st Supp.), s. 31, c. 52 (1st Supp.), s. 3.

CROSS-REFERENCES

The terms "bet" and "game" are defined in s. 197. Pari-mutuel systems are dealt with in s. 204. The game of "three-card monte", referred to in subsec. (4), was described in *Re Rosen* (1920), 37 C.C.C. 381 (Que. C.A.), as "a game played with three cards, say, two black ones and a red one, shuffled or manipulated by the dealer and placed face down and the opponent backs his ability to spot the position of a particular card. By sleight of hand or quickness of movement, the dealer endeavours to induce the person backing his opinion to put his hand on the wrong card".

Where the Crown elects to proceed by indictment on the offence described in subsec. (3)(a) then the accused has an election as to mode of trial under s. 536(2). Where the Crown elects to proceed by way of summary conviction for the offence under subsec. (3)(a) and for any case under subsec. (3)(b), the trial is conducted by a summary conviction court pursuant to Part XXVII. The punishment for these summary conviction offences is as set out in s. 787 and the limitation period is set out in s. 786(2). For all offences under this section, release pending trial is determined by s. 515, although the accused is eligible for release by a peace officer under s. 496, 497 or by the officer in charge under s. 498. As regards special search and seizure powers in relation to offences under this section, see s. 199.

As regards pyramid selling and similar schemes, reference should be made to ss. 55 and 56 of the Competition Act, R.S.C. 1985, c. C-34 and respecting the conduct of promotional contests involving a lottery or other game, see s. 59 of the same Act.

Related offences are: s. 201, keeping common gaming or betting house; s. 203, placing bets on behalf of others; s. 209, cheating at play.

SYNOPSIS

Section 207 legalizes the creation and operation of lotteries run by any of the bodies specified in s. 207(1)(a) to (d). In addition it provides for the regulation of such schemes and creates an offence of operating or participating in a lottery not created or run in accordance with s. 207.

Section 207(1) permits lotteries to be created by a province, or under licence by charitable or religious organizations, by a board of a fair or exhibition or by any other person to

ble of religious organizations, by a board of a fair or exhibition or by any other person to

Session 2
Implementing First Nations Gaming
In Canada: The Legal Context

Colin S. Campbell

Colin S. Campbell is an instructor and Ph.D. candidate in the School of Criminology at Simon Fraser University. His studies concentrate on the history of the regulation of gambling in Canada. Formerly an Assistant Professor of Sociology at the University of Windsor, Mr. Campbell is co-editor of the book Gambling in Canada: Golden Goose or Trojan Horse? and has authored several articles on gambling. Before beginning graduate courses, he worked in Alberta and British Columbia casino industries in various capacities.

INTER-PROVINCIAL DIFFERENCES

The paper reviews the circumstances of the 1985 amendment to the criminal code of Canada which allowed for the transfer of responsibility for lotteries and gaming from the federal government to the provinces. As well, the paper examines the major differences in the regulatory philosophies which have been adopted in selected Canadian provinces. It concludes by pointing to potential obstacles to the implementation of First Nation gaming industries.

Session 1
Implementing First Nations Gaming
In Canada: The Legal Context

AN EXAMINATION OF RECENT EVENTS/ISSUES

BRITISH COLUMBIA

Chief Robert Thomas
Nanaimo, B.C.

Glen Williams
Gitksan Western

SASKATCHEWAN

Chief Roland Crowe
Federation of Saskatchewan Indian Nations

MANITOBA

Chuck Koppang
Manitoba Lotteries Foundation

Chief Robert Thomas

Chief Robert Thomas, of the 950 member Nanaimo Band, has lead the band for three years. He is politically active as co-chairman of the Alliance Tribal Council, an active member of the Chief's Summit, and the Assembly of First Nations.

Mr. Thomas and the Nanaimo Band have recently been pursuing the development of an on-reserve gaming establishment. He has been in the forefront of negotiations with key development people and the Attorney General's Office.

As a strong proponent of Self Government and Self Sufficiency for First Nations, Robert sees on-reserve gaming as a most significant opportunity for the First Nations in general and Nanaimo Band in particular.

Chuck Koppang

After 25 years of service as an R.C.M.P. Staff Sgt., Chuck Koppang retired in 1986. During this time, he spent four years of Aboriginal policing on isolated reserves in Manitoba and Northwestern Ontario.

In 1986 he joined the Manitoba Lotteries Foundation as a Casino Investigator and was promoted to Chief Investigator one year later. He was responsible for the Licensing Branch, Consultant Section, Investigations, and Native Gaming.

In 1991, Mr. Koppang was promoted to Manager, Native Gaming Section and is responsible for negotiating Native Gaming Commissions and Video Lottery Terminal Agreements including the provision of training and assistance to Manitoba Bands, on request, concerning all aspects of gaming on reserves.

Mr. Koppang has worked with Opaskwayak Cree Nation (formerly the Pas Band) in developing the first Native Gaming Commission and the first VLT Agreement in Canada. We now have seven Native Gaming Commissions representing 14 bands, with two other gaming commissions in the process of being formed.

Session 3
Paving the Way for Development
and Implementation of Gaming Projects

Professor Douglas Sanders

Professor Sanders has done legal work on First Nations' issues since 1965. He has been, at various times, a member of the bars in Alberta, Ontario, British Columbia, and the Northwest Territories. He has acted in a number of test cases and written extensively on indigenous rights issues in Canada and internationally.

Douglas Sanders has been on the Faculty of Law at the University of British Columbia since 1977.

IS BINGO IN THE BOX?

Professor Douglas Sanders
Faculty of Law, UBC,
December 10, 1992.

We are in a period in which indigenous peoples in various parts of the world have been gaining increasing control over their own communities. This process of change is well established in Canada. When we talk about self-government we are not simply talking about the future; the process has been underway for a couple of decades, even if progress is uneven.

If we look at the situations in the United States, Australia, New Zealand and the Nordic area, we find that indigenous people have been gaining increased control. Almost always there are no formalized lists which give the exact powers that have been or are being attained. The process is evolutionary. Only with the home rule government in Greenland was there a sense of knowing the relative jurisdictions of the home rule government and of Denmark at a certain legislative starting point. But even there evolution has changed those rules.

THE EPISTOMOLOGY OF THE BOX

The earliest U.S. Indian statutes, the Trade and Intercourse Acts, did not deal with the internal government of the Indian tribes.¹ The legislation dealt with external relations. Those statutes established the pattern that U.S. Indian legislation, in general, did not deal with the structures of tribal governments or the powers of tribal governments. By the end of the nineteenth century, this deliberate omission became a U.S. version of the "full box/empty box" puzzle. Did the failure of the statutes to define internal tribal powers mean that internal tribal powers were unlimited or that they were non-existent? When the General Allotment Act was enacted in the 1880s to break up the collective life of the Indian tribes in the United States, it dealt with land. It apparently assumed there were no governments to break up.

1. See Sanders, *Aboriginal Self-Government in the United States*, Institute of Intergovernmental Relations, Queens University, 1985, 69 pp.

The first draft of the Indian Reorganization Act of 1934 listed powers which would be delegated to the tribes. That effort to define powers was defeated by forces trying to limit the reforms.

The failure of Congress to define tribal powers led to the gradual development of the idea that tribes retained any governmental powers that had never been taken away from them. This approach came to be accepted by judges in the years after the second World War. The process of defining powers was slow and evolutionary. The issues arose when the tribes actually exercised powers. The courts upheld many of the tribal enactments, allowing tribal laws to displace state laws. The United States Supreme Court now refers to tribal "sovereignty" as having continued, uninterrupted, from the pre-contact period. The continuity certainly has not existed in formal United States law, though it could be argued that it was always a part of tribal reality, however repressed.

The idea of continuing tribal sovereignty became one element in a case by case balancing of tribal, state and federal powers. United States law does not have a list of tribal powers, but a number of areas of tribal jurisdiction have now been recognized and defined. Tribal criminal jurisdiction is limited to petty offences as a result of federal legislation.² Tribal criminal jurisdiction does not extend at all to non-Indians on reservations. Tribal civil jurisdiction seems as extensive as that of state governments, and we see tribes copying the model Uniform Commercial Code. There are very specific problems of jurisdiction over non-Indians resulting from "checkerboarding", but they are not relevant in the present discussion.³

The Canadian Indian Act developed in the 19th century to provide rules to protect Indian reserves. As in the United States, there was a pattern of "indirect rule", where Indian chiefs and councils were recognized. This gave the reserve system a local government character, even though real power remained in the hands of the Indian agents until recent decades. Unlike United States statutes, the Canadian Indian Act in the late 19th century came to include a list

2. The major crimes acts and the Indian Civil Rights Act of 1968.

3. The results of the application of the General Allotment Act on many reservations was to grant reservation lands to non-Indians on a "checkerboard" basis, giving Indians and non-Indians alternate allotments. The goal was the destruction of the reservation system. Instead the reservation system survived, but often with numerous non-Indian land holders within the outside boundaries of the reservation. No comparable situation exists in Canada.

of municipal-type powers for the band councils. It used to be said that the list had originally been copied from Ontario provisions for rural municipalities, but I have never been able to find an exact textual source. The powers are modest. For most of this century there were fewer band by-laws than there were Indian bands. The by-law powers have been strictly construed by the Department of Indian Affairs and by the courts. And their existence always seemed to prevent a "full-box" analysis of band powers. There was not a legislative vacuum, as in the United States. There was a list of powers and, unfortunately, the items on the list were very modest powers.

The "full-box/empty-box" terminology comes from the discussions of the meaning of section 35 (1) of the Constitution Act, 1982, which reads:

The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

In the course of the First Ministers' Conferences on Aboriginal Constitutional Matters from 1983 to 1987 it became clear that the federal Department of Justice saw section 35 (1) as an "empty box". Section 35 (1) was likened to a box of rights, but unfortunately the box was empty. When asked to suggest one right that he thought was in section 35 (1), Mr. Ian Binnie, then with the Department of Justice, suggested "the right to surrender land". People laughed at the statement, but they knew it represented the position being taken by the federal government. And federal lawyers believed that any rights in section 35 (1) could be taken away by federal legislation both before and after 1982.

The response of First Nations' leaders was to declare that the box was full. They said that section 35 (1) protected all aboriginal and treaty rights that had not been ended with the free and informed consent of the First Nations.

Mr. Binnie went on to act for the Crown in the Guerin case, arguing that Indians had no rights to the reserve lands on which their homes were built. No rights. That extreme position pushed the Supreme Court of Canada to finding some rights in the section 35 (1) "box". In Guerin the court upheld an aboriginal right to the reserve.⁴ In Sparrow the court upheld an aboriginal right to fish.⁵

What else is in the box? Is bingo in the box?

4. Guerin v The Queen, [1985] 1 C.N.L.R. 120.

5. Sparrow v The Queen, [1990] 3 C.N.L.R. 160.

WHAT ABOUT BAND BY-LAW POWERS?

