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**Time to Deal: A Comparison of the Native Casino Gambling
Policy in Alberta and Saskatchewan**

by

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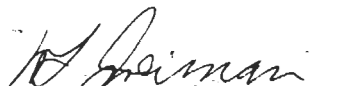
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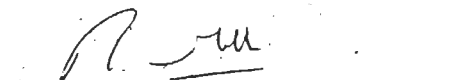
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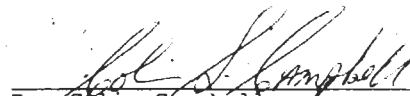
The undersigned certify that they have read, and recommend to the Faculty of Graduate Studies for acceptance, a dissertation entitled "Time to Deal: A Comparison of the Native Casino Gambling Policy in Alberta and Saskatchewan" submitted by Warren H. Skea in partial fulfillment of the requirements for the degree of Doctor of Philosophy.


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ABSTRACT

The process by which Native casino gambling policy was developed in Saskatchewan and Alberta during the period (1992-1996) is described and analyzed. Document analysis and interviewing was utilized within a rational choice theoretical model to identify macro, meso and micro level determinants. In addition, issues of Native sovereignty, self-government and jurisdiction are examined with regard to their role in the policy process. It is also argued that the Native casino gambling policy process unfolded due to the provincial governments' ideological system of governance. Further, results indicate that the sociological stages of legitimation, trust building and institutionalization were important variables in the development of policy. Based on the results, a causal model for Native casino gambling policy making is presented.

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DEDICATION

To Sharon and Taryn

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CHAPTER ONE

INTRODUCTION: POLICY ANALYSIS AND GAMBLING IN CANADA

"In its various aspects, gambling is at once a major recreational institution, a minor vice, a large-scale industry, a powerful source of crime and political corruption, a perennial social problem, a fascinating psychological puzzle, and an intriguing pastime." (Devereux, 1968:53)

1.1 CENTRAL FOCUS OF THE DISSERTATION

This dissertation describes and analyzes the development of Native¹ casino gambling² policy in Saskatchewan and Alberta. More specifically, it sociologically reconstructs the policy process and identifies structural determinants in

¹ For purposes of this dissertation Natives refers to status Indians in both provinces. Although most aboriginal peoples are to be included in the provisions garnered by casino gambling in some manner it is status Indians that largely influenced the policy process and will be involved in a casino gambling industry. Non-status Indians, although they may benefit tangentially, will not be the main characters and/or benefactors of casino gambling. Similarly, Metis is a term that is clearly distinguished in these provinces' gambling policy. Any reference to Metis will be noted separately.

² Throughout this dissertation gambling will refer specifically to the utilization of any and all casino games including slot machines. Devereux (1968:53) defined gambling as "...an activity in which the parties involved... voluntarily engage to make the transfer of money or something else of value among themselves contingent upon the outcome of some future and uncertain event." Throughout this dissertation the term "Native casinos" refers to casinos located both on and off reserve lands. Although on-reserve casinos will clearly exceed the number of off-reserve casinos, Natives are also participants in an off-reserve casino in Saskatchewan. All distinctions beyond this in regards to location will be duly noted.

both provinces, paying particular attention to the events of the past three years. Further, the policy development strategies employed by the provincial government policy makers and Natives will be examined. In carrying out this analysis, three hypotheses will be tested.

1.2 STATEMENT OF THE PROBLEM

This dissertation will narratively reconstruct and analyze the relevant socio-political factors leading up to the current Native casino gambling policy in the provinces of Saskatchewan and Alberta. In order to answer this issue a number of sub-questions must be addressed: i) was the policy process in these provinces *ad hoc*? ii) what was the nature of the political interaction between Natives and each respective provincial government? iii) what was the interpretation of the Criminal Code of Canada in regards to gambling regulation? iv) what were the policy goals of the provincial governments? v) what was the role of the provinces' political culture? vi) what were Natives' goals in these provinces? vii) what role did the idea of a gambling Crown corporation play in the creation of the policy? These questions will be answered in both the Saskatchewan and Alberta case. We will end our analysis by providing a comparison of the process involved in the two provinces.

1.3 SCOPE OF THE DISSERTATION

There has been relatively little research with regard to the creation gambling policy in Canada (see Campbell and Ponting, 1983; Campbell, 1987; Campbell, 1994). The issue of gambling in general, and Native casino gambling specifically, is such a recent issue that this analysis will not only produce a greater knowledge base for gambling studies in Canada, but also contribute to the public policy literature. To date, most gambling policy analyses have been by American academics that utilize an abstract empiricist model of research. This dissertation does not ascribe to this atheoretical approach and employs, what Merton (1949) called, a "middle-range" theoretical approach. Merton maintained that empirical studies that are informed by theory which identify common theoretical elements constitutes the "middle-range" approach (see Goldenberg, 1992:42-44). As such, in the "middle-range" approach, an empirical investigation occurs within a theoretical framework - a method gambling policy studies have yet to embrace.

Typically, in public policy analyses the level of analysis is either at the micro level (i.e., individual level) or at the macro level (i.e., structural level) (see Moskowitz,

The major exceptions to the abstracted empiricist paradigm in gambling policy analysis is: Campbell and Ponting (1983), Campbell (1987, 1994) and Osborne and Campbell (1988). Interestingly, the above are all Canadian academics.

1978). To this end, this dissertation will examine socio-political variables at different levels of analysis. In other words, an analysis that links macro, meso and micro level variables will be executed.

Although public policy is always under review and revision, this dissertation will be a retrospective analysis which acquires its data from a reconstruction of the policy process. This will be accomplished by interviewing government policy makers, Native leaders, interest group leaders, and stakeholders within this policy community (e.g., casino entrepreneurs) as well as examining public and private documents relevant to the policy. This reconstruction will be utilized to examine, from a sociological perspective, the Native casino gambling policy process in the provinces of Saskatchewan and Alberta.

1.4 ASSUMPTIONS

The reconstruction of the public policy process, like all analyses, is positioned within the analysts' cognitive/theoretical worldview. That is, an examination of several policy analyses on the same topic are likely to uncover differentially emphasized variables or issues which may (or may not) be considered significant variables or issues in one's analysis (Dye, 1981). This analysis will examine a variety of socio-political variables and other issues which

another discipline or analyst would not consider significant. Mustard's (1996:212) examination of the evolution of Canadian social policy has illustrated a dependence on "a socio-economic policy framework that promotes economic growth".

The present research takes the position that the creation of public policy is not a simple process based on a single, or even a few, issues. Governments usually have ideologies and objectives they are pursuing while being lobbied by competing stakeholders. It is on this basis that policy analyses must focus on what is defined to be relevant. In this regard a conceptual model, incorporating all factors linked to policy creation will be developed in advance.

1.5 LIMITATIONS

The reconstruction of Native casino gambling policy in the two provinces represents a large and complex project. Extensive interviews will be conducted with those individuals involved, and aware of, the policy making process. However, not all of these individuals agreed to be interviewed. Moreover, the topic of Native casino gambling policy is a politically sensitive issue; therefore, some respondents were reluctant to answer specific questions or were biased in their response. In addition, interviewees are bound by their memory, selective recall, and position within the bureaucracy or organization which "influenced" their interpretation of

events which affected policy development. For example, they might not have been in a position to see or understand how certain events impacted the policy development.

As Dunn (1981:134-135) noted, "[policies] involv[e] many decision makers; utilities which are conflictual or unknown; alternatives which are unknown or impossible to order transitively". One must recognize and anticipate the limitations of reconstructive policy analysis in order to minimize these problematics and maximize the validity of the analysis. Although Native casino gambling policy has a very short history in Canada, dating back to 1988, it is necessary to be aware of and contextualize gambling legislation as a means to minimizing these limitations.

1.6 OVERVIEW OF CHAPTERS TO FOLLOW

Chapter Two reviews gambling legislation in Canada, the sociological analysis of gambling, and gambling policy analyses. Chapter Three provides a literature review of public policy and public policy case studies. On the basis of that review, Chapter Four examines the theoretical issues that have been considered important in gambling policy analyses. It then moves on to introduce and explicate the theoretical framework to be used in the dissertation. Methodological

The issue of validity will be examined in the methodology section.

issues in policy analysis and the methodology utilized in this analysis are reported in Chapter Five. Chapter Six provides a chronological description of the Saskatchewan Native casino gambling policy. Similarly, Chapter Seven narratively delivers the Alberta Native casino gambling policy process. Chapter Eight provides the analysis of the policy process in Saskatchewan and Alberta. In so doing, it analytically distinguishes the policy process on the basis of sociological concepts and tests the hypotheses. Finally, Chapter Nine presents the final discussion, the implications of the analysis, and the potential for further research.