The first reported decision on a band by-law was a 1958 decision of the appeal court in Alberta on a trespass by-law. The court ruled that a band could not define what constituted trespass. Since the Indian Act specified the penalties for trespass, the decision effectively wiped out any band by-law power under section 81 (p) of the Act.⁶

We have three modern stories about band by-law powers.

The Spallumcheen band in British Columbia, as part of a more general activist confrontation with provincial child welfare officials, enacted a by-law taking over control of child welfare. The by-law was disallowed, though John Munro, the Minister of Indian Affairs had promised not to veto the by-law. His deputy disagreed. That internal fight within the Department was resolved. Spallumcheen re-enacted the by-law and it was allowed to remain in force, though the federal government made it clear that they believed that bands had no such authority under section 81 of the Indian Act. It therefore would fall to the province to argue in court that the by-law was invalid and that provincial laws applied. After a demonstration on the front lawn of the then minister of social services, Grace McCarthy, the province backed off and the by-law has remained in force ever since.⁷ The Minister of Indian Affairs has vetoed every subsequent band child welfare by-law. The Spallumcheen by-law remains in force.

An issue arose as to whether bands could tax non-Indian occupiers of Indian reserve lands. The opinion of the Department of Justice was that property taxation of non-Indians on reserves was impossible. It could not be done by federal regulations, band by-laws or provincial legislation. This restrictive ruling on band powers was upheld by the British Columbia Court of Appeal. The end result was the "Kamloops" amendment to the Indian Act providing that lands leased to non-Indians would remain within the jurisdiction of the band council. A restrictive interpretation of by-law powers had to be resolved by legislation.

A third story involves by-laws on fishing. Section 81 (o) gives band councils jurisdiction over the "preservation, protection and management of...fish...". After some judicial losses, it has been held that a band fishing by-law

6. R v Gingrich, (1958) 29 W.W.R. 471.

7. The story is told in Sanders, *Some Current Issues Affecting Indian Government*, in Little Bear, Boldt, Long, *Pathways to Self-Determination*, Toronto, 1984, 113-121.

will displace the application of the federal Fisheries Act if the two are in conflict.

The by-law powers have been problematic in any areas outside of zoning and garbage. The federal government has played legislative policeman, and will veto by-laws which it believes are beyond band powers. So with gaming, the federal government has vetoed all attempts by bands to put gaming by-laws into place under section 81 (m) "the control and prohibition of public games, sports, races, athletic contests and other amusements..."

Invoking by-law powers does not seem to lead anywhere.

WHAT HAPPENED IN THE UNITED STATES?

A jurisdictional opening for the tribes appeared in the United States with the 1982 decision in Seminole v Butterworth,⁸ and the 1987 U.S.S.C. decision in California v Cabazon.⁹ States that prohibited gambling completely could prohibit gambling on reservations. States that regulated gambling, allowing some forms to operate in the state, had no power to regulate gambling on reserves. Giant bingos began appearing on reservations. "Indian Bingo" came to have special meaning.

There is an interesting difference between criminal prohibition and civil regulation. We find the same distinction in the Supreme Court of Canada decision in Furtney, described by Bill Ferguson this morning.¹⁰ The Canadian Criminal Code can prohibit gambling. But when the Code maps out an exception to the prohibition, it is freeing the provinces to exercise what would otherwise be their jurisdiction to regulate gambling [under their jurisdiction over local trade and commerce and property and civil rights]. The prohibition of gambling and the regulation of gambling are seen as two quite different kinds of laws in both the United States and Canada. In the United States the difference had major consequences in the Seminole and California cases.

Can we apply the United States outcome in Canada?
Criminal law is a matter for the federal government in

8. 658 F.2d 310 (5th Circuit 1982); leave to appeal denied, 455 U.S. 1020 (1982).

9. 480 U.S. 202; 14 Indian Law Reporter 1008.

10. R v Furtney, (1991) 3 S.C.R. 89. Ferguson, First Nations Gaming in Canada: An Overview of the Current Canadian Law, December 10, 1992, presented at the conference Successful First Nations Gaming in Canada, Vancouver, organized by the Native Investment and Trade Association.

Canada and a matter for the individual states in the United States. Canadian criminal law has always been held to apply to Indians and on reserves in Canada. In the United States State criminal laws were made to apply on reservations by federal legislation.¹¹

State laws on the regulation of economic activities can be superceded by tribal laws in the United States. That is the basic message of the Seminole and California cases.

Do provincial laws regulating economic activities apply on Indian reserves in Canada? The answer is clearly yes, unless the laws are in conflict with federal laws or band by-laws [which have the constitutional force of federal laws for division of powers purposes].¹² The only provincial laws that cannot apply to reserves in any circumstances are laws which directly affect the use of reserve lands. Such laws are said to be exclusively within federal legislative jurisdiction.¹³

Can the federal government legislate to regulate gaming on Indian reserves in Canada or allow band councils to regulate gaming? The power of the federal government to legislate in relation to gaming, in general, is limited to its criminal law powers to prohibit. Off the reserves the federal government cannot regulate gambling. But on reserves they would be able to. The parallel to driving laws is very sharp. The federal government cannot regulate driving off reserves. They can do so on reserves.¹⁴ Virtually everything in the present Indian Act would be within provincial legislative jurisdiction if it were not enacted in relation to Indian reserves. No judicial decision has ever held a piece of federal Indian legislation beyond the powers of the federal parliament on the basis that it dealt with a matter within exclusive provincial jurisdiction. If the courts have not excluded federal jurisdiction over the "speed, operation and parking of vehicles on roads on reserves" there is no reason why they would exclude the regulation of gambling.

What would be required, however, is federal legislation (like the U.S. Indian Gaming Regulatory Act of 1988) or a valid band by-law (which might require a clearer delegation of authority than the present section 81 ((m)). But under current division of powers rules, we would wind up with two valid laws: the federal regulatory law and the provincial

11. See Public Law 280 of 1953, cited in California v Cabazon.

12. Four B Manufacturing v United Garment Workers, [1980] 1 S.C.R. 1031.

13. The leading case remains Surrey v Peace Arch (1970) 74 W.W.R. 380 (B.C.C.A.).

14. R v Francis, [1988] 1 S.C.R. 1025.

regulatory law. If bands could comply with both, both would be valid. If one says yes and the other says no, bands could comply by following the "no". The division of powers appears to leave us at a dead end as a result of the Supreme Court of Canada decisions on "double aspect" and "occupation of the field".¹⁵ The United States rulings simply do not fit the Canadian division of powers rules. Power to permit would still rest with provincial governments, the outcome in the Furtney decision of the Supreme Court of Canada.

SELF-GOVERNMENT

Is self-government an aboriginal right? It is seen in those terms in United States law. The United Nations Working Group on Indigenous Populations is drafting a declaration on the rights of indigenous peoples. The Working Group has accepted that indigenous peoples are peoples with a right of self-determination.¹⁶ To the members of the Working Group this means an entitlement to autonomy or self-government within states like Canada. The concept of autonomy, self-determination, self-government is now widely accepted. Canadian aboriginal leaders insisted during the Charlottetown Accord negotiations that the right be recognized as an "inherent" right. This meant that it comes from the aboriginal legal systems, not from English or Canadian law.

In the Sparrow decision, the Supreme Court of Canada clearly rooted aboriginal rights in the pre-existing aboriginal legal orders in what is now Canada. Those rights had not received general positive recognition in the colonial legal order inherited by Canada, though some rights were recognized at some points. But the Supreme Court of Canada ruled that the rights survived so long as they had not been clearly extinguished. Mere non-recognition or regulation was not enough to end those rights. Regulation that went so far as to make the rights unusable was not extinguishment. After the enactment of section 35 (1) the unextinguished rights had constitutional force and could only be limited by legislation which met certain tests set out by the Court.

What of self-government? Clearly the list of powers of band councils in section 81 of the Indian Act cannot now be seen as something that ended or, in and of itself, limited aboriginal rights of self-government. As in the United

15. This is illustrated in the Francis decision. See Hogg, Constitutional Law of Canada, Third Edition, Carswell, 1992, at 381-3 and 419-20.

16. Draft Universal Declaration on the Rights of Indigenous Peoples, [1992] 2 C.N.L.R. 1-5.

States, self-government powers were ignored, not ended. They have, since 1982, become available again for real use.

Clearly self-government powers are limited. The fact of large non-indigenous populations controlling major areas of land means that pre-contact self-government cannot be reasserted over the whole of the traditional territories. The first obvious limitation on First Nations jurisdiction is territorial. Most First Nations self-government powers will be limited to the special land base held by First Nations. Additionally, there will be limitations on subject matter jurisdiction. It may well be that most criminal jurisdiction will remain with the federal government, though the exact rationale for such an outcome is not clear from the reasoning in the Sparrow decision. Matters of civil jurisdiction are much clearer, if for no other reasons, because (a) band councils have already had some civil jurisdiction through by-law powers and through the powers that they have been able to exercise over property 17 and (b) some provincial civil laws are already excluded from application on reserves because they directly affect the use of reserve lands.

How will we define the surviving aboriginal rights of self-government? Professor Brian Slattery has suggested that the scope of aboriginal rights should be found in a "common law" of aboriginal rights which has developed in North America as a result of the inter-action of indigenous peoples and European colonists.¹⁸ This avoids two difficult extremes. On the one hand, it avoids strict British legal positivism, which would look exclusively to British law for any Indian rights. On the other hand, it avoids strict Indian legal positivism, which denies the validity of any loss of rights that did not occur with the free and informed consent of the Indigenous people concerned. Instead, Professor Slattery turns to the shared experience in North America and the historical recognition that there had to be a relationship, there had to be accomodation between indigenous peoples and colonial settlers. The terms of the relationship can be constructed from the history of attempts at relationship and accomodation, including events such as the treaties and the Royal Proclmation of 1763. He suggests that we can turn to section 91 (24) of the Constitution Act, 1867, to guide us on the powers of aboriginal governments. It is something from our history. It is familiar. It has content. Any matters falling within the section would be logical powers for aboriginal governments. As I have

17. Powers over property are not normally seen as "jurisdictional", but considerable zoning and licensing is done in the Indian reserve context through provisions in leases rather than in by-laws.

18. Slattery, First Nations and the Constitution: A Question of Trust, (1992) 71 Canadian Bar Review, 261-293.

earlier argued, the regulation of gambling as an economic activity on reserves would fall within section 91 (24).

This has a very interesting consequence. Under traditional division of powers arguments, federal jurisdiction would co-exist with provincial jurisdiction in areas of overlapping jurisdiction. Therefore Indian gaming laws enacted under Indian Act authority could not trump a refusal of a license under provincial laws. But if section 91 (24) powers are the powers of a constitutionally recognized First Nations government, the First Nation would be a parallel government to that of any province. The First Nation would have the relationship to British Columbia that Alberta has to British Columbia. Its enactments would not be federal law. Its jurisdiction would not overlap.

Slattery's suggestion on defining the extent of First Nations powers of self-government has a compelling conservatism. We would turn a rather paternalistic provision, section 91 (24), into a positive recognition of First Nations powers. I think we can turn to more than section 91 (24), at least as it has been interpreted to date. We can look to the areas of governmental activity where there has been a clear recognition of a need for special provisions for aboriginal peoples. If we have no judicial decision placing Indian child welfare within section 91 (24), we can look to the widespread pattern of inter-governmental agreements on Indian child welfare, which recognize the Indian area as a separate, special area, deserving different treatment. On Indian education we can go back to the federal endorsement of the National Indian Brotherhood's position paper "Indian Control of Indian Education" by Jean Chretien, the leading Minister of Indian Affairs in the post-war period. And we can look to the gradual development of Indian control over Indian education since that time, going from primary schools through now to some post-secondary programs.

This approach also has implications for economic development strategies available to Indian First Nations. Indian reserve economies have developed in some ways as border-town economies. Indians have had to find special niches in the larger Canadian economy. There is a booming trailer park under the north end of the Lions Gate Bridge. It is there because that is Squamish land. And it is there because Canadian cities and municipalities do not like trailer parks. An economic niche opened up for Indian reserves because they were free from provincial and local zoning laws. They exploited that jurisdictional freedom and allowed forms of economic activity which were highly restricted in adjacent jurisdictions. Trailer parks are highly restricted in adjacent jurisdictions, but not prohibited across the board. Gambling is another business activity which is highly restricted in adjacent

jurisdictions, but not prohibited across the board. It fits with the kinds of economic development strategies that Indians have had to employ to get ahead.

I am not arguing that aboriginal self-government powers should include gaming because Indians had traditional gambling games. That fact is interesting, but I put the case somewhat differently. First Nations governments should be able to direct and control their own economies. They did that in the past. It is part of their pre-contact powers. Since the establishment of reserves, they have had to use whatever advantage they could gain from the separate jurisdictional status of the reserves. When Canada moved gambling from criminal law to civil regulation, the case became strong that First Nations governments, under section 35 (1), should be able to control their own economies by taking over the civil regulation of gaming as a business. The United States Supreme Court cited tribal self-sufficiency and economic development as valid goals for upholding tribal gaming jurisdiction in California v Cabazon.¹⁹

There are good reasons to find bingo in the box.

19. (1987) 480 U.S. 202; 14 Indian Law Reporter, 1008.

Session 3

Paving the Way for Development and
Implementation of Gaming Projects

PROVINCIAL INDIAN GAMING COMMISSIONS

Chief Roland Crowe

Chief of Federation of Saskatchewan Indian Nations.

Biography and paper not available at press time.

Leonard Prescott

Chief Executive Officer of Mystic Lake Casino, former Chair of Native Indian Gaming Association in the United States.

Biography and paper not available at press time.

Session 3
Paving the Way for Development and
Implementation of Gaming Projects

James J.R. Greyeyes

James Greyeyes is a Senior Policy Analyst and advisor with policy, planning, and legislation, Management Services Branch of the Ministry of Attorney General of British Columbia.

Mr. Greyeyes is a Cree from Muskeg Lake near Saskatoon, Saskatchewan. He spent 27 years as a member of the Royal Canadian Mounted Police in B.C. before retiring in 1991. His responsibilities involved policing a number of First Nations communities in the Lower Mainland, Central, and Northern B.C. He is conversant with the issues and concerns facing First Nations people in B.C. with respect to the criminal justice system, has a broad knowledge of Aboriginal leaders in B.C., as well as the geographic and demographic characteristics of the area.

In addition to the work Mr. Greyeyes does with Aboriginal gaming, he is currently working in the areas of criminal justice, policing, and sits on a number of committees on justice, including employment equity.

DEVELOPING CONSENSUS AND PROVINCIAL INTERESTS, B.C.

This presentation will cover both the provincial interest and the consensus approach of the province with respect to Aboriginal gaming.

E.W. Modeste

E.W. (Wes) Modest has served six terms on the Cowichan Council including one term as Chief.

He has worked as the Economic Development Officer for the band for 14 years, mainly in the land use, lease applications, and in managing a small economic development budget.

Mr. Modeste has also worked on Native Heritage Centre Development for two years. He has just recently begun working on Self Government for the Cowichan Tribes.

DEVELOPING CONCENSUS - THE BRITISH COLUMBIA APPROACH

The Province has a Commitment to working with First Nations on the issue of Gaming on Reserves. There is much work to be done which will require the input of our communities in developing the frame work by which gaming can be administered.

There is yet the vacuum that has been created when the Federal Government changed the Criminal Code so that the Provinces could control their own Gaming. The Federal Government made no provision for First Nations Gaming, leaving only an option to deal with respective Provinces. Many leaders are still of the mind that Gaming jurisdiction shall not be acquired from the Provinces, but rather from the Federal Government since, traditionally, First Nations do not have much history in working with Provinces.

Does the Federal Government still take the position that it should not involve itself with Native Gaming since it may be misconstrued that the Federal Government is thereby getting back into Gaming Regulation after changing the Criminal Code? If so, we are presented with the dilemma of being forced to deal with the Provinces or, alternatively, simply running gaming under local First Nation control.

First Nations already have Provinces imposing jurisdiction on so called 'illegal bingo operations'. Manitoba has worked out arrangements with First Nations that would facilitate gaming. The Federal Government takes a neutral position on this arrangement.

The U.S. Federal Government has developed legislation for Gaming on Reserves. In this country, First Nations are having to negotiate Contracts with respective State Governments. The U.S. provides legislation which is the frame work by which First Nations can develop gaming as a means of generating revenue for their own objectives.

In British Columbia, the Native Affairs Branch and the Gaming Commission are actively working with our people with a view to amicably work out a plan by which we can pursue gaming. The Gaming Commission has been following the U.S. scene and regularly attend the National Indian Gaming Association Meetings. We have a Provincial Government who are prepared to look at any reasonable solution to facilitate gaming for our communities.

The question is, "Can we develop gaming on our terms?". There are those of us who believe we can. There are serious concerns associated with gaming which have social impacts that are always associated with this industry, but we must remember that there are countries which do use gaming as an integral part of their economy.

Our neighbors to the south have amply demonstrated that this industry can not only have a positive effect on their communities, but the spin offs are far reaching outside the boundaries of the reserves in the U.S.

The Province of B.C. has set out its concerns with respect to gaming and how it should be regulated. We need only address these concerns in a responsible manner, but in a manner that would benefit all of our communities. There is a need to develop a province-wide strategy on gaming and appropriate control. These controls can be established by our own people and can be designed for, not only provincial control, but for regional and community policy to regulate our gaming.

To accomplish this end, we need only meet with one another to formulate the means by which we can accomplish this objective. It is at meetings such as this where we can better understand the obstacles and bring about a means by which we can generate revenue to implement our own programs for our respective communities.

We would like to gratefully acknowledge the sponsorship of a complimentary luncheon and presentation by Grand Casinos, Inc.

Grand Casinos, Inc. is a publicly traded company (NASDAQ/GRND) specializing in developing and managing Native gaming facilities on Native land. They are located at 13705 1st Avenue North, Suite 100, Plymouth MN, 55441, and can be reached at (612) 449-9092.

Marvin D. Hanson
Vice President of Associate and Tribal Relations
Native Gaming: A Management Perspective

Marvin Hanson is a 1976 graduate of St. John's University in Social and Political Science, and is an enrolled member of the Red Lake Band of Chippewa Indians.

Before joining the Grand Casinos Team, Mr. Hanson was Executive Director of the Minneapolis branch of the American Indian Opportunities Industrialization Center, where he concentrated on program management of Native employment, education and training programs.

His executive background also includes services as The Upper Midwest American Indian Center; Executive Director of the St. Paul American Indian Center; President of Minority Consultant Enterprises; CETA Title III Director for Grand Rapids Inter-Tribal Council; and President of M.D. Hanson Construction Company, Inc.

Mr. Hanson is an appointed Advisory Member of the McKnight Foundation in Indian Economic Development issues, a member of the Minnesota Council on Compulsive Gambling and Board Member of the Minnesota Indian Chamber of Commerce. Other public service positions and appointments have involved him in career development, minority child welfare, adoption and minority employment. He is the recipient of Citations of Honor from the State of Minnesota and Hennepin County.

Arthur Greenberg
Vice President of Business Development
Native Gaming: A Management Perspective
Introduction

After graduating from Temple University in 1960, serving with the Air National Guard in Pennsylvania and Ohio, and representing Procter and Gamble and other houseware industries, Arthur Greenberg became involved in high stakes Indian Bingo in 1982. He formed a company to obtain management contracts with Native Tribes. His company raised the capital necessary to fund bingo contracts by obtaining limited partner interest. In 1984 he was given approval by the Bureau of Indian Affairs to operate high stakes bingo with the San Juan Pueblo Tribe in New Mexico. He worked as General Manager of the project. Mr. Greenberg's background in Indian Gaming has led to consulting work for several native bingo facilities which have experienced difficulties.

DAY TWO
FRIDAY, DECEMBER 11, 1992
ROBSON SQUARE CONFERENCE CENTRE

Session 1

Implementation of Gaming Projects

The Community Context

Vina A. Starr

Vina Starr is a Native Indian lawyer, specializing in the practice of Indian Self-Government law, Indian tax law, and Corporate-Commercial law for Indian businesses.

She graduated from the University of British Columbia law program and was called to the Bar in 1986. She was appointed to the Faculty of Law at U.B.C. to head a project on Indian Self-Government constitutional research. Five years ago she opened her own practice in Vancouver, V. Starr & Associates, and serves primarily Indian Band Councils. She is a member of the Kitamat Indian Band.

Ms. Starr's other affiliations include founding membership for the Indigenous Bar Association of Canada, Chairing the Native Justice Section of the B.C. Branch of the Canadian Bar Association, and currently chairing the National Native Justice Section of the Canadian Bar Association.

**RESPONSIBLE COMMUNITY RUN GAMING
OPERATIONS: BYLAWS AND CHECKPOINTS**

Paper not available at press time.

Wes Modeste
Self-Government Coordinator
Cowichan Band

The most beneficial approach to gaming is to have the legal framework in place for security of investment and ability to secure long term capital financing. At this time it appears that the Province of British Columbia has the ability to be a party in the process of securing the appropriate legal framework for gaming.

It is incumbent upon us to secure this legal framework to plan and implement gaming on a long term basis. Although there are communities that administer bingos in absence of an appropriate source of jurisdiction, this leaves this kind of gaming at risk under Provincial Gaming regulations.

How do we accomplish Implementation?

- Federal Government must commit itself to some form of involvement from the point judiciary responsibility.
- Provincial Government must negotiate with First Nations with view to developing the legal structure to accomplish implementation.
- First Nations appropriately should work toward the formation of a province wide Gaming Commission to address issues not only in the province, but to follow global issues on a regular basis.
- First Nations to develop regional Gaming Commission.
- First Nations to develop Community Gaming Commission to control community gaming.

With this kind of regulatory structure in place, gaming could be administered in a manner that would address provincial and public concerns of a social stability.