CHAPTER TWO

THE HISTORY OF CASINO GAMBLING POLICY IN CANADA,
THE SOCIOLOGICAL ANALYSIS OF GAMBLING
AND GAMBLING POLICY ANALYSIS

2.1 A BRIEF HISTORY OF CASINO GAMBLING LEGISLATION IN CANADA

Prior to 1969, gambling in Canada was restricted by way of federal legislation enacted in Part V of the Criminal Code of Canada. Provincial jurisdiction over gambling was established with a 1969 amendment to Part V ("Disorderly Houses, Gaming and Betting") of the Criminal Code of Canada which stated that the provinces were responsible for the legislation and regulation of "lottery schemes" (see Campbell, 1994). This development occurred within a larger social and political context which had been an issue of public debate in Canada for a number of years. Throughout the 1960s the federal Department of Justice conducted a number reviews on lotteries⁵. As well, a number of private member bills were initiated seeking to implement lotteries for which funds would

⁵ The first major review was the 1954 Joint Committee of the Senate and House of Commons on Capital and Corporal Punishment and Lotteries. In 1960 a review of the National Sweepstakes Commission was initiated by the Department of Justice and in 1962 a private members' bill was introduced that "would provide financial assistance to hospitals or for other welfare purposes under provincial jurisdiction" (Osborne, 1989:54). Osborne (1989) further reports that six separate bills with comparable objectives were introduced between 1963 and 1967.

be targeted to universal health care payment (Campbell, 1994:232-235). The province of Quebec and the City of Montreal were particularly ardent in their quest for the right to conduct state lotteries (Osborne, 1989). Within this time frame, a number of states in the United States of America had legalized state lotteries. Campbell (1994) argued it was within this atmosphere of intense political pressure that led the Liberal Minister of Justice, Pierre Trudeau, in 1967 to introduce an omnibus bill to amend the Criminal Code of Canada in regards to the issue of gambling. This bill also called for the removal of criminal sanctions for abortion and homosexual practices. It would appear that this bill was constructed within the larger ideological construct of liberalization that was prominent in the late 1960s. Although this bill was not passed, due to the 1968 federal election, a similar bill was introduced by the new Minister of Justice John Turner in the Trudeau government (Campbell, 1994:236-238). As Turner stated

[T]he amount of gaming which will be permitted will depend to a considerable extent on the policy of provincial authorities in issuing...licenses.... The attitude towards lotteries in Canada varies in various parts of the country. The proposed amendment will provide to an appreciable degree, for recognition of that fact. The nature of the proposed amendments might be described

Legalization refers to the conscious removal of criminal sanctions. The legalization of gambling entails some form of administrative regulation through state licensing. Legalization is not to be confused with decriminalization which entails the complete withdrawal of criminal sanctions (see Fuller, 1974).

as local option within prescribed limits set out in the Code. (Hansard, Jan. 23, 1969:4721 in Osborne, 1989:61).

In 1969 Minister of Justice Turner further declared that the amendment "...withdraws the application of the criminal law and makes [lottery schemes] a question of civil, public policy" (Canada Hansard, April 21, 1969:7780 in Osborne, 1989:64).

Prior to the 1969 amendment the only forms of gambling permitted by Canadian law were: 1) pari-mutuel betting at horse-racing tracks, 2) occasional bingos and raffles for the purposes of fund-raising, 3) carnival style games of chance and mixed skill and chance at agricultural fairs and exhibitions, and 4) private betting between individuals or small groups on the outcome of sporting events (Campbell, 1989). From 1967 to the early 1980s casino gambling in Canada had been restricted to small and intensely regulated venues to fund agricultural fairs and exhibitions under Section 190 in the Criminal Code of Canada. This stability was also evident in the political and economic domain. However, the mid 1980s represented a paradigm shift in terms of the role of casino gambling in Canada. Specifically, in 1985 Bill C-81, also known as the Criminal Code (Lotteries) Amendment Act, was passed as an amendment to the Criminal Code of Canada in an attempt to clarify the term "lottery scheme."

⁷ For a detailed history of gambling legislation in Canada see Campbell's (1994) dissertation titled Canadian Gambling Legislation: The Social Origins of Legalization.

(Smith et al, 1987:374). The term "lottery scheme" has varied considerably in regard to its definition and effect on public policy. Bill C-81 clarified the term and specified that the provinces could legally permit and regulate whatever gambling activities they wished as long as they complied with federal statutes (Robinson, 1983). The most important aspect of Bill C-81 was its validation of the "nebulous term lottery scheme", "thus leaving no doubt that **casinos**, bingos raffles, pools and pull tickets could legally be licensed by the provinces" (Robinson, 1983:19). Campbell (1994:241) stated "the provinces of Alberta, Manitoba, British Columbia, Quebec, Ontario and the Canadian Yukon have liberally interpreted the meaning of this phrase...facilitating the introduction of casino-style gambling". More specifically these provinces have interpreted this ambiguous phrase to include casino-style games such as roulette, blackjack and baccarat.

Commercial high stakes casino gambling first appeared in Canada in 1989 when the Manitoba Lottery Foundation opened the provincially owned and operated Crystal Casino. The provincial governments of Ontario and Quebec opened similar casino projects in Windsor and Montreal^a, respectively, in 1992. Natives in Canada were aware of the economic success that American Indians were enjoying on United States reservations due to the passing of the Indian Gaming

^a Later that year Loto Quebec opened a casino at Charlevoix.

Regulatory Act⁹ in the United States in 1988. This American Indian success along with the establishment of casino gambling in a number of provinces in Canada led Natives to question their role in casino gambling. In 1988 Natives in Canada undertook their first foray into the gambling business. A unlicensed "super-bingo" was opened on the Akwesasne reserve¹⁰, which straddles the borders of Ontario, Quebec and New York. Shortly after the establishment of this enterprise by the Akwesasne Mohawks, the Surete du Quebec raided and shut down what they considered an "unlicensed gaming venue". In December, 1989 an agreement was reached between the Manitoba government and The Pas reserve permitting bingo games and the sale of pull-tab tickets¹¹. Since that agreement, Manitoba has negotiated agreements with twenty-one other bands leading to band gaming commissions which regulate the sale of pull-tabs, and in certain negotiated cases, video lottery terminals. Agreements with these bands declared that the

⁹ The *Indian Gaming Regulatory Act* is a federal statute that declares that any type of legal gambling activity permitted by a state must also be permitted on reservation land within that state. This ruling came after the Supreme Court decision *California v. Cabazon Band of Mission Indians*.

¹⁰ There has been an unlicensed casino on this reserve since August 1996 that the authorities have yet to shut down.

¹¹ The sale of pull-tab tickets and bingo games were periodically conducted on The Pas reserve for a number of years prior to the 1989 agreement.

province owns the video lottery terminals¹² with Natives receiving 90 percent of the profits from the machines on that reserve (Thompson and Dever, 1994:40-41).

However, the closure of the Akwesasne bingo enterprise in Quebec in 1988 and the licensing of bingos and video lottery terminals in Manitoba starting in 1989 has elevated the debate as to whether Native-run casino ventures can and should be operating in the existing provinces and territories.

2.2 SOCIOLOGICAL STUDIES OF GAMBLING

The first sociological examination of gambling was Devereux's Ph.D. dissertation (1949) from Harvard titled "Gambling and the Social Structure: A Sociological Study of Lotteries and Horse Racing in Contemporary America". This functionalist¹³ analysis examined gambling as a "deviant behavior patterns and sub rosa organizations fitted into the general framework of the social structure" (Devereux, 1949:4). Devereux suggested that gambling serves as a sanctuary for the contradictions, inconsistencies and strains inherent in the social value system. He theorized that the prevailing social structure is in conflict with its value system. In essence, Devereux claimed that participation in gambling provides a

¹² Section 207 of the *Criminal Code of Canada* states that any gaming device must be owned and operated by the provincial government.

¹³ Devereux was a student of the Talcott Parsons.

safe divergent outlet for those individuals that cannot directly attack societal institutions. However, because gambling represents an inversion of dominant societal values it must be considered a deviant activity.

In opposition to Devereux's functionalist analysis, Herbert Bloch (1951) regarded gambling as an escapist activity. "Taking a chance destroys routine and hence is pleasurable, particularly in a culture where the unchanging and predictable routines of employment are sharply separated from leisure" (Bloch, 1951:216). His conclusion was that gambling is both dysfunctional and a deviant activity because it disrupts productivity and traditional family life as well as facilitating criminal activity (Rosecrance, 1988). Also in 1951, Virgil Peterson examined gambling within the deviance paradigm and came to the conclusion that any type of legalization would prove to be detrimental to society. He concluded that gambling was a frivolous activity which is perceived as a "get rich quick" scheme by gamblers.

By the 1960s sociologists were still analyzing gambling within a "deviance theme". Kirson Weinberg concluded that gambling is a deviant activity that has become an "important contemporary problem" (Weinberg, 1960:285). Similarly, Paul Landis called gambling a disruptive activity that represents "the very heartbeat of organized crime" (Landis, 1964:279).

According to Rosecrance (1988), in a study titled "Observations of Gambling in a Lower-Class Setting" Irving

Zola changed the scope of sociological studies of gambling from theoretical accounts to observational examinations. Zola concluded that horse race gamblers were engaging in escapist behaviour. Gambling settings, he claimed, represent safe havens where gamblers believe that they are taking control of their lives.

By 'beating the system,' outsmarting it by rational means, these men demonstrate they can exercise control and for a brief moment they can control their fate. Offtrack betting is thus a kind of escape. It denies the vagaries of life and gives these men a chance to regulate it (Zola, 1963:360).

However, not all sociological examinations of gambling portray gambling as a deviant activity. Taking Zola's (1963) observational methodology a step further into the participant observational approach, sociologists recognized nondeviant dimensions to gambling. In 1967, Robert Herman studied race track patrons and determined that they were neither deviant or looking for any type of escapism. Herman was particularly impressed by gamblers' discipline and rationality when gambling at the track (Rosecrance, 1988). Herman likened gamblers to entrepreneurs and their practices.

In short, commercialized gambling offers to many people efficient means of enhanced self-esteem and gratification in a culture in which satisfactions are increasingly likely to be found in enterprises of consumption rather than production. (Herman, 1967:104)

In order to develop an intimate understanding of gambling

and gambling behaviour Goffman (1967) worked as a blackjack dealer and croupier in a number of Las Vegas casinos. He concluded that gambling participation serves as a surrogate for risk-taking which has been removed from contemporary life by the bureaucratization of social and economic arrangements. Voluntary risk-taking, Goffman suggested, demonstrates character strength. Gamblers exhibit traits such as: courage, gameness, integrity and composure. In essence, gambling reaffirms conventional values in that gamblers "subscribe to a normative code no less stringently disciplined than that required of the captain of industry, the political leader, or the hero of popular fiction" (Goffman:1967:218).

In 1968, Marvin Scott compiled an examination of the horse racing industry which reported that the industry is centred on the issue of information. Utilizing a game theory framework in which information is a valuable commodity, Scott concluded that gamblers engage in a rational activity. In essence, Scott believed that gamblers adhere to the same norms of rationality when gambling as they do in other situations (Rosecrance, 1988). Similarly, Rosecrance (1982, 1988) concluded that "once psychiatric models and deviance labels are set aside, the behavior of a vast majority of regular horse players can be accepted as normal, functional and rational" (p.103).

Louis Zurcher (1970) observed participants in poker games and introduced the concept of an "ephemeral role" when people

are involved in gambling situations. Zurchers' analysis did not utilize the social problems approach to the study of gambling. Instead he sought to examine some of the social-psychological benefits that people derive from the game of poker (Rosecrance, 1988). He concluded that poker playing provides the participants with escapist pleasures which may be unavailable to people in their everyday-life (Zurcher, 1970:184-185).

In the 1970s the conceptualization of gambling changed again. The deviance and escapist themes persisted but the sociological examination of gambling now embraced the medical model. The works of social psychologist Jay Livingston (1974) and sociologist Henry Lesieur (1984) led to this transformation. This new approach examined the issue of "compulsive gambling"¹⁴. Livingstons' (1974) analysis described a process of entrapment wherein gamblers are inexorably drawn into escalating participation and disastrous betting practices. Initially, Lesieur was not convinced that the medical model could embody the issue of problem gambling but he found no other approach that embraced the reality of these individuals¹⁵. In Lesieurs' (1984) book titled The

¹⁴ The term compulsive gambler was the first term utilized under the medical approach to excess gambling (see Campbell, 1995). The term currently considered acceptable as specified by the DSM IV is problem gambler.

¹⁵ This information was obtained in a conversation with Henry Lesieur at the Problem Gambling Conference in Calgary, Alberta, August 27-29, 1995.

Chase: The Career of the Compulsive Gambler he identified the phenomenon of "chasing after money" in an attempt to continue gambling.

In 1977, Ivan Light demonstrated that numbers gambling among Black Americans is not a deviant activity but an alternative form of investment.

Banks combine the savings of depositors to create a capital fund for business, mortgage and consumer investments. Numbers banks mimic this rhythm, first by taking the "savings" of the poor, then returning capital to the poor community in the form of usurious loans, free loans, philanthropy and direct business investments by racketeers. Therefore, numbers gambling banks are an irregular financial institution. (Light, 1977:901).

In 1975, a sociological study of gambling was undertaken that significantly altered the way academicians, politicians, gaming operators, and the general public viewed gambling (Rosecrance, 1988). This study did not look at the deviant aspects or the motivations or functions of gambling behaviour at the micro level, rather it looked at gambling at the macro level. The Survey Research Center at the University of Michigan was provided a grant by the Commission on the Review of the National Policy toward Gambling¹⁶. The goals of this study were to determine the extent of gambling in the United States, estimate gambling revenues from changes in gambling laws, and examine the social consequences of gambling legalization (p.1). Although this investigation was fraught

¹⁶ A national sample of 2000 Americans were surveyed in which 300 were Nevada residents.

with methodological, political, and philosophical problems, it represented a switch to the macro structural approach in gambling studies. Perhaps the most important findings of this study were that Americans were generally in favour of gambling and the legalization of gambling. Over 80 percent of respondents approved of legalized gambling and over 70 percent said they would not be discouraged from gambling if it were to become illegal. At the same time, this survey found that gambling is an almost universal phenomenon that encompasses all social classes. This finding suggested that gambling could no longer be considered a lower class activity nor could it be labelled as a deviant activity. This landmark study gave rise to the legitimacy of gambling as a recreational activity and opened the door for the study of gambling as a nondeviant activity in which the mainstream participated. This legitimization of gambling led to the proliferation of gambling in North America and, consequently, the examination of gambling policy.

2.3 GAMBLING POLICY STUDIES IN CANADA

2.3.1 EARLY GAMBLING POLICY ANALYSIS IN CANADA

In their report titled "The Evolution of Casino Gambling Policy in Alberta" Campbell and Ponting "trace the evolution of Alberta government policy..." (Campbell and Ponting, 1983:i). Through a "combination of participant

observation, structured interviews, unstructured interviews and document analysis" Campbell and Ponting qualitatively tested three theoretical explanations in the evolution and expansion of casino gambling in Alberta (Campbell and Ponting, 1983:4). The first explanation suggested that casino gambling expansion is in the pursuit of two objectives: i) the diversification of the economy via tourism, and ii) catering to the demands of the new upper middle class who support the provincial Progressive Conservative party. The second explanation examined whether the casino gambling industry has "captured" regulatory agencies responsible for gambling in Alberta; particularly The Alberta Gaming Commission. The final explanation is gleaned from the political economy¹⁷ model which suggested that "the expansion of casino gambling as a manifestation of the capitalist state pursuing its role of facilitating capital accumulation and legitimating the capitalist system..." (Campbell and Ponting, 1983:4).

Campbell and Ponting (1983) revealed that casino gambling was introduced in Alberta during the 1970s amidst the affluence of the oil boom¹⁸. However, casino gambling had quickly taken on the role of fundraiser for charitable and religious organizations. The official statement of the

¹⁷ The political economy approach examines the relationship between state functions, the market and power is based on O'Connor's volume The Fiscal Crisis of the State (1973).

¹⁸ For a detailed history see Richards and Pratt (1979) Prairie Capitalism: Power and Influence in the New West.

Government was that gambling policy and subsequent controls were designed to "meet community needs" as opposed to generating government revenue (Campbell and Ponting, 1983:15). Furthermore, the terms "religious organizations", and "charitable or religious object or purpose" were liberally interpreted by the provincial government. Campbell and Ponting declared that the Government of Alberta took a *laizze faire* approach to the regulation of casino gambling. This label was attached because

In refusing to directly tax casino revenues, the Alberta government also opted to "distance" itself from casino gambling and has thus avoided the direct fiscal dependence on casino revenues which Nevada experiences. However, with respect to the use of gaming proceeds, now that many charitable organizations in Alberta have become dependent upon casino revenues... (Campbell and Ponting, 1983:21).

They maintained the Alberta government's rejection of a Crown corporation as a policy vehicle for casino gambling was believed to be a reflection of Alberta governments "long-standing distaste" for Crown corporations. Moreover, the Progressive Conservative government at that time was determined not to become dependent on gambling revenue.

On the basis of their examination, Campbell and Ponting rejected their first explanation that casino gambling was an attempt to appeal to the newly emerging middle class. Their second explanation that the regulatory capture of the Alberta Gaming Commission by the gambling industry was also rejected. However, a variant of this explanation was accepted. Campbell

and Ponting argued that the charity industry, another of the benefactors of casino gambling, captured the regulatory bodies of casino gambling in Alberta through the "limitations on the freedom of action of the Gaming Commission" (Campbell and Ponting, 1983:30). They suggested the charities' political clout prevented further regulatory restrictions to the casino gambling industry in Alberta which would serve to erode the charities' financial windfall from gambling. The third, or political economy, explanation that the state advocates casino gambling as a function of capitalist notions of legitimation and accumulation was given the most support. They argued that in Alberta, the monies generated by casino gambling are re-distributed back to communities thereby facilitating the process of accumulation. Legitimation is also extended by the funding of religious groups without the utilization of tax dollars. Campbell and Ponting concluded by predicting that the taxation of casino gambling may occur if the Alberta economy slows or is necessitated by a fiscal crisis of the state. This research was significant because it was the first and only analysis that investigated the public policy process while testing several theoretical explanations.