Session 1

Implementation of Gaming Projects:
The Community Context

Rick Saville

Rick Saville joined the Licensing Division of the Public Gaming Branch in 1989 as a Licensing Officer. He was promoted to Senior Licensing Officer in January 1992 and took over the role of Director of Licensing and Reporting Compliance in June 1992. Mr. Saville served with the R.C.M.P. and the federal Ministry of Solicitor General for 23 years prior to joining the provincial public service.

CURRENT B.C. GAMING REGULATORY STRUCTURE

This presentation will describe the roles and responsibilities of the Public Gaming Branch and the British Columbia Gaming Commission. In addition, it will address some of the difficult issues in gaming which might be faced by any regulatory licensing agency.

**ESTABLISHING AN EFFECTIVE
REGULATORY FRAMEWORK: ENSURING
THE INTEGRITY OF GAMING OPERATIONS**

**Chuck Koppang
Manager, Native Gaming Division
Manitoba Lotteries Foundation**



NATIVE GAMING IN MANITOBA

SUCCESSFUL FIRST NATIONS GAMING IN CANADA

Robson Square Conference Centre

Vancouver, British Columbia

December 10 & 11, 1992

Prepared by: Chuck Koppang
Supervisor
Native Gaming Section
Manitoba Lotteries Foundation

NATIVE GAMING IN MANITOBA

Seventeen (17) reserves have one or more organizations holding a total of twenty-nine (29) Manitoba Lotteries Foundation Licenses under the Foundation's regular procedures for non-profit organizations (as of December 3, 1992). These bands participate in licensed gaming in the same manner and to the same extent as any other non-profit organization.

Other bands objected to direct licensing and regulations by an agent of the Provincial Government. As a result, Manitoba became the first jurisdiction in Canada to adopt a separate process and scheme for the regulation of licensed gaming on reserve lands through a negotiated Native Gaming Agreement. There are now eight (8) Native Gaming Commissions in operation, representing fifteen (15) bands.

In 1979, the Chief & Council of The Opaskwayak Cree Nation (formerly the Pas Band) passed a by-law pursuant to Section 81.(1)(m) of the Indian Act for the purpose of regulating gaming on the reserve. Breakopen ticket sales commenced in 1984. On May 21, 1986, the RCMP carried out a raid on the reserve and seized the tickets and records. Criminal charges were laid.

Shortly after the raid, the Province entered into negotiations with five (5) Native organizations representing all of the Aboriginal peoples within the Province. On February 3, 1987, a memorandum of understanding was signed by the Attorney General on behalf of the Province, by the five

Native organizations, and by the Department of Indian and Northern Affairs on behalf of the Federal Government.

The purpose of the memorandum was to establish a framework for the negotiation of specific agreements between the Province and individual bands for the regulation of gaming on reserves. The memorandum states expressly, that questions of Aboriginal sovereignty and jurisdiction are unresolved and that the memorandum is not intended to prejudice the respective negotiating positions of the signatories to it. However, the memorandum does provide a practical, interim solution, which addresses law enforcement concerns about illegal gaming and Aboriginal interests in providing gaming opportunities on reserve lands.

The Manitoba Lotteries Foundation has taken the lead role, on behalf of the Province, in negotiating agreements with specific bands. They have extended an invitation to negotiate to each of the Province's sixty-one (61) bands. Bands who choose to operate gaming events without the benefit of an agreement, may be subject to police investigation and criminal charges.

Since last year, the RCMP have laid three charges concerning illegal gaming on reserves. One charge was withdrawn, one is currently before the courts, and a conviction was registered on the third incident.

The first agreement with The Opaskwayak Cree Nation (formerly the Pas Band) was executed on January 9, 1990. It is supported by a resolution of the Band Council and a Provincial Order-in-Council designating The Opaskwayak Cree Nation Gaming Commission (formerly the Pas Band) as the licensing authority under the Criminal Code.

Since 1990, the Province has also entered into Native Gaming Agreements with:

- 2) The West Region Economic Development Corporation
- May 9, 1991 (which represents eight bands),
- 3) The Norway House Band
- June 7, 1991,
- 4) The Roseau River Anishinabe First Nation
- March 17, 1992,
- 5) The Mathias Colomb Band
- April 6, 1992,
- 6) The Nelson House First Nation
- August 5, 1992, and
- 7) The Crane River First Nation
- November 2, 1992,
- 8) The Moose Lake Indian Band
- December 9, 1992.

THE MANITOBA MODEL NATIVE GAMING AGREEMENT

The gaming agreement must be supported by a Band Council Resolution, and a Provincial Order-in-Council designating a specific Indian Gaming Commission as the authority responsible for licensing gaming on their reserve lands. The agreement is attached as a schedule to the Order-in-Council.

All of the gaming agreements contain similar terms. They provide for the appointment and establishment of an Indian Gaming Commission with authority to exercise powers similar to the "Foundation" in licensing charitable or religious organizations under Section 207.(1)(b) of the Criminal Code.

Among the Commission's powers, is the exclusive power to set and collect license fees. Neither the Foundation or the Province of Manitoba receive revenue from the fees collected by the Commissions.

In Manitoba, Indian Gaming Commissions are entitled to regulate periodic Bingos, lottery and Breakopen Ticket sales, Calcuttas, Monte Carlo Casinos, Raffles, and Media Bingos.

The Native Gaming Agreements provide that the Terms & Conditions of Licenses issued by the Commissions shall be "similar in principle" to the Terms & Conditions of licenses issued by the Foundation.

The Commissions have also agreed to purchase products (with one exception), at cost, from the Foundation, and to adopt practices, similar to the practices of the Foundation, for enforcement and accounting. An independent audit must be submitted annually to the Province. While the Foundation does not collect fees under the agreements, it does recover some of its operating expenses in connection with the services it provides to the gaming commissions, through the prices it charges to the commissions for Bingo paper and other lottery products.

In addition, the commissions have agreed to use gaming proceeds for the general purposes specified in Section 207(1)(b) of the Criminal Code, namely for a "charitable or religious object or purpose". These words have been liberally construed by the Canadian courts, particularly where the object or purpose is directed towards the betterment of current Aboriginal conditions. In general, the law recognizes as charitable or religious, purposes which relieve poverty, advance education, advance religion, or provide benefit to the community.

The bands and their gaming commissions are given broad and sole discretion to determine whether a specific object or purpose is charitable or religious.

The agreements provide a mechanism for resolving disputes between the Province and the commissions. In general, disputes may be resolved through arbitration, although some bands have objected to incorporating the provisions of the Provincial Arbitration Legislation. So far, in

Manitoba, all disputes have been resolved through negotiations with the Native Gaming Section of the MLF. In the event of a failure to reach consensus, either party is entitled to terminate an agreement on ninety (90) day's notice. The effect of a termination would be to leave the band open to criminal prosecution, as the gaming events would no longer be licensed.

VIDEO LOTTERY TERMINALS

Video Lottery Terminals are also available to bands who have regulated their gaming through MLF licenses or through their own Indian Gaming Commissions. These VLT Agreements contain similar conditions as applied to VLT Siteholder's located off-reserve, other than in a licensed premise. There are a maximum of forty (40) VLTs allowed per reserve. They must be connected to the MLF central system; current MLF prize limits and pay outs must be adhered to; they are allowed to keep 90% of net proceeds; the MLF operates on a cost-recovery basis, and provides servicing to the machines. A copy of a VLT Agreement is attached.

Two (2) bands are currently on line and operational. They are Opaskwayak Cree Nation with twenty (20) machines and Crane River First Nation with six (6) machines.

Weekly net revenue per machine will vary according to the market and the market varies according to geographical location of the reserve VLT site. An Opaskwayak Cree Nation spokesperson was quoted as saying their 20

VLT's will net them \$520,000.00 in one year. Current figures for the first two weeks of operation indicate the annual revenue may be much higher.

Pine Creek First Nation have recently signed an agreement for forty (40) VLT's expected to be on line by mid-January 1993. Negotiations are on-going with other Manitoba Bands.

THE ROLE OF THE NATIVE GAMING SECTION OF THE MLF

The commitment by the Manitoba Government to negotiate individual agreements has been costly and labour intensive. Prior to signing of the Memorandum of Understanding, Native Gaming was dealt with on a part-time basis, by one of the Foundation's Investigators. To meet Government's commitment, the Foundation has now established a separate Native Gaming Section, with five full-time employees and an annual operating budget of \$269,000.00. Two of the Native Gaming Section employees are Aboriginal. Travel expenses to remote reserves will account for a substantial portion of this budget allocation.

By establishing a separate unit, the Foundation has provided a distinct point of contact for Aboriginal leaders in addressing gaming issues within the Foundation. This provides continuity and facilitates understanding and trust. It also permits staff in the unit to develop specialized expertise about gaming and gaming issues within the context of Aboriginal traditions and culture. Initially, the Chief of the The Pas Band was criticized by other members of the Assembly of Manitoba Chiefs, for

entering into an agreement with the Province. However, the success of the Band's gaming activities has encouraged other bands to consider regulating the gaming activities on their reserves through this type of arrangement.

Most bands have adopted the general Terms of the The Pas Agreement. As a consequence, the negotiating period for each new agreement has been significantly shortened, although some new wording within the Terms has resulted from other bands negotiations.

However, at the same time, the Foundation has offered and provided on-going assistance in establishing the commission's structure, in the defining staffing requirements, in developing operating manuals and procedures and in resolving audit and enforcement issues. This is done only on request from the Indian Gaming Commission.

As gaming is a cash business, there are many opportunities for participants to "skim" revenues. It takes some time for Auditors and Investigators to know what to look for and to assemble the information necessary to take effective enforcement action. As a result, the Foundation sees a continuing role for its staff, as experienced resources in organizational matters, staff training, audit and enforcement. It is expected that the demand for Foundation resources will decrease as gaming commissions and their staff gain expertise in their conduct of gaming events.

OBSERVATIONS ON THE MANITOBA EXPERIENCE

1. A decision is required early in the process with respect to the proper parties to the negotiation. In Manitoba, it was clear from the outset that a single agreement with all Aboriginal leaders would not be possible because of the diverse interests, attitudes and traditions of the various bands in the Province. The most that was accomplished on the Provincial level was a framework agreement to initiate separate negotiations with individual bands.

The Manitoba Native Affairs Secretariat suggests that early progress might have been improved if the Province had omitted this step, and proceeded directly into negotiations with those bands who were interested in and ready to assume responsibility for gaming on their reserves.

In addition, our experience with the West Region Indian Gaming Commission, in essence a Tribal Council, suggests that it is also important to work with a group that is broadly representative of the community interests where the gaming events are to take place, and which has an established tradition of co-operation. While the Province and the West Region Indian Gaming Commission have an agreement in place, its nine member bands have only recently succeeded in appointing a commission, and licensing their gaming events. Each of the nine bands is at a different stage of development, and each has a different view on the role of gaming

as an instrument of economic growth. The task of obtaining consensus has thus delayed interested bands in proceeding with the conduct of gaming events. One band has recently submitted a BCR to withdraw from this Indian Gaming Commission, and have established their own Indian Gaming Commission, through an agreement with the Province.