2.3.2 THE FIRST NATIONAL SYMPOSIUM ON LOTTERIES AND GAMBLING

The benchmark for the study of gambling and gambling policy in Canada can be traced to the First National Symposium

on Gambling in 1988. As suggested earlier, most of the studies in this publication, as well as most other gambling policy studies, have employed an abstract empiricist model. Nevertheless, publication of the proceedings indicated the need for an examination of the policies and issues surrounding gambling in Canada. As such, the opening chapter of the proceedings set the tone for recent gambling policy analyses in Canada. Specifically, Campbell and Lowman (1989) suggested that in regard to casino gambling activities,

that provincial policies, as a whole, have tended to be *ad hoc*, reactive, and generally lacking in rational and coherent planning. When systematic policies have been developed, they have often owed their impetus to political controversy regarding the expansion of gambling in the absence of regulatory controls. (p.xvix)

However, this *ad hoc* or "irrational approach" to the creation of provincial gambling policy in Canada has never been tested. Although Campbell and Lowman concede that a move away from this *ad hoc* approach to the creation of gambling policy appears to be occurring there is uncertainty, whether the Native casino gambling policy process differs.

As such, Campbell and Lowman recognized the issue of Native casino gambling as a significant area of policy debate. In their words,

What has become problematic is the issue of whether or not provincial governments have the constitutional authority to require native groups operating on reserves to seek provincial licences and to adhere to provincial regulatory policies. (p. xxii)

However, they claimed that this encompasses the larger issues of Native sovereignty, the development of precedents, the settlement of land claims, and economic development on reserves (Campbell and Lowman, 1989:xxii). Nevertheless, the most significant aspect of the proceedings of the First Symposium was its integration of all aspects of gambling policy in Canada. The following articles from the proceedings provides an overview of the important themes.

In order for one to understand current gambling policy one must have an historical understanding of the issues that led to provincial jurisdiction and regulation of gambling. The issue of regulatory power and jurisdiction on-reserves is a particularly salient issue in Native casino gambling policy. Osborne and Campbell's article titled "Recent Amendments to Canadian Lottery and Gaming Laws: The Transfer of Power from Federal to Provincial Governments"¹⁹ provides this insight. Specifically, Osborne and Campbell scrutinized amendments to the Criminal Code of Canada that transferred power from the federal to provincial governments. Of particular interest is the Criminal Code Amendments Act of 1985. They concluded that this law reform was a bureaucratic or executive process rather than a legislative one. This "executive federalism" was essentially an agreement between the federal government and the provinces that was "rubber stamped" by parliament. The

¹⁹ A similar article by these authors with the same title appeared in the Osgoode Hall Law Journal, Spring, Vol. 26, No. 1. pp. 19-43.

authors questioned whether this transfer of power without legislative process is constitutionally viable and whether gambling can be "legalized" by transferring regulatory power to the provinces (Osborne and Campbell, 1989:145). Overall, they determined that the 1985 amendment was an agreement between the federal government and the provinces. That is, the provinces received regulatory power over gambling in exchange for a \$100 million contribution to the 1988 Calgary Winter Olympic Games (Osborne and Campbell, 1989:25).

Once Osborne and Campbell illustrated how the provinces gained control over gambling licensing and regulation the examination of specific aspects of provincial gambling policy was probed. Garry J. Smith, Bonnie Williams and Robert Pitter examined the role of amateur sports groups in casino gambling policy in their article titled "How Alberta Amateur Sport Groups Prosper through Legalized Gambling". The authors suggested that traditionally censured and illegitimate activities, such as casino gambling, can be approved if they can be presented as contributing to "good causes". They suggested that negative consequences such as: "compulsive gambling; theft; embezzlement; loan sharking; money laundering; bankruptcy; alcoholism and family breakdown" are ignored by the government, the players, and the recipients of gambling proceeds (Smith et al, 1989:329). Nevertheless, they asserted that

the Alberta government has made significant progress in defining the legitimate role of a province's involvement with legalized gambling... When jurisdictions legalize gambling, the moral position they operate from becomes rather fuzzy because of the contradiction between having both an administrative and a policing responsibility. (Smith et al, 1989:332)

As suggested throughout this dissertation, there are numerous issues encompassing Native casino gambling policy beyond those in conventional gambling policy. Starr and Menczer's article "Submission to Task Force on gaming on Reserves, Department of Indian and Northern Affairs" is one of the few analyses dedicated to Native gambling issues in Canada. Starr and Menczer discussed the conflict between constitutional entrenchment of Native self-government and provincial criminalization of band representatives for conducting gaming activities on reserves without provincial approval. They examined a number of statutes²⁰ which regulate Native peoples in Canada as well as decisions reached by the courts²¹ in other related matters involving Native people. Their results led them to conclude that Natives have a constitutionally guaranteed jurisdiction over gambling on

²⁰ Particular reference is made to the Indian Act and a paper presented by David Crombie, Minister of Indian Affairs (April 15, 1986) titled "Policy Statement on Indian Self-Government in Canada"

²¹ Particular reference made to the Supreme Court ruling *Nowegijick v. the Queen* in regards to economic development on-reserves and *White Bear Band Council v. Carpenters Provincial Council* ([1982] 3 C.N.L.R. 181 (sask. C.A.) in regards to a comprehensive analysis of band councils and their by-law making powers.

reserves in Canada (Starr and Menczer, 1989:172-174).

Jan MacMillan's article "The Future: Golden Goose or Trojan Horse" explored the similarities and differences between Australian and Canadian gambling policy. She paid particular attention to the bifurcation of power between federal and provincial governments, the liberalization of gambling laws, and the form and extent of regulation. She asserted that "[policy makers] spelled out an emphatic message that gambling must earn its legitimacy by improving the competitiveness of local economies" (MacMillan, 1989:408). She believed that no matter what policies are pursued, the growth of gambling in Canada will lead to social problems. She concluded that governments should distinguish, from the outset, their policy values and policy goals to which they are subscribing when liberalizing gambling activities (MacMillan, 1989:407-408).

As previously suggested, this symposium was the only forum for this type of research in Canada. In attendance were academics from around the world involved in gambling studies, but also gambling regulators, policy makers, and gambling industry representatives. As such, these articles were influential in setting the course of analysis for gambling policy studies in Canada because there was an extraordinary dependence on this publication as a public policy resource. Moreover, the significance of this publication increased with the rapidly changing and distinctive nature of provincial

gambling policy throughout Canada, such as the large casinos in Winnipeg, Montreal and Windsor.

2.3.3 THE SECOND NATIONAL SYMPOSIUM ON LOTTERIES AND GAMBLING

The Second National Symposium was held in October 1993. The proceedings reflected the changes in gambling studies and gambling policy in Canada since the first symposium in 1988. Campbell (1994) suggested that the introduction of video lottery terminals, high-stakes casinos, sports wagering, and Native-run gambling enterprises had changed the gambling climate in Canada. With regard to Native-run casino gambling, Campbell asserted that "First Nations gaming aspirations have been relegated to a "veritable legislative nether world" (Campbell, 1994:vii).

It will become apparent that the proceedings of the second symposium are more concerned with the changes in gambling policy and the debate over the role of gambling in society. This translated into non-empirical research that was concerned with either the prediction of gambling policy in Canada or the social effects of gambling expansion. From a methodological perspective, exploratory and abstract empiricist articles were presented. The following represent the more relevant and significant articles in regards to gambling policy and Native gambling.

W.R. Eadington's article titled "Casinos in Canada:

Policy Challenges in the 1990's" examined the types of casinos which operated in Canada and focused on the private versus public ownership of casinos.

Canada... has not embraced the private-sector ownership and regulated industry structure that has become the norm for casino-gaming operations in the United States and most other developed countries that permit casinos. Rather, Canadian provinces have shown a strong preference for substantial constraints on casino operations, government ownership, and in some cases, government operation of gaming facilities. (Eadington, 1994:3).

Eadington further claimed that there has been "a strong tendency for jurisdictions in a country or region to mimic ownership and market structure philosophies developed elsewhere in the same country or region" (Eadington, 1994:6). Therefore, Eadington naively predicted that we can expect to see more exclusive casino franchises with some degree of government ownership in Canada.

Eadington then examined the legitimization of legal commercial gaming in the past quarter century. He concluded that the effect of gambling on the work ethic, infiltration of organized crime, the perceived immorality of gambling, and the social problems stemming from compulsive gambling have all subsided. Based on this analysis Eadington concluded that

it is likely that a private-sector casino operation, especially with competent government regulation, and especially when there is only one or a few casino operations to regulate, will perform more successfully than an equivalent government operation. This performance will be reflected in gross revenue generation... and quite possibly even in the tax revenues accruing to government as a result of casino

legalization. (Eadington, 1994:16)

Moving away from the categorization of casino types, the issue of the social implications of a Canadian casino industry were explored. Garry Smith's article titled "The Status of Gambling in Canadian Society" explored the general question of whether gambling makes Canada a better place to live. He suggested that the main benefactors of legalized gambling in Canada are the provincial governments, charities, major exhibitions, the private business sector and individual citizens through the funding of services, facilities and operations by gambling revenue (Smith, 1994:20-21). The main drawback to gambling in Smith's estimation is gambling addiction; therefore, funding for the education and treatment of problem gambling would result in a "win-win situation" according to Smith. Government would be seen as caring and sensitive while providing legitimacy to the gambling industry. However, Smith is critical of the highly fragmented approach the provinces have taken towards gambling. "What is missing are carefully crafted policies that take a panoramic view of gambling and place it within the context of community life" (Smith, 1994:24-25). This suggests that provincial governments should develop policies that considers gambling a recreational activity rather than a profit making activity for both government and/or the private sector.

By 1993 the issue of Native casino gambling had emerged as a significant policy issue. As such, articles on this

topic were new and important contributions to the literature. William Thompson and Diana Dever's article, "The Sovereign Games of North America: An Exploratory Study of First Nations' Gambling Enterprises" represented one of the few analyses that examined policy issue surrounding Native gambling in both Canada and the United States. Thompson and Dever started their analysis with an examination and comparison of legislative and policy differences with regard to Native casino gambling in Canada and the United States. In the United States the Supreme Court ruled in favour of reservation gaming in 1987 in the case *California v. Cabazon*. There was no way to regulate this ruling so Congress passed the *Indian Gaming Regulatory Act* and established a National Indian Gaming Commission (Thompson and Dever, 1994:37). The Act stated that any game, including casino games, would be permitted on reservations if the state already "permitted such games for any purpose or by any organization" (Thompson and Dever, 1994:37). In Canada, the provincial governments and Natives have clashed over the issue of gambling licensing. The provinces argued it is their exclusive domain and any gambling must be licensed and regulated by them while Natives claimed that they are "sovereign nations with a government-to-government relationship with Ottawa" (Thompson and Dever, 1994:39). Paradoxically, they declared in the United States Native gambling is confused by the lack of clarity in the *Indian Gaming Regulatory Act*, while in Canada the

confusion comes from the lack of any federal legislation in regards to this issue.

Thompson and Dever then discussed whether Native gambling has facilitated Native sovereignty. Through the examination of Native gambling projects such as the Oneidas of Wisconsin, the Pequot in Connecticut and the Sycuans of California, they conclude that "the best benefit is that gaming revenues are controlled and invested by First Nations themselves" (Thompson and Dever, 1994:43). However, they went on to say that there are potential problems in gambling operations that could impede Native sovereignty. The divisive nature of gambling has "torn some First Nation governments apart" and "gambling operations can tear First Nations cultures and block efforts to build sovereignty" which led them to claim that gambling jobs may not be the best vehicle for Native sovereignty (Thompson and Dever, 1994:48-49).

Next, was Ponting's article titled "The Paradox of On-Reserve Casino Gambling: Musings of a Nervous Sociologist" examined the potential social costs of on-reserve gaming in Canada. Ponting suggested that Native-run casino gambling "like most public policy phenomena (Stone, 1988), can be viewed as having a paradoxical nature" (Ponting, 1994:58). However, he asserted that there is always a downside in any policy issue and that the Native community must adhere to some type of risk-benefit analysis. In this regard, Ponting examined the impact on community social vitality, culture and land,

social solidarity and conflict resolution, healing and skills development, and the effect on boundary maintenance that may occur with the introduction of Native-run casinos. Ponting warned that even with economic success of casinos, Natives may be seen as "deviant opportunists" by non Native stakeholders. Ponting concluded that this may exacerbate the call for the termination of "special status" for Native peoples by non Natives, thereby creating a weak foundation for claims of sovereignty (Ponting, 1994:66).

2.4 SUMMARY

This review of gambling legislation in Canada and the gambling literature illustrates that gambling has only recently been recognized as an area of public policy analysis. Although sociological analyses of gambling have a longer history, the predominant theme has been to examine gambling as a deviant activity. Recently, the legitimation and legalization of casino gambling has meant that it has entered the public policy domain. To this point, most policy analyses have traced the changes in legislation or examined the establishment of a regulatory body. With the exception of Campbell and Ponting (1983), few analyses have reconstructed the policy process and/or attempted to determine the policy rationale of a particular state beyond the obvious economic interests. That is, the literature has consistently suggested

that gambling policy in Canada has been developed in an *ad hoc* fashion. At the same time, few analyses have adopted a comparative approach. This suggests the need for theoretically informed comparative gambling policy analyses.

CHAPTER THREE

PUBLIC POLICY AND A SELECTIVE CASE STUDY LITERATURE REVIEW

3.1 INTRODUCTION

The breadth of Native casino gambling policy along with the employment of a case study approach demands a literature review of Canadian public policy case studies. As previously suggested, there have been few public policy analyses of gambling in Canada. Most of the literature in Canadian gambling policy studies can be found in the edited proceedings of the First (1988) and Second (1993) National Symposium on Lotteries and Gambling²². Therefore, this literature review will begin with a brief review of the larger topic of public policy and its components and conclude with a review of the theoretical and methodological models employed by several Canadian public policy case studies.

3.2 REVIEW OF PUBLIC POLICY LITERATURE

Before examining public policy case studies it is imperative to lay some groundwork by examining how the

²² First Symposium proceedings, Gambling in Canada: Golden Goose or Trojan Horse (1988), were edited by C.S. Campbell and J. Lowman. The Second Symposium proceedings, Gambling in Canada: The Bottom Line (1993), were edited by C.S. Campbell.

literature has conceived public policy and the dimensions of public policy analysis. That is, it is important to operationalize public policy and uncover: i) the goals of public policy, ii) how competing policy ideas are managed by policy makers, iii) the effect of structures, both government and non government, on a policy, iv) and the legitimation of a policy. This reveals the underlying sociological dimensions of the public policy process. The following discussion provides this foundation.

3.2.1 WHAT IS PUBLIC POLICY?

Public policy has been defined in several ways. Laswell and Kaplan (1950) defined public policy as "a [governments'] program of goal values and practices". More recently, Stone (1987:vii) defined public policy as "a social product representative of...a model of political community, where individuals live in a web of dependencies, loyalties and associations". That is, universal suffrage, free speech, and free assembly exhibited by liberal democracies means that public policy making involves large numbers of people, groups, and institutions within a policy community. The concept of policy community has quickly gained legitimacy in the Canadian and comparative public policy literature. This approach

aims to analyze the constellation of actors in a particular policy domain or sector, as well as the nature, basis, and extent of their interrelationships,

has proven to be a compelling way to address the complexities of contemporary political and policy-making realities while, at the same time, embracing previous approaches to understanding politics and the policy process (Lindquist, 1996:219).

However, concern about the role of policy makers values in the creation of public policy led Leung (1985:1) to characterize public policy as "a set of decisions and actions designed to achieve a desired state of affairs". When defined this way he suggested that public policy has three important elements:

i) there has to be a desired set of affairs, ii) there must be a conscious and purposeful undertaking of decisions and actions, and iii) there must be some causal relationship between the desired state of affairs and the decisions and actions taken. (Leung, 1985:1)

Broadly speaking, policies are the firm intentions²³ of government (Chapin and Daneau, 1978). In this regard, public policies are not synonymous with laws and it is not always necessary for governments to pass laws in order to enact policies (Doern and Aucoin, 1979:ix-xv). Therefore, in this dissertation, public policy will include the values of the policy makers as well as the values of stakeholders throughout the policy community. Specifically, public policy will be defined as the process of action or inaction with regard to a particular issue or problems developed by a government which

²³ One can argue that public policy represents not only action but the inactions of government with regard to a particular problem or issue.

is established on its collective ideological goals and values but, also, developed in concert with the policy community.

3.2.2 THE "GOALS" OF PUBLIC POLICY

Generally, there is agreement that policies should achieve their goals or objectives but disagreement on what these objectives should be (Stone, 1987). Hence, policy making is not only complex but potentially conflictual by nature (Doern and Phidd, 1983; Hartle, 1979; Pal, 1987; Vickers, 1983). Several theorists have declared that public policies are to embody the components of equity, efficiency, security, and liberty (Doern and Phidd, 1983). In reality, these policy "goals" are more frequently used as justifications for implementing particular public policies. According to Stone (1987:4-5), the disagreements that occur in the interpretation of policy "goals" within the policy community lead to policy paradoxes. Policy paradoxes are generated by the portrayal and manipulation of public policy issues by individuals and groups within the policy community (Stone, 1987:105-107). The paradox is that these same concepts (i.e., equity, efficiency, security and liberty) that are believed to unite people, in fact, are dividing them. That is, "none of the above criteria [goals] offers a simple or determinate rule. Each of them contains ambiguities and problems of interpretation that make them the object of political struggles" (Stone, 1987:26).

At the same time, many analysts have suggested that one of the main "goals" of public policy is to protect "public interest" (Doern and Phidd, 1983; Dye, 1981). This "goal" of public policy is particularly limited and myopic. According to Stone (1987) "public interest" is an unacceptable term. Stone (1987) questions whether "public interest" represents policies favoured by the majority, or policies designed for the public's own good? Stone's argument is that there is never agreement on what determines "public interest"; therefore, it is an insufficient foundation for policy "goals". In other words, if public policy is not based on these "goals" alone then it appears it is patterned on ideas, interests and causal assumptions (Doern and Phidd, 1983; Doerr, 1981; Hartle, 1979).

3.2.3 IDEAS AND INTERESTS IN PUBLIC POLICY

Ideas about Native people and their role in society have served to guide Native public policy in Canada (Campbell and Pal, 1991). As such, these ideas serve interests that are embedded into the political and social culture. Stone (1987) claimed that "production models", or models in which there are discrete and sequential stages of public policy fail to capture the essence of policy making in political communities: the struggle over ideas.