2. Many of the bands in Manitoba are too small or too remote to operate within the type of structure dictated in a Native Gaming Agreement. On smaller reserves, total gaming revenues would not be sufficient to support a Native Gaming Commission's staff. In addition, resources for audit and enforcement would simply not be available at the local level, and the cost of training would be prohibitive. In this regard, VLTs controlled through a centralized monitoring and auditing system, may offer an attractive alternative where the size or location of the reserve is not large enough to render conventional forms of gaming activity economically viable.

We have also identified a technical problem, in that a number of isolated remote northern reserves, who are serviced through "satellite", could not be hooked into the 6-49 type terminals.

3. Close links to the band Government may be a critical factor in the successful operation of an Indian Gaming Commission. The members of the The Pas Band Indian Gaming Commission are separate from, but have close ties to, the Band Government. The majority of the commission's members are also members of the

Band Council. While this linkage provides direct accountability to local governments, the commission and its staff also enjoy a measure of independence from local politics and, potentially, some continuity in the event of a change in the make-up of a Band Council.

One band in Manitoba has taken an absolutely opposite view of this theory and believe that the Indian Gaming Commission Board should be ratified by a vote of the band membership.

4. A history of successful economic enterprise may be a strong indicator of potential success in the operation of gaming events. The Pas Band has been successful in developing a diversified economic base, and a growing network of social services. Gaming activities are an adjunct to other ventures and not the only form of economic activity on the reserve. There are skilled people in the community to support the successful operation of gaming as a business activity. As a consequence, the band has been extremely effective in managing and accounting for the significant revenues it realizes from its gaming activities. At the same time, the community infra-structure is not solely dependant on gaming revenues for its long-term viability.

5. If a separate regulatory scheme is contemplated for Aboriginal gaming, consideration must also be given to the operation of this scheme in close proximity to off-reserve gaming at the local level. As the reserve lands in The Pas are located adjacent to the town,

both the Foundation and the Commission have had to consider the effects of overlapping regulations and external competition for gaming dollars. As an example, a ticket seller must have a Foundation license to sell tickets off-reserve and an Indian Gaming Commission license to sell the same tickets on-reserve. Each licensing scheme has its own accounting requirements. Gaming proceeds are directed to separate recipients and license fees are calculated as a percentage of sales. By administrative policy, the Foundation and the Indian Gaming Commission have agreed that the seller must obtain two licenses, that one accounting is submitted to the first licensing agency, and that the first licensing agency remits a share of the gaming proceeds and the fees to the second licensing agency.

6. The co-existence of independent regulatory bodies in a defined marketing area has lead to pressure to expand permitted forms of gaming. A decision by the MLF to install Video Lottery Terminals in rural hotels and bars, lead to immediate pressure from Native Gaming Commissions to permit the terminals on reserves. Similarly, a decision to allow occasional "high-stakes bingos" on reserves with Native Gaming Agreements in place has lead the Foundation to remove the cap on permitted prizes at non-reserve bingo events.
7. Effective control of bingo paper and breakopen tickets is an important factor in preserving the integrity of licensed gaming events. By providing our own product, at cost, to the Indian

Gaming Commissions, the Foundation is providing an economic incentive to the commissions to comply with the product-purchase requirements within the agreement. This limits the capacity of unregulated, commercial paper manufacturers to infiltrate the Native Gaming market. It also provides an opportunity for Native Gaming regulators to participate in the design and development of the Foundations lottery products.

We have just recently introduced the first "Native Theme Breakopen Ticket" developed through co-operation with the Native Gaming Commissions and reserves with MLF licenses.

8. Policies and procedures must be in place to assist a Native Gaming Commission where a suspected violation of the Terms & Conditions is more complex or involved than commission resources are able to address. Although the Native Gaming Section recommends to commissions, that they have an Investigator on staff, most do not. The employment of part-time Investigators or the utilization of Band Constables as utilized by some Indian Gaming Commissions is not a satisfactory solution in that they do not have sufficient, effective training or experience. As a consequence, the Native Gaming Section Investigators, and the local Detachments of the RCMP, are called upon to support the work of Indian Gaming Commission staff. The investigation of regulatory infractions is done by Native Gaming Commission staff. If during the course of an investigation, it becomes apparent that a criminal offense may have occurred, Native

Gaming Section Investigators will advise the RCMP and provide assistance.

9. Through a Native Gaming Agreement, the larger questions of Aboriginal Sovereignty and jurisdiction have been set aside for the purpose of providing Aboriginal communities access to the financial benefits of regulated gaming.

In summary, the benefits to a band in forming a Native Gaming Commission are as follows:

1. All revenues stays on the reserve.
2. Accountability and integrity.
3. Opportunity to purchase Bingo and Breakopen products at cost.
4. Creates employment, as staff are required for the Native Gaming Commission and V.L.T. operation.
5. Training is provided.
6. Opportunity to enter into a separate Video Lottery Terminal Agreement.
7. Opportunity to enter into a separate Lottery Ticket Centre Agreement.
8. Regardless of the eventual solution to the jurisdictional dispute, signed bands will already have in place an experienced gaming commission staff with their own regulated accountable gaming systems in place.

9. The Native Gaming Commission can establish prize limits for bingos.
10. The potential for confrontation is lessened while both parties seek a more fundamental solution to this jurisdictional dispute.

AGREEMENT

Between:

THE GOVERNMENT OF MANITOBA
(hereinafter referred to as "Manitoba")

- and -

NAME OF BAND
(hereinafter referred to as "the Band")

WHEREAS Section 207(1)(b) of the Criminal Code of Canada provides that the Lieutenant Governor in Council of a province may specify a licensing authority to permit a charitable or religious organization to conduct and manage lottery schemes in that province if the proceeds from the lottery scheme are used for a charitable or religious object or purpose;

AND WHEREAS the Indian people represented by the Band assert that they have authority and jurisdiction over gaming activities on their reserve ("the reserve lands") pursuant to their treaty and inherent rights;

AND WHEREAS Section 35 of the Constitution Act, 1982 of Canada recognizes and affirms the existing treaty and aboriginal rights of the aboriginal peoples of Canada;

AND WHEREAS Manitoba and the Band agree that an Indian Gaming Commission will be established to license and monitor gaming activities on the reserve lands;

AND WHEREAS Manitoba and the Band agree that on an interim basis the Indian Gaming Commission shall be vested with authority to do so by concurrent designating enactments of Manitoba and the Band.

THE PARTIES AGREE as follows:

I. JURISDICTION

1. The Band shall establish the _____ Band Indian Gaming Commission ("the Gaming Commission"):
 - a) which shall represent the Band and which shall be bound by the provisions of this agreement;
 - b) for the purpose of licensing and regulating lottery schemes, as defined in Section 207(4) of the Criminal Code of Canada, within the reserve lands.
2. Manitoba agrees to specify by Order-in-Council the _____ Band Indian Gaming Commission as defined herein as a licensing authority pursuant to Section 207(1)(b) of the Criminal Code of Canada.
3. The Band agrees to specify, by Band Council Resolution, the _____ Band Indian Gaming Commission as the licensing authority to license and regulate all gaming activities within their reserve lands in accordance with this agreement.

II. SCOPE AND AREA OF OPERATIONS

1. The Gaming Commission shall be authorized to issue licenses to religious or charitable organizations to conduct and manage lottery schemes, within the meaning of Section 207(1)(b) of the Criminal Code of Canada, within the reserve lands.
2. The Gaming Commission, representing the Band, shall have exclusive gaming licensing authority within the reserve lands.

III. MANAGEMENT OF GAMING ACTIVITIES

1. The parties agree that terms and conditions of licenses issued by the Gaming Commission shall be similar in principle to terms and conditions which apply to licenses issued by the Manitoba Lotteries Foundation for off-reserve gaming activities.

2. Other gaming activities and gaming equipment not covered by this agreement may be the subject of separate agreement(s) to be negotiated between the Band and Manitoba.

IV. ENFORCEMENT

1. Methods of dealing with infractions for on-reserve gaming activities shall be the same as those which govern off-reserve gaming activities.

V. GAMING PRODUCT

1. The parties agree that use of gaming products be restricted to that provided, at cost, by the Manitoba Lotteries Foundation.
2. The use of alternate gaming product will be subject to joint approval between the Gaming Commission and the Manitoba Lotteries Foundation.

VI. ACCOUNTABILITY

1. Annual independent audits of gaming activity will be provided by the Gaming Commission to Manitoba.
2. The Gaming Commission will maintain a standardized system of records of the licensed operators on reserve including financial reports of licensed operators. These records are to be made available for inspection, as required, by Manitoba.
3. This process does not in any way diminish any other authority or legal rights and/or obligations to which by law, the parties are bound.

VII. PURPOSE OF REVENUE

1. The general purpose of revenue raised by the gaming activities shall be in accordance with the preamble to this Agreement.
2. Within the context of Paragraph 1, the specific objects of revenue raised shall be those identified by the particular applicant, and approved by the Gaming Commission, as it sees fit.

3. The identification of specific objects as falling within the general purposes identified by law shall be the responsibility of the Band in conjunction with the Gaming Commission, during the licensing process.
4. Diversion of revenue to other than identified objects shall be dealt with by the Gaming Commission in a manner determined under Part IV, Paragraph 1.

VIII. DISPUTE RESOLUTION AND REVIEW

1. The parties agree that disputes concerning the interpretation or application of this agreement may be referred by agreement for resolution to a Dispute Resolution Committee appointed by the Band and Manitoba as follows: one representative each from the Band and Manitoba and a third representative to be chosen by mutual agreement.
2. Notwithstanding paragraph 1, the parties may waive the requirement for three representatives, if they can agree on a sole arbitrator.
3. Where the parties cannot agree on a third arbitrator, or where one party fails to appoint an arbitrator under paragraph 1, either party may provide notice and make application in accordance with Section 6 of the Arbitration Act R.S.M. 1987, C.A120.
4. The parties agree that a review of the Gaming Commission shall be made at the request of either party to the agreement. A revision of this agreement may be arranged as a result of such a review with the mutual agreement of both parties.

IX. GENERAL

1. This agreement is binding on the successors of the parties hereto.
2. This agreement is not intended in any way to diminish any other authority or legal rights and/or obligations to which by law, the parties are bound.

X. TERMINATION OF AGREEMENT

1. Either party to this agreement may terminate this agreement by providing ninety days notice in writing to the other party.

Minister Charged with the
Administration of the
Manitoba Lotteries Foundation Act

Witness

Minister Responsible for
Native Affairs

Witness

Chief,
_____ Band

Witness

Councillor

Witness

Councillor

Witness

Councillor

Witness

Councillor

Witness

Signed this _____ day of _____ 19____.

VIDEO LOTTERY TERMINAL SITEHOLDER AGREEMENT

This Agreement made this _____ day of _____, 199 ____.

between

THE MANITOBA LOTTERIES FOUNDATION
(herein referred to as the "Foundation"),

- and -

NAME OF INDIAN BAND
(herein referred to as the "Siteholder").