Ideas are a medium of exchange and a mode of influence even more powerful than money and votes and guns. Shared

meanings motivate people to action and meld individuals striving into collective action. Ideas are at the center of all political conflict. Policy making, in turn, is a constant struggle over the criteria for classification, the boundaries of categories, and the definition of ideals that guide the way people behave. ... Each idea is an argument, or more accurately, a collection of arguments in favour of different ways of seeing the world. (Stone, 1987: 7-8)

Pal (1987: 21-23) suggested that the tie between ideas and interests is so strong that many political observers dismiss the analytic distinction entirely. Interests are promoted to the extension, creation, or preservation of circumstances that will further a group or individuals' interests (Lowi, 1979). In turn, the promotion of a particular group or individuals interests may lead to sociological situations of influence-wielding, bureaucratization, and empowerment over disempowered groups such as Native people during policy making.

3.2.4 THE ROLE OF LEGITIMACY IN PUBLIC POLICY

Pal (1987) noted that legitimacy is a necessary dimension in the formation of public policy. This is particularly the case in a contentious policy arena like Native casino gambling. Leung (1985: 1) asserted that "everyone agrees that... public policies, have to be legitimized, but disagrees on the criteria of legitimization". However, as already suggested, a public policy depends on the ideas of the policy makers. The question of what ideas, and whose ideas,

ultimately are to count is inherently a question that must be answered through the political process (Leung, 1985). Therefore, in the context of policy making, to legitimize the rules for decision making is important but "to emphasize too much the 'process of legitimization' is dangerous" (Leung, 1985:54). However, a public policy initiative is often dependent on other people or organizations for its legitimization (a political consideration) and implementation (a practical consideration). At the same time, the judiciary can serve as a legitimating structure which takes on a policy-implementing role as they rule within public policy domains. According to Leung (1985) legitimacy is achieved, particularly for a controversial and contested policy topic, by generating and eliciting support of a policy while isolating and neutralizing opposition.

3.2.5 THE ROLE OF STRUCTURES IN PUBLIC POLICY

Public policy is developed within a complex web of ideas, interests, legitimacy, and trust. It must also be noted that there is an important linkage between legitimate ideas and the creation of government bureaucratic structures (see Doern, 1977). According to Doern,

Which types of instruments are used, and /or the sequence in which they are used (for indeed all may be tried or may be necessary) does matter politically, because the way one secures legitimate compliance in a democratic

state is not merely a matter of technique. The selection of instruments is in part an end in itself. (Doern, 1977:20)

That is, ideas and interests are translated into structures that essentially characterize public policy. For example, the establishment of a Crown corporation or a regulatory body fundamentally alters the nature of public policy. Regulatory agencies, which are usually charged with implementing policies designed by legislative bodies, redefine policy problems while they execute their mandate (Doern and Phidd, 1983). Doern's (1977) examination of the compliance process in the regulation of hazardous products in Canada demonstrates this point.

3.2.6 SUMMARY OF PUBLIC POLICY DIMENSIONS

From this examination it is apparent that there are several dimensions to public policy making and that failure to recognize all of them in a public policy analysis would be unfortunate at the least. Therefore, it is necessary to identify the marriage between the ideas, interests, and structures in public policy making (see Doern and Phidd, 1983, 1992). The identification of this alliance will be employed throughout this study.

Nevertheless, the most efficient means of understanding the marriage between interests, ideas, and structures in the development of public policy is by examining specific case studies. At the same time, it allows one to examine the

different theoretical models and methodological nuances employed in public policy analyses. The following represents a sample of the more recognized and relevant case studies in Canadian public policy.

3.3 APPROACHES AND MODELS IN PUBLIC POLICY ANALYSES

It is difficult to review the public policy literature because, as Lawlor (1996:111) stated, "there are no distinctive "schools" of analysis and no contest for the heart and soul of the field is taking place." However, he maintained that "if there is any movement in the conception and practice of policy analysis, it is the emergence of the rhetorical, argumentative, interpretative, narrative and advocacy perspectives" (Lawlor, 1996:112). The following case studies represent different theoretical and methodological models employed in this interpretative tradition of the public policy process.

While most analyses of the public policy process employ interviewing methodologies, the focus on the unit of analysis has served to distinguish evaluations. According to Bennett (1996:299) the organizational, or meso, level of analysis has been a recent addition (i.e., 1970's) to the "1960's split between the study of 'macropolitics' and 'microphenomenon'". The first type of analysis investigates policy making through

the roles of individual policy makers (e.g., Weaver, 1981). The bureaucratic politics model focuses on the bureaucracy and its organizational dynamics (e.g., Schultz, 1977)²⁴. Finally, there is the analysis at the ideological or macro-structural level (e.g., Doern and Tomlin, 1991). Macro-structural analyses typically include an examination of the ideologies, and the structures advocated by government policy makers as well as the stakeholders involved in the policy process.

3.3.1 THE MICRO DYNAMICS OF POLICY MAKING

Sally Weaver's (1981) analysis titled Making Canadian Indian Policy is one of the most significant policy analyses in the area of Native public policy. Through a methodology of interviewing and document analysis Weaver examined the "secretive fashion" in which federal Native policy was developed during the early years of the Trudeau administration within a rational choice theoretical framework. This investigation provided insight into the roles of individual policy makers in the administration as well as disclosing how key government policy makers values affected their portrayal Native policy. Specifically, "it tries to show how the policy-makers attempted to work with the basic political values in our society and apply them to a minority group" (Weaver, 1981:1).

²⁴ A more recent example of a policy analysis at the meso level of analysis is Doern's (1996) Fairer Play: Canadian Competition Policy Institutions in a Global Market.

As such, the level of analysis in Weaver's investigation was the individual policy makers such as Cabinet Ministers, their advisers and top civil servants. She reported that the policy process ostensibly began with consultation meetings with Indian leaders; however, the policy developed through focused debates within the government with regard to the role and importance of Native participation. In Weaver's words, the development of Native policy became an "exercise in reaffirming value positions" with the competing groups forming within the Government rather than a response to the problems Native people were experiencing (Weaver, 1981:194).

In this regard, the White Paper of 1969 was intended to further the process of Native participation and stop criticisms levelled at Indian/Inuit Affairs Programs through agencies and reports such as the Hawthorn Report (Weaver, 1981). However, Weaver concluded that the Trudeau administrations rational approach to policy making meant that few people played a major role in developing the policy. In reality, Weaver asserted, Natives did not participate in the policy making process or even the defining of the "Indian problem" primarily because of the lack of Native political organization at this time.

By the time the policy was announced it was apparent that key members of the Prime Minister's Office "provided the guiding framework of values for Indian policy" (Weaver, 1981:190). Weaver maintained that despite the Trudeau

administrations election rhetoric on "participatory democracy" this type of policy direction was consistent with their ethos regarding the rationalization of policy and the increased role of key members in the Prime Minister's Office in policy formation. Throughout the policy making process, the issue of Native participation and the form it should take became a major stumbling block (Weaver, 1981). Weaver contended that rational policy making under Trudeau determined that the ideas and values of the top officials were instrumental in the creation of public policy. That is, the micro variables were significant in the explanation of federal Native policy at this time. This focus on the "microphenomenon" led to a methodology of document analysis which focused on correspondence between policy makers as well as the interviewing of select policy makers.

3.3.2 BUREAUCRATIC POLITICS OR THE MESO LEVEL OF ANALYSIS

Weaver's treatment of policy making at the individual level within government contrasts with Schultz's (1980) analysis of Canadian transportation regulation. Schultz's (1980) study titled Federalism, Bureaucracy, and Public Policy analyzed the outcomes of intergovernmental negotiations in Canada by examining the 1967 overhaul of the National Transportation Act. Like Weaver, Schultz methodologically employed an interviewing strategy as well as document

analysis; however, the unit of analysis differed. While Weaver (1981) saw individuals situated within a bureaucratic organization as the important elements, Schultz (1980) believed the goals and instruments of a particular bureaucratic state institution significantly effected individual policy makers formulation of a policy.

Moreover, Schultz (1980) utilized two different theoretical models to examine the changes to the National Transportation Act (1967). The first model he employed was the "unitary actor" model. In this model governments are seen as "...internally homogeneous, coherent entities" (Schultz, 1980:3). The second model he utilized was the "bureaucratic politics" model. The bureaucratic politics model

contends that the common emphasis on what happens between governments may fail to do justice to the complex intragovernmental process that can precede, accompany, and follow negotiations between governments (Schultz, 1980:3).

In other words, the bureaucratic politics model required the assessment of the impact of the internal policy making process of the bureaucratic entities within government and the outcomes of negotiations between different levels of government.

Schultz started his analysis by outlining the National Transportation Act, the issues surrounding federal regulation of the highway transport industry, and the main organizational

players within this policy community. He then determined the goals and resources of the provinces, the Department of Transportation, and the Canadian Trucking Association. Perhaps the most interesting sociological aspect of Schultz's analysis is the way he illustrated the development of trust between the transportation industry and the bureaucratic organizations of the different levels of government before the legislation was enacted. Once these relationships were outlined, Schultz independently employed the unitary actor model and the bureaucratic politics models to explain the policy making process. Schultz concluded that

one of the most important aspects of the analysis... was the portrait of the federal government that emerged. By no stretch of an analytic imagination could it [the federal government] be conceived of as a single actor. (Schultz, 1980:180).

In this regard, Schultz maintained that the institutions of the state have considerable autonomy.

3.3.3 THE STRUCTURAL OR MACRO LEVEL OF ANALYSIS

Schultz examined two competing theoretical models in his analysis of the transportation policy. In contrast to this approach, Doern and Tomlin's work Faith and Fear: The Free Trade Story (1991), utilized a "[non]-traditional academic account" of the Canada/United States Free Trade Agreement.

Doern and Tomlin utilized a distinctly descriptive approach (devoid of any theory) of identifying stakeholders and their ideological role in the policy process. Methodologically, Doern and Tomlin also utilized interviewing and document analysis. In this regard, they started by historically reconstructing the political, economic, and ideological events that set the boundaries to the policy of trade liberalization between Canada and the United States. That is, the influence of individual policy makers in the policy process was not the focus of this analysis, rather Doern and Tomlin (1991) concentrated on the "macropolitics" of the Free Trade Agreement.

In detailing the ideological background to the policy process Doern and Tomlin claimed that the Mulroney administration was critical of regional economic development and industrial adjustment in Canada in the early days of their mandate. Concomitantly, Prime Minister Mulroney and Finance Minister Wilson were ideologically inclined to create an economic and business climate that was more open and would lead to greater efficiency²⁵. Doern and Tomlin declared that for the Mulroney government the means to this ideological view was "through the removal of barriers to trade" (Doern and Tomlin, 1991:32). As such, the Free Trade Agreement

²⁵ The creation of an open market as well as the goal of national reconciliation was demonstrated by the 'undoing' of the National Energy Program via the Western Accord.

was primarily... an industrial policy, loosely defined, that free trade was advocated as the principal long-term solution to Canada's economic problems by the Macdonald Royal Commission. (Doern and Tomlin, 1991:33)

Along with this fundamental shift in economic philosophy the "pivotal domestic political event" was the business communities, particularly the manufacturing sectors, establishment as a leading stakeholder in support of free trade (Doern and Tomlin, 1991:46-47). They reported that the Business Council on National Issues and the Canadian Manufacturers' Association were allies in the fight for free trade within the larger business community as well as a major lobbying force, particularly with senior government officials, in Ottawa. However, the lobby for a bilateral free trade agreement needed many other key figures. They claimed that one of the most important figures was Alberta Premier Peter Lougheed. Lougheed represented the key to support from western Canada and a strong ally in the ideological development and legitimation of the policy.

Nevertheless, Doern and Tomlin demonstrated that the stakeholder lobby which advocated a bilateral free trade policy faced a difficult and complex assignment. However, the selection of Simon Reisman as Canada's chief negotiator was seen as the key to legitimating the deal to Canadian stakeholders. Specifically, Reisman was able to masterfully communicate to the stakeholders not already favouring the policy that there was a need for an expanded industrial policy

via a Canada/United States of America free trade policy.

Doern and Tomlin (1991) concluded that at this time the Mulroney government recognized the best way to distance themselves from the state-led policies of the Trudeau government and legitimate the free trade initiative was to hold a "referendum-like" choice on free trade by way of a federal election²⁶. It was at this point that free trade moved from a policy issue to a political, and therefore sociological, negotiation in progress (Doern and Tomlin, 1991:240-242).

Overall, Doern and Tomlin chose to focus on the ideological positioning of the stakeholders within the policy community. In contrast, Weaver (1981) illustrated the role of specific powerful individuals and their values had on the policy, while Schultz examined the stance of various bureaucratic entities in the policy process. However, it should be noted that although these case studies were situated in a particular unit of analysis each did have sections at a different level of analysis. For example, Schultz had several small sections at both the micro and macro level of analysis and Doern and Tomlin had sections at the meso and micro unit of analysis.

²⁶ Doern and Tomlin noted later in this analysis that in fact it is unlikely that in a 'single-issue election' that the majority of individuals vote solely on the basis of that issue. In other words, "the 1988 ballot was not the great free trade election" (Doern and Tomlin, 1991:242).

3.4 REVIEW OF CASE STUDIES

This review of three public policy case studies indicates that there are several units of analysis by which to conduct a policy analysis. The common link in these case studies is the methodological approaches of interviewing and document analysis. In this regard, there is a recognition that in order to analyze the public policy process with its numerous constituent actors, organizations, ideologies, and processes, interviewing policy makers and stakeholders along with the analysis of relevant documents is the best way to capture the data. As such, this methodological approach will be used in this examination of the Native Casino gambling policy process (see Chapter Five).

This review of case studies also demonstrated that several theoretical models have been employed in public policy case studies while others are "largely descriptive" (Bennett, 1996:308). However, the theoretical model utilized in a case study is linked to the unit of analysis. That is, in many cases the theoretical model dictates the unit of analysis. For example, Schultz's analysis within the bureaucratic politics theory determined that his analysis had to be situated at the meso level. Similarly, Weaver employed the interdependent rational actor model of rational choice theory and was constrained to operate within the micro level of analysis. In contrast, Doern and Tomlin utilized a

descriptive approach that was devoid of a theoretical model.

In light of these differences, each of these case studies has unique and important contribution to make to the understanding of the public policy process. The question that emerges is whether one theoretical model, unit of analysis, or methodological approach is superior? This question will be examined in greater detail in the methodology chapter; nevertheless, it is important to recognize the different approaches to public policy case studies.

CHAPTER FOUR

THEORETICAL APPROACH

4.1 INTRODUCTION

According to Manzer (1984:577) there are two "decision making paradigms" in contemporary analyses of public policy making. The first he labelled the "elitist planning" paradigm. "Its advocates regard collective decisions as deliberate choices from available options made by designated decision-makers on behalf of a group" (Manzer, 1984:577). Hence, public policies are seen as the result of "anticipatory problem-solving, synoptic planning and rational choice" (Manzer, 1984:577). The second paradigm he identified is the "pluralist exchange". "Its advocates regard collective decisions as epiphenomenal outcomes of decisions made by many individuals or groups interacting with one another" (Manzer, 1984:577). Public policies are, therefore, "the result of reactive problem-solving, strategic planning and incremental decisions" (Manzer, 1984:577). In essence, what has developed theoretically is a policy making typology that positions incrementalism opposite rationalism. Based on Campbell and Lowman's (1989) declaration that Canadian provincial governments appear to be moving away from an *ad hoc* approach in the development of gambling policy this analysis

will theoretically utilize the rational choice approach.

At the same time, most public policy analyses that have attempted to explain the policy making process have ignored the unit of analysis problem and have utilized only one level of analysis. For example, structural analyses employ macro level factors such as state structures to explain policy making with little regard to the mechanisms that affect the correlations they perceive (see Skocpol 1979, 1985; Mann, 1986). In contrast, methodological individualists have generally ignored the state, organizations, institutions and events that effect policy-making by utilizing techniques and focus on the individuals, such as game theory (see Jensen and Meckling, 1976). An example of this type of research is Flanagan's (1992) analysis of the Lubicon Lake dispute. Specifically, he "attempts to model the final stage of the Lubicon dispute using the techniques of rational choice analysis" (Flanagan, 1992:291). In other words, Flanagan develops a series of potential decision making strategies that would be considered rational by the federal government, the Alberta government and the Lubicons. However, it is apparent that this type of rational choice modelling only serves as a mechanism for prioritizing and maximizing the utility of these groups. In Flanagan's words,

Game theory is not prophecy. It cannot tell us whether the Lubicons will adjust their priorities as the government seems to hope... [and] it cannot predict whether the federal or provincial governments might

change their priorities (Flanagan:1992:298).

Overall, it is apparent that a gulf between these levels of analysis has ensued in public policy analysis. In regards to this issue, Phidd (1996:29) stated

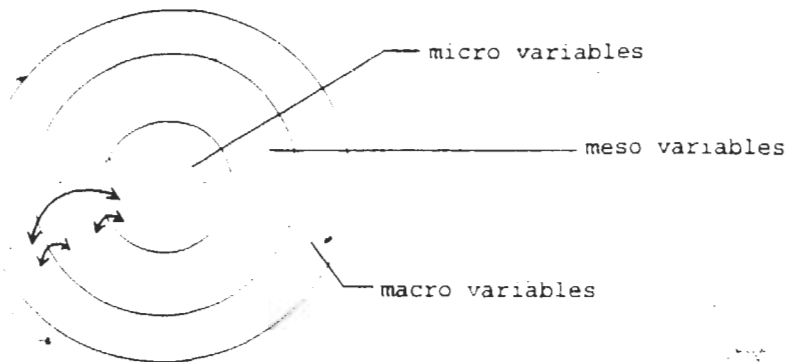
It should be emphasized that the separate focus on political parties and interest group characteristics of many policy studies has led to inadequate analysis of the complex interrelationships that exist between political parties, interest groups, and public bureaucracies. The complexities involved suggest that we examine the intricate relationships that may develop between these policy actors. Such an approach involves our examining factors... and feedback mechanisms.