WHEREAS the Foundation has the authority and the right to conduct and manage Video Lottery Schemes in Manitoba;

AND WHEREAS the Chief and Council of the _____ Indian Band signed an agreement between the Band and the Province of Manitoba which authorized the Band to establish an Indian Gaming Commission with exclusive rights to license, monitor and operate a full range of gaming activities on reserve lands which fall under the _____ Indian Band's jurisdiction, which agreement was executed on _____, 19 ____;

AND WHEREAS the _____ Indian Band and the _____ Band Indian Gaming Commission is cooperating with the Province of Manitoba to ensure that maximum benefits from a Video Lottery Terminal scheme on _____ Indian Band's reserve accrue to the _____ Indian Band and its members;

AND WHEREAS the Siteholder has made application to the Foundation requesting placement of ____ Video Lottery Terminals (herein "VLTs") in his premises, and to become an agent of the Foundation for the purpose of assisting the Foundation in the management and conduct of a video lottery scheme, and the Foundation intends to place ____ VLTs in the Siteholder's premises and to appoint the Siteholder its agent for the purpose;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

DEFINITIONS

1. In this Agreement:

- (a) "Central Computer System" means the computer maintained by the Foundation to which all VLTs are connected and which records all data relating to the operation of each of the VLTs so connected;
- (b) "Player" means a person who has paid lawful currency in exchange for the right to play a computer video game on a VLT, in which, by chance, the person may receive a credit that can be redeemed for further play or for money;
- (c) "Video Lottery Game" means a computer video game played on a Video Lottery Terminal in which, upon payment of lawful currency, a person by chance may receive a credit that can be redeemed for further play or money;
- (d) "Video Lottery Scheme" means a lottery scheme that is operated on or through a Video Lottery Terminal;
- (e) "Video Lottery Terminal" means a machine or device that allows a person to play a Video Lottery Game by the insertion of money, and that falls within the meaning of "slot machine" under subsection 198(3)(a) of the Criminal Code (Canada);
- (f) "Credits" means the amount of money determined by a VLT to be payable to a Player as a result of the Player's operation of the VLT.

SITE INSTALLATION

2. The Foundation shall supply and install ___ VLTs, together with certain signs, fixtures and advertising material related thereto, at the Siteholder's business premises commonly known as:

Name and Address of Premises

(herein referred to as the "Site"), and hereby appoints the Siteholder as its agent to assist it in the conduct and management of a video lottery scheme at the Site.

OWNERSHIP

3. The Siteholder agrees that any VLT, sign, fixture, or other item installed at the Site or provided to the Siteholder by, or at the cost of the Manitoba Lotteries Foundation, shall remain the sole property of the Foundation and may be removed from the Site by the Foundation at any time without penalty to the Foundation.

- (a) without cause, on ninety (90) days notice in writing to the Siteholder;
- (b) for cause, without notice to the Siteholder; without limiting the generality of the foregoing, the following events shall be deemed to be cause for removal of any VLT, sign, fixture or other items installed at the site by the Foundation:
 - (i) failure to comply with the provisions of any Regulation under the Act governing Video Lottery Schemes, the rules of the Foundation respecting Video Lottery Schemes or the provisions of this Agreement;
 - (ii) failure to promptly pay money due to the Foundation pursuant to the terms of this Agreement;
 - (iii) involvement of the Siteholder or any of its principals or senior employees in criminal activity;
 - (iv) conviction of the Siteholder or any of its principals or senior employees of a criminal offence during the currency of this Agreement;
 - (v) discovery that the Siteholder has made a misrepresentation on an application form submitted to the Foundation; or
 - (vi) engaging in conduct that is contrary to the public interest or harmful to the integrity or reputation of the Video Lottery Scheme.

THE FOUNDATION'S COVENANTS

4. The Foundation shall:
- (a) in cooperation with the "Siteholder", select a location at the Site for installation of any VLT, fixture, or sign;
 - (b) upon receipt of payment of a one-time administrative fee for each individual VLT, such administrative fee as is stated in Schedule "A" attached, the Foundation shall at its expense, supply and install any VLT at the Site, excepting expenses incurred in the installation of wiring, outlets and telephone lines at the Site as set forth in paragraph 6 herein, which expenses shall be born solely by the Siteholder;
 - (c) at its expense, supply and install at the Site such point of sale materials, fixtures, signs and promotional materials as the Foundation may from time to time determine to be appropriate;
 - (d) provide for the Siteholder and his employees such training in the repair, maintenance and servicing of VLTs as the Foundation may from time to time determine to be appropriate;
 - (e) pay to the Siteholder such commissions (as is stated in Schedule "A" attached) as may be due to the Siteholder from time to time pursuant to the terms of this Agreement;

- (f) at its expense, provide repair or replacement of any VLT, fixture, sign or other property of the Foundation, which is necessitated by normal wear and tear, manufacturing defect or defective maintenance or service, provided by the Foundation, its employees or agents;
- (g) at its expense, service coin handling equipment purchased through the Foundation;
- (h) at its expense, provide all supplies needed to operate the VLTs;
- (i) pay all communicating costs associated with the VLT hotline, other than what is already covered elsewhere in this Agreement.

REMUNERATION

5. The Siteholder shall be entitled to remuneration for its services supplied pursuant to this Agreement solely by way of commission on revenues received from the playing of a VLT at the Site, in accordance with such fixed percentage as has been negotiated between the Siteholder and the Foundation (as stated in Schedule "A" attached).

THE SITEHOLDER'S COVENANTS

6. The Siteholder shall:
- (a) comply with the provisions of any Regulation under the Act governing Video Lottery Schemes, and the rules of the Foundation respecting Video Lottery Schemes;
 - (b) allow the Foundation access to the Site for the purpose of installing, inspecting, maintaining, repairing or replacing any VLT, sign, fixture or other property of the Foundation on the Site;
 - (c) provide, at the Siteholder's expense, in the area of the Site, agreed to by the Foundation and the Siteholder, for placement of any VLT, an electrical grounded outlet on separate circuit (dedicated line from fuse box) that is designed to provide electrical service 24 hours per day to any VLT;
 - (d) provide, at the Siteholder's expense, telephone service in sufficient proximity to any VLT to permit an individual operating, maintaining or repairing a VLT to simultaneously carry on a telephone conversation;
 - (e) pay any costs incurred in the installation and removal of electrical wiring, outlets, telephones and telephone lines required on the Site for the purpose of installing, maintaining, repairing or removing any VLT, fixture, sign or other property of the Foundation;
 - (f) pay all electrical utility charges incurred in connection with the operation of any VLT, fixture and sign;
 - (g) not allow on the Site any VLT or related accessory or product unless:
 - (i) its placement and operation is authorized by this Agreement;
 - (ii) it is approved for operation by and is the property of the Foundation; and
 - (iii) it bears a decal evidencing ownership by the Foundation;
 - (h) not move any VLT from the location of installation selected by the Foundation and the Siteholder, without the prior written approval of the Foundation;
 - (i) pay to the Foundation all costs incurred by the Foundation in repairing or replacing any VLT, fixture, sign or other property of the Foundation damaged, destroyed, lost or stolen while on the Site and in the care of the Siteholder, other than repair or replacement necessitated by normal wear and tear, manufacturing defect, or defective maintenance or service provided by the Foundation, its employees or agents;
 - (j) post a list of the Foundation's rules respecting the play of Video Lottery Games within site of the operation of all VLTs;
 - (k) ensure that the Foundation's rules respecting the play of Video Lottery Games are observed at all times;

- (l) exercise due diligence in the operation and care of any VLT, fixture, sign or other property of the Foundation on the Site and immediately notify the Foundation of any malfunction or disrepair;
- (m) be responsible for the on-site security of any VLT, fixture, sign or other property of the Foundation on the Site, and, without limiting the generality of the foregoing, the Siteholder shall not nor shall the Siteholder permit a person to:
 - (i) remove a VLT from the Site or place a VLT on the Site without the prior written consent of the Foundation; or
 - (ii) manipulate or attempt to manipulate a VLT in an effort to influence the outcome or pay-off of a Video Lottery Game; or
 - (iii) activate or attempt to activate a VLT by fraudulent means;
- (n) maintain such amount of property and public liability insurance in respect of any VLT as is necessary to cover the costs of the Siteholder's obligations under this Agreement, and upon request by the Foundation, shall provide the Foundation with proof of such insurance coverage, including copies of insurance policies;
- (o) provide services relating to any VLT in accordance with rules, instructions, directives and operating manuals from time to time provided by the Foundation;
- (p) perform such other duties in relation to any VLT as required by the rules, instructions, directives and operating manuals of the Foundation;
- (q) undergo and permit a complete security screening by the Foundation;
- (r) designate one or more employees as the Siteholder's representative(s) directly responsible for carrying out the duties and functions of the Siteholder hereunder;
- (s) ensure that the Siteholder's representative(s) attend, at the Siteholder's expense, such training sessions in the operation of VLTs and in the performance of other services relating to VLTs as the Foundation shall from time to time in its sole discretion prescribe;
- (t) during all times that the Siteholder's premises are open for business, have available trained staff to ensure prompt payment of Winnings to players;
- (u) at all times, carry sufficient float to enable the prompt payment of any Credits which may be claimed in the normal course of operations;
- (v) make payment of all Credits to which Players are entitled;
- (w) not grant Credit, cash cheques or provide advances on credit cards to enable a person to play a Video Lottery Game;
- (x) provide change to patrons wishing to use a VLT;
- (y) bear the risk of loss and be responsible for lost, stolen and missing monies relating to the operation of any VLT;
- (z) at such locations within or about the Site as may be prescribed by the Foundation, install, post and display prominently such point of sale, redemption and other promotional material as may from time to time be prescribed by the Foundation;
- (aa) use no advertising or promotional material relating to lotteries, including Video Lottery Schemes, excepting that which is provided or expressly approved in writing by the Foundation and the _____ Band Indian Gaming Commission;
- (ab) not, without the prior written consent of the Foundation and the _____ Band Indian Gaming Commission, in any way promote any other lottery scheme or game or engage in any activities in competition with the lottery schemes or games managed, conducted or participated in by the Foundation and/or the _____ Band Indian Gaming Commission;

Reserves that have opted for Manitoba Lotteries Foundation licenses, shall not, without the prior written consent of the Foundation, in any way promote any other lottery scheme or game or engage in any activities in competition with the lottery schemes or games managed, conducted or participated in by the Foundation:

- (ac) not use any VLT to conduct a tournament or other promotional event without the prior written authorization of the Foundation and the _____ Band Indian Gaming Commission;
- (ad) make deposits of monies removed from any VLT into such designated bank account as may be prescribed by the Foundation;
- (ae) maintain current and accurate records of all amounts of monies paid into any VLT by Players, of all Credits paid to Players from any VLT and of all withdrawals of monies removed from any VLT, all in conformity with the rules, instructions, directives and operating manuals of the Foundation;
- (af) account to the Foundation for all monies collected in connection with the operation of any VLT and promptly pay and deliver to the Foundation all monies due to the Foundation;
- (ag) make his records relating to any VLT available for inspection and removal from the Site as required by the Foundation for inspection and/or audit;
- (ah) retain in a chronological file his records and books of account relating to any VLT for a period of not less than two (2) years from their date;
- (ai) acknowledge that he is not an employee, representative, joint venturer or partner of the Foundation;
- (aj) not represent or hold himself out to be other than an agent pursuant to this Agreement;
- (ak) not use the term "casino" in or in respect of the Site or any aspect of his business, including the Site's or the business' signs, advertising or promotional material;
- (al) not permit a person under the age of 18 years to play a Video Lottery Game.