As such, it would be advantageous to employ a theoretical approach that links micro, meso and macro level factors. An examination of policy analyses that have comparatively provided a micro-foundation of macro-history determined that rational choice theory is commonly utilized to "resolve some of the theoretical and methodological dilemmas inherent in attempts to provide causal explanations of policy choices and changes" (Levi,1988:8). It is on this basis, along with the examination of Campbell and Lowman (1989) statement that "provincial policies... [have been] lacking in rational and coherent planning..." but that a move away from this type of development appears to be occurring, that rational choice theory will be the theoretical model of this analysis.

Rational choice theory attempts to uncover the relationship between individual action and macro-level

outcomes such as 'public policy'. That is, a feedback loop between the different levels of analysis is characteristic in analyses employing rational choice theory.

FIGURE 4.1 - FEEDBACK LOOP UTILIZED IN RATIONAL CHOICE THEORY



In so doing, rational choice theory has been utilized to answer the question: What are the determinants of variation in state policies? (Kiser and Hechter, 1991:19). When employing rational choice theory, factors and variables are specified *a priori*, thus allowing for testable predictions to be made about how variations in ideological and structural factors

²⁷ Rational choice theory has traditionally been incorrectly labelled as a micro approach. This may be due to the lack of distinction between exchange theory and rational choice theory. Although they have the same foundation there are important differences. Specifically, exchange theory focuses on interconnected actors and the structures that influence them in exchange relationships, while rational choice theory probes the dynamics between decision-makers and structures to determine their effect on rational decision-making (see Cook, 1987).

will affect state policies (see Bates, 1981, 1983; Levi, 1988).

4.2 THE ROOTS OF RATIONAL CHOICE THEORY

The identification of the roots of rational choice theory is necessary to understand its main premises. Rational choice theory is based on the broad intellectual tradition stemming from the Enlightenment period - utilitarianism. This background led to the development of rational choice theory in the social sciences within neoclassical economics. However, rationality encompasses both economic and political decisions and the link to paternalism was then established (Weale, 1979). This expansion into the political realm led to the employment of rational choice theory in public policy analysis.

4.2.1 UTILITARIANISM

Utilitarianism is a broad intellectual tradition that is rooted in the social philosophies of Jeremy Bentham, Adam Smith and John Stuart Mill (Lewin, 1988). Utilitarianism postulates that political decisions should be made in accordance with people's preferences. In other words, policy decisions, utilitarians maintain, are to reflect the will of the people. However, the objectives of equality and efficiency are seen as the underlying functions of public policy. Therefore, utilitarianism is called the "doctrine

about how the common good emerges as a by-product of individual actions" (Lewin, 1988:34).

However, Lewin (1988:29) argued that contemporary rational choice theory has evolved from the assumptions of utilitarianism.

More precisely, rational choice theory takes as its point of departure two fundamental utilitarian premises. First, what is best for society is nothing but the sum of what is best for each individual; and second, what is best for the individual is best understood by the individual himself (Lewin, 1988:29).

Lewin maintained this "point of departure" occurred because both of these premises appear to be invalid when referring to public policy making. That is, "sometimes rational individual action leads to collectively irrational decisions" and "occasionally, individual preferences emerge out of irrational motives" (Lewin, 1988:29). In other words, there must be recognition that contemporary policy makers make decisions independent of their voters. According to Kiser and Hechter (1991) rational choice theories' solution to this recognition is that policy makers decide what is in the best interest of society.

4.2.2 PATERNALISM

It has been argued that the ideology of paternalism generated the framework in which public policy is formulated (Weale, 1979; Lewin, 1988). According to paternalist notions,

policy makers develop the best policies in the light of goals specified to them by the electorate and what is deemed in the best interest of the electorate (Weale, 1979). In fulfilling this role, policy makers need to take the time and opportunity to consider different options. While employing this calculus, they are not to be influenced by stakeholders. Therefore, public opinion should not influence policy makers objectives. However, policy makers are to determine carefully what is in the best interest of the state as a whole while fulfilling the policy goals of their mandate. In a decidedly Rousseau-like manner, decisions are to be made on a moral basis²⁸. In essence, policy is to be formulated by policy makers in a "Pareto-like optimality rather than as a zero-sum game" (Manzer, 1984:583).

Although myopic in principle, particularly in regards to "public interest" (see Stone, 1987) the tenants of paternalism and utilitarianism strongly influenced the democratic system. As such, it has been argued that policy makers will be in a position to impose their own social class preferences in the formulation of public policy. As Lewin (1988) noted, the premises of both utilitarianism and paternalism may have serious failures; however, they represent the foundation of liberal democracies. Nevertheless, it is this foundation that makes rational choice theory applicable to contemporary public

²⁸ This is in contrast to pluralist-exchange paradigms of decision-making which suggest that public policy is predominantly based on prudential reasoning.

policy analysis.

4.3 THE TENETS OF RATIONAL CHOICE THEORY

As noted earlier, the premises of rational choice theory are steeped in neoclassical economics but more recently have included political and sociological concepts. Rational choice theory is concerned with the issues of collective (or group) action as defined by Olson (1965) and, consequently, its relationship to maximizing utility. In other words, individuals (i.e., policy makers) are purposive actors that consider the alternatives and make decisions on the maximization of utility. Therefore, in order to maximize utility there must be a recognition of an individual's values²⁹ and goals. In this regard, rational choice theory is based on the linkage of policy makers' values to their goals, which, ultimately are a reflection of public policy. For example, one would expect the values and, therefore, the policy goals of a Progressive Conservative government to differ from that of a New Democratic government. To be sure, the goals and objectives of policy makers are contingent upon their values. As such, one would expect that policy makers values on a public policy issue like Native casino gambling

²⁹ There is a link between values and goals in public policy as specified by rational choice theory and Doern and Phidd's (1983) concepts of ideas and interests. Values are the antecedent to ideas while goals incorporate the notion of interests.

would be particularly evident. However, rational choice theory is cognizant that values and policy goals are constructed within the structural constraints of the contemporary state (Manzer, 1984).

Rational policy making is established on the values and goals of the policy makers but it also includes several other criteria (Chaffee, 1983; Janis, 1989): 1) the search for alternative policies to be simultaneously considered when developing public policy, 2) the assessment of positive, negative and other consequences of a particular policy, 3) centralization of the policy making process, and 4) selecting the public policy that maximizes attainment of the desired values and goals.

That is, the policy making process is built upon a central authority such as a Cabinet or committee. Kaplan (1964:57) declared that, "In politics, above all, decision making cannot escape the responsibility of judging the relative worth of disparate and perhaps conflicting values." Lasswell (1947) also suggested this when he stated that private motives are projected onto public policy. The notion of rational policy making is then based upon the values of the policy makers as a group. According to Kaplan (1964:62) the "rationality of a person or institution lies in the whole way of its working, in the style of its performance (i.e., values); it is this that must find a place in our reconstruction." In many cases "quantitative data documents

the correspondence between the goals and the results" (Chaffee, 1983:33). Typically this translates into research documents sponsored by governments to examine the fit between the policy goals and the policy products - a common feature in the Native casino gambling policy process. In essence, the one thing that distinguishes a "rational" public policy process is whether there was a weighing of the relative values of, say, a particular government prohibiting casino gambling or becoming a casino entrepreneur, and then to make a judgement and implement the appropriate policy.

Like Levi (1988) and Przeworski (1985), I am arguing that rational choice theory stands as a challenge to both neoclassical economics and structuralism, including Marxism.

It criticizes neoclassical economics and most public choice theories for being too narrow, for assuming that there is an actual equilibrium, for ignoring or misunderstanding political institutions and power, and for being too unconcerned with the big macro-questions. Rational choice also poses a challenge to structural theory. It seeks to provide the micro-foundations for understanding and explaining what Tilly (1984) calls 'big structures, large processes, huge comparisons'. (Levi, 1988:203)

4.4 THE DIVISION IN THE UTILIZATION OF RATIONAL CHOICE THEORY

Social science analyses that have employed rational choice theory have tended to be one of two specific types. The first is the examination of collective action or social

movements such as the environmental movement (see Mitchell, 1979). These analyses are typically concerned with issues such as the "free-rider" problem and the "individual utility versus collective welfare dilemma" in these movements. The second type of analyses deals with the reconstruction of the policy-making process. Specifically, this type of analysis focuses on group values and dynamics and the structural constraints during the policy making process. It is this second type that will be utilized in this examination of the Native casino gambling policy process.

4.5 RATIONAL CHOICE THEORY AND PUBLIC POLICY ANALYSIS

As suggested, to date many public policy case studies have not employed a theoretical framework (Bennett, 1996:308). A similar pattern is true for the study of gambling policy analyses. Moreover, the bulk of the work in this area has been carried out by American researchers who have employed an abstract empiricist approach in their research. Gambling policy analyses that have incorporated a theoretical approach have typically been carried out by Canadian academics who have employed a political economy approach (see Campbell and Ponting, 1983; Campbell, 1987, 1994). While there are some exceptions, this lack of a theoretical component has been a major failing of gambling policy analyses.

Rational choice theory has traditionally taken structural

constraints as given and has specified that among the set of feasible actions that exist within the structural boundaries