LIMITATION OF THE FOUNDATION

7. The Foundation shall not be liable to the Siteholder for any loss or injury resulting from:
- (a) fire or other occurrence resulting from the installation, operation, repair or removal of any VLT, fixture, sign or other property of the Foundation on the Site, or from any transmission lines or other facilities installed for the operation of any VLT, fixture, sign or other property of the Foundation on the Site;
 - (b) failure or malfunction of any VLT, fixture, sign or other property of the Foundation on the Site, or from any transmission lines or other facilities installed for the operation of any VLT, fixture, sign or other property of the Foundation on the Site;
 - (c) reasonable defacement of the Site necessarily associated with installation, repair or removal of any VLT, fixture, sign or other property of the Foundation on the Site, or from any transmission lines or other facilities or any other property of the Foundation on the Site installed for the operation of any VLT, fixture, sign or other property of the Foundation on the Site; and
 - (d) interruptions or cessation of the operation of any VLT, fixture, sign or other property of the Foundation on the Site, and any resulting loss of business to the Siteholder, whether from any VLT or otherwise;

whether or not such loss or injury is as a result of the negligence or deliberate act or omission of the Foundation, its servants or agents.

DURATION AND TERMINATION OF AGREEMENT

8. This Agreement shall be effective from the date hereof until terminated and may be terminated:
- (a) without cause, by the Siteholder on ninety (90) days' notice in writing to the Foundation;

- (b) without cause, by the Foundation on ninety (90) days' notice in writing to the Siteholder;
- (c) for cause, by the Foundation without notice to the Siteholder. Without limiting the generality of the foregoing, the following events shall be deemed to be cause for termination without notice:
 - (i) failure to comply with the provisions of any Regulation under the Act governing Video Lottery Schemes, the rules of the Foundation respecting Video Lottery Schemes or the provisions of this Agreement;
 - (ii) failure to promptly pay money due to the Foundation pursuant to the terms of this Agreement;
 - (iii) involvement of the Siteholder or any of its principals or senior employees in criminal activity;
 - (iv) conviction of the Siteholder or any of its principals or senior employees of a criminal offence during the currency of this Agreement;
 - (v) discovery that the Siteholder has made a misrepresentation on an application form submitted to the Foundation; or
 - (vi) engaging in conduct that is contrary to the public interest or harmful to the integrity or reputation of the Video Lottery Scheme.

CONTINUING OBLIGATIONS OF SITEHOLDER

Notwithstanding the termination of this Agreement for any reason, the Siteholder shall be obligated:

- (a) to account to the Foundation;
- (b) to pay and deliver to the Foundation all monies due to the Foundation as a result of the operation of any VLT; and
- (c) not to refuse the removal by the Foundation all property of the Foundation located on the Site.

PREVAILING RECORDS

10. In the event of any inconsistency between records generated by the Siteholder, any VLT and the Central Computer System, the records generated by the Central Computer System shall be deemed to be accurate and shall govern. The Siteholder shall be bound by the Central Computer System records and shall account to the Foundation on the basis of the records generated by the Central Computer System.

NOTICE

11. Any notice permitted or required by the Foundation to the Siteholder may be given by posting the same by prepaid registered mail and addressed to the Siteholder at the address appearing in paragraph 2 of this Agreement or by personal delivery to the Siteholder. Any notice permitted or required to be given by the Siteholder to the Foundation may be given by posting the same by prepaid registered mail and addressed to the head office of the Foundation. Except during periods of a postal strike or of a general interruption of postal services, any notice given by registered mail hereunder shall be deemed to have been received on the second business day following posting of same.

NON-ASSIGNMENT

12. This Agreement may not be assigned by either party hereto.

MISCELLANEOUS

13. If any covenant or term hereof or the application thereof to any person, or to any circumstance, to any extent is held invalid or unenforceable, the remainder of this Agreement or the application of the term, covenant or condition to any person or circumstance, other than those as to which it is held invalid or unenforceable, will not be affected thereby and each term, covenant and condition hereof will be valid and enforceable to the full extent permitted by law.

14. This Agreement constitutes the entire agreement between the Siteholder and the Foundation and supersedes all prior agreements, oral or written, among the parties hereto or their respective representatives with respect to the matters herein and shall not be modified or amended except by written agreement signed by the parties to be bound hereby; saving and excepting that any Regulation under the Act, and rules, instructions and directives of the Foundation provided by the Foundation to the Siteholder shall be binding upon the Siteholder to the same extent as if incorporated into and forming part of this Agreement.

15. No representations shall be implied by the entering into of this Agreement that are not specifically provided for herein.

16. This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the Province of Manitoba.

17. The masculine gender where used herein shall include the feminine or neuter or vice versa and the singular shall include the plural where the context shall require.

In witness whereof the parties hereby have executed this Agreement the day and year first written above.

THE MANITOBA LOTTERIES FOUNDATION

Per: _____
Per: _____

INDIAN BAND

Per: _____
Per: _____
Per: _____
Per: _____
Per: _____
Per: _____

Witness

If Siteholder is a corporation, affix seal.

Session 2

Implementing Gaming Projects:
The Business Context

Steve Griffiths

Steve Griffiths graduated from the University of New Mexico with a degree in Business Administration. He later received a degree in Hotel Administration with an emphasis on Casino Management from the University of Nevada in Las Vegas.

Mr. Griffiths began his gaming career as a dealer at the Golden Nugget Hotel and Casino in 1974 and worked in a variety of positions which included dealer, boxman, floor supervisor, pit manager, shift manager, and ultimately as casino manager. In 1989 Steve returned to the Golden Nugget to work first as assistant casino manager and then casino manager.

He is currently General Manager of the Tulalip Casino in Marysville, Washington.

Session 2
Implementing Gaming Projects:
The Business Context

Candace Evart Fox

Candace Evart Fox has over 15 years of experience in economic impact analysis, both as a practitioner with local government and as a consultant. She has a B.A. from the University of California at Berkeley, and her M.B.A. from the University of Nevada.

Ms. Fox's consulting work on gaming projects has extended from the Province of Quebec, Ely Minnesota, and Auckland, New Zealand. She was involved in an Analysis of Slot Route Operator tax structure for Nevada, the City of Reno had her do a Fiscal Impact Analysis of Hotel/Casino property, and she was responsible for the Reno Redevelopment District's Analysis of Public Sector Revenue and Expenditures Generated by the Casino Industry. She has also done extensive work for non-gaming economic projects.

Ms. Fox has been a **keynote speaker for conferences** around the world, including the 1990 Conference on Gambling and Risk-Taking - "Public Sector Fiscal Impact Analysis of Casino Gambling" in London, England, the 1991 and 1992 World Gaming Congress in Las Vegas - "Economic Implications", and has served as Seminar Organizer and Leader for the National Association of counties, Conference on Productivity Improvement Programs.

ECONOMIC FEASIBILITY STUDIES OF CASINO GAMBLING

The following steps are recommended to develop a sound economic feasibility analysis and business plan for a casino. A well-conceived analysis is crucial in determining whether a casino venture will be successful. It also plays a key role in securing financing for the construction/renovation of a facility, and in obtaining approval from your constituents.

1. Determine the Gaming Market.

Must analyze the:

- Resident population
 - Visitor or tourist population
 - Competition from other casinos - how close are they to your location?
 - Competition from other forms of gaming (lottery, VLTs, bingo, charitable gaming)
2. If there is a gaming market, how many gaming visitors can you expect per day?
- Seasonality of visitors - what are the busiest months - Summer, Christmas?
3. What impact will the additional tourists have on the hotel/ motel and restaurant industry?
- How will tourists affect existing hotel/motel occupancy rates?
 - Will more rooms need to be built?
 - Are there sufficient restaurants to serve additional tourists?
4. The number of visitors per day will determine the size of the casino facility.
- Square meters devoted to gaming, food and beverage, and administrative purposes
 - Number of table games and slot machines

Comparative information from other gaming jurisdiction can be used to develop the size.

5. Determine gross gaming revenue and food beverage revenue.

- Comparative data from other jurisdictions for gaming revenue

- Local information from food and beverage operators, government sources.
- Develop a balance sheet with revenue and expenditure estimates.
- Be sure to include "forgotten operating cost", such as insurance, depreciation, utilities, etc.
- Be sure to estimate the costs which increased traffic/ visitors will have on the service you provide on the reserve, eg. traffic control, law enforcement, road maintenance, etc.

6. Develop employment estimates.

- How many gaming (dealers, cashier, security), food and beverage, and administrative positions are to be filled?
- What salaries, including gratuities and benefits, will they be paid?
- What impact will the new jobs have on the unemployment rate? This is an important selling point of the project.

7. What is the economic impact of new jobs and salaries to economy?

- Direct and indirect benefits to the economy.

Session 2
Implementing Gaming Projects:
The Business Context

Lou Crowder

Lou Crowder directs the tribal economic development activities for First Astri. He is a graduate from the University of Arizona College of Law.

Mr. Crowder has more than 25 years experience as a consultant and in real estate projects. His involvement include's the representation of more than a dozen Native American tribes in a variety of projects ranging from new business development to governmental relations, and has served as attorney for Council of the Energy Resource Tribes. From 1974 to 1978 he served as General Counsel to the Navajo Nation with full responsibility for legal and commercial matters including government relations.

He is currently the General Manager of the Lummi Casino located near Bellingham, Washington.

Session 2
Implementing Gaming Projects:
The Business Context

Andrew Tottenham

Andrew Tottenham began his career in the gaming industry in 1975 as a croupier for the Silhouette Club in Southampton, England and spent the next three years working in a number of prestigious London casinos. In 1978 he moved to the United States and assisted in the start-up of the New York School for Gambling, a state credited school to train dealers. He was instrumental in the formulation and development of the training program and creation of training manuals. In 1979 he moved to Atlantic City to act as Supervisor for Bally's Park Place.

In 1980 Mr. Tottenham returned to England and was appointed Casino Manager for the Connoisseur Club in London as well as the Victoria Casino, the largest casino in the country.

Mr. Tottenham started his own business in 1985 which developed into The Beckhaven Group and the consultancy arm, Tottenham & Co. They are respected internationally as the leading consulting practice specialising in the gaming industry.

He currently writes a monthly column for Gaming & Wagering Business Magazine which is distributed to gaming establishments throughout the world. He recently co-authored and edited a reference book on international casino law, covering 72 jurisdictions in 6 continents published by the Institute for the Study of Gambling, University of Nevada.

Andrew Tottenham gives seminars at the World Gaming Congress in Atlantic City and Las Vegas, the International Gaming Business Exhibition, Las Vegas, and many other industry events around the world. We would like to gratefully acknowledge the sponsorship of a complimentary luncheon and presentation by Grand Casinos, Inc. of Plymouth, Minnesota.

Session 2

Implementing Gaming Projects:

The Business Context

R. Cary Corbeil

R. Cary Corbiel, C.M.A., is a consultant to business and industries involved in community charity casino gaming.

Cary Corbiel has been a public servant for more than 28 years at provincial and federal levels and has held several senior executive positions which provided him with extensive experience in strategic and operation planning, organizational and human resource development, program analysis, financial planning, and administration. His track record reflects his results-oriented, partnership approach to problem solving.

While with the Province of British Columbia, he served as Executive Director, Public Gaming with responsibility for making recommendations to the government and the B.C. Gaming commission on matters of gaming policy and licensing of charitable organizations, for setting gaming standards, and for ensuring the integrity of community charity gaming. He monitored and inspected bingo and casino gaming activity and audited gaming revenues and use of proceeds.

Originally from Prince Rupert, Mr. Corbiel is a Certified Management Accountant and has served on the National and Provincial Boards of his professional organization, and has also been an associate member of the faculty at Camosun College in Victoria.

PARTNERSHIPS & JOINT VENTURES

During Nexus '92, a number of First Nations Leaders, community development representatives, and private sector organizations emphasized the basic principles they felt were important to the successful achievement of First Nations business development initiatives.

Mr. Corbeil will be discussing these principles as they relate to gaming development projects and the business ethics, practices, experience, and areas of expertise First Nations communities should be looking for in professional management companies that offer assistance in the development, implementation, and management of specific initiatives.

Session 2

Implementing Gaming Projects:
The Business Context

Charles E. Peone, Jr.

Charles E. Peone, Jr, born and raised on the Colville Indian Reservation in Washington State, has over 25 years of professional experience in American Economic Development including both private and public sector service related to Indian Policy. He has served in the Federal Bureau of Indian Affairs at Agency, Area, and Washington, D.C. levels. He has also served on Congressional staff posts in the U.S. Senate and House, including the American Indian Policy Review Commission, and has served on the faculty of a major University. In addition, Mr. Peone has spent the last 17 years as Consultant and Advisor to over 100 American Indian Tribes and organizations, specializing in development and financing of projects.

Mr. Peone has a B.Sc. in Civil Engineering, majoring in Hydraulics, an M.P.A. in Public Works Administration, and Ph.D. in Business Administration (ABD), majoring in Management Information Systems.

Mr. Peone's involvement in Indian Gaming in the United States began in 1984 and he has recently become involved with Canadian Gaming Issues.

**FINANCING: TOWARDS FIRST NATIONS
ECONOMIC STABILITY - A QUESTION OF SOVEREIGNTY
AND A MANDATE FOR SELF-GOVERNANCE**

The core issue and experience of American Indian Tribes over the past 20 years in establishing Indian Gaming as a viable economic development alternative has been a persistent challenge to fundamental Tribal Sovereignty and right to self-determination and self-government. The legal climate remains somewhat clouded because of strong resistance from U.S. Gaming interests and from State political influence, creating a perception of risk and illegality for Tribe.

In 1988, the U.S. Congress enacted the Indian Gaming Regulatory Act (IGRA) which, in some cases, has created more problems for Tribal gaming than it has solved. However, despite these challenges, the relative success of Indian Gaming and the concomitant financial interest turnabout of major gaming interest, Indian Gaming has suddenly become "legitimate". As institutional interest grows, State resistance and Federal largesse will eventually yield to the sovereign rights of the Native people who have found gaming to be a useful means of developing their economic. This can ultimately be attributed to the inherent and legal sovereignty of tribes and their governments.

How can First Nations utilize this momentum to insure a stable and strong legal environment for gaming initiatives as well as in developing and financing their own gaming operations? What lessons can be derived from the problems of the past? These issues will be addressed along with discussion of project structuring within the tribal business environment, the substance of self-regulation, and the question of capital formation, financing, and the need for outside manager and/or investor intervention.

Session 2

Implementing Gaming Projects:
The Business Context

Marion L. Meadmore

Marion L. Meadmore, Member, Order of Canada (1984) is the first Native Indian Woman called to the bar in Canada in 1978.

Ms. Meadmore is a Barrister and Solicitor with Fainman, Lamont, McGonigal, Ironquill, Meadmore, 1977-1982, specializing in corporate and commercial law. Withdrew from the practice of law in good standing to pursue business interests.

She has a wide range of academic and research achievements and consulting experience; over thirty years experience in community leadership activities, acknowledged by Order of Canada appointment. Ms. Meadmore was principally responsible for structure and development of Kinew Housing Incorporated, first Native non-profit housing corporation in Canada. She was a team member in organizing the first Friendship Centre in Canada and first urban Indian association in Winnipeg. She was very active during the 1960's in national Indian political activities and organizations. Volunteer contributions and/or Board membership on a range of activities assisting the general population.

Ms. Meadmore has over ten years experience as a business person/entrepreneur with a variety of interests individually and in partnership.

Native Investment & Trade Association

Box 10, 150 - 1111 Melville Street

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(604) 275-0307

(604) 275-0307

Native Investment & Trade Association

Members of the Board:

Calvin D. Helin

President

Gail Sparrow

Vice President

Greg Millbank

Director

Miles Richardson

Director

Mathew Moore

Director

Calvin Helin may be contacted directly at Ferguson Gifford,
business card enclosed in presentation folder.

Native Investment & Trade Association

Administration

Vernita Helin

Executive Director

Blythe Rogers

Marketing Manager

Loreen Edgar

Executive Assistant

Dear Delegate:

Within the next few months, N.I.T.A. (Native Investment & Trade Association) plans to host a National Trade Show and hands on workshop which would be the follow-up to "Successful First Nations Gaming In Canada".

If you wish to attend this trade fair symposium, we would like to know what specific areas of interest you may have, or comments on how we could better serve your needs on the following subjects:

- Feasibility studies and business planning.
- Information and methods of agreement for financing, purchasing and leasing of equipment and buildings for gaming purposes.
- Casino and bingo management options.
- Casino and bingo equipment.
 - Slot machine and pull-tabs
 - Electronic games and keno
 - Electronic and satellite bingo
- Information and methods of hiring, personnel training, employment standards.
- Volunteer recruitment, orientation, and training.
- Information and methods for effective marketing and public relations.
- In depth discussion on legal issues.
- Concession management.
- Information on security, insurance, and accounting procedures.
- Provincial gaming update.
- Exhibitor kit and delegate information

If additional information is required or if you have any additional comments, please state here:

Please mail to:

Phone:

Fax:

Chief Roland Crowe

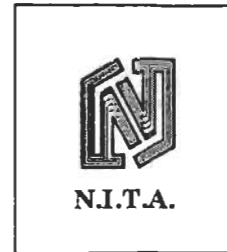
Chief Roland Crowe is committed to the development of First Nations citizens and their governments through the protection of Treaty rights and through the negotiation of Self-government, the constitutional renewal process and otherwise. He has been a leader in Indian country, as a Councillor, Chief of the Piapot Band, Vice-Chief of the Federation and, now, Chief of the Federation, for the past 19 years. Chief Crowe is currently serving his third term as the Chief of the Federation of Saskatchewan Indian Nations.

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**NATIVE
INVESTMENT
AND
TRADE
ASSOCIATION**

**ORDER FORM FOR
ABORIGINAL ISSUES
PUBLICATIONS &
CONFERENCE MANUALS**



MAR.	MANUAL NAME:	Basic Cost	7% Freight	7% GST	TOTAL
01.	Separating First Nations Politics From Business	\$50.00	3.50	3.75	\$57.25
02.	Separating First Nations Politics From Business II	\$50.00	3.50	3.75	\$57.25
03.	First Nations Taxation: Dynamic Strategies, Emerging Issues	\$50.00	3.50	3.75	\$57.25
04.	First Nations Taxation II	\$50.00	3.50	3.75	\$57.25
05.	Financing First Nations: Investing in Aboriginal Business & Governments	\$50.00	3.50	3.75	\$57.25
06.	Financing First Nations II	\$50.00	3.50	3.75	\$57.25
07.	Successful First Nations Gaming in Canada	\$35.00	2.45	2.62	\$40.07
08.	Successful First Nations Gaming in Canada II Gamexpo '93	\$50.00	3.50	3.75	\$57.25
09.	Canadian Gamexpo '94	\$50.00	3.50	3.75	\$57.25
10.	Mechanics of Aboriginal Land Settlements (The): Preparing & Negotiating Claims	\$50.00	3.50	3.75	\$57.25
11.	Creating Wealth with First Nations	\$35.00	2.45	2.62	\$40.07
12.	Creating Wealth With First Nations II, Business Agreements for Profit	\$75.00	5.25	5.62	\$85.87
13.	Impact of Aboriginal Self-Government	\$50.00	3.50	3.75	\$57.25
14.	Native Business Opportunities: The New Reality	\$30.00	2.10	2.25	\$34.35
15.	International Investment, Trade & Native Economic Development	\$20.00	1.40	1.50	\$22.90
16.	The Economic Bridge to Self-Reliance: Aboriginal Land Claims	\$25.00	1.75	1.87	\$28.62
17.	The Business of Mining: Before & After Land Claims	\$10.00	.70	.75	\$11.45
18.	Doing Business with Native People Makes Sense	\$25.00	1.75	1.87	\$28.62
19.	Directory of B.C. Aboriginal Artists	\$20.00	1.40	1.50	\$22.90
20.	Directory of B.C. Aboriginal Exporters	\$20.00	1.40	1.50	\$22.90
21.	Nexus '94 - North America Trade Conference & Exhibition	\$50.00	3.50	3.75	\$57.25

22.	Tourism & Resort Development Dynamic Strategies & Future Trends	\$50.00	3.50	3.75	\$57.25
23.	Public Works & Gov't Services Canada Strategic Procurement Initiative (January, 1995)	0	3.50	0	\$3.50
24.	Aboriginal Law In Canada (May, 1995)	\$50.00	3.50	3.75	\$57.25
TOTAL					

 ... Investment & Trade Association Cheque () Mastercard () Visa () Invoice ()

Box 10, #150 - 1111 Melville Street

Cardholder Name: _____

Vancouver, B.C. V6E 3V6

Card Number: _____

Phone: (604) 684-0880

Expiry Date: _____

FAX: (604) 684-0881

Signature: _____

1-800-337-7743

GST Reg. Number: _____

Name: _____ Position/Title: _____

Company/Organization: _____

Address: _____ City: _____ Province: _____

Telephone: _____ Fax: _____ Postal /Zip Code: _____

DATE DUE / DATE DE RETOUR

	APR 06 1996	FEB 10 2003	
		FEB 09 2003	
	APR 21 1996		
	APR 21 1996	APR 21 2003	
	APR 11 1996		
	MAR 12 1997	BATA	
	MAR 12 1997		
	APR 06 1997		
	APR 14 1997		
	FEB 22 2000		
	FEB 16 2000		
	APR 08 2003		

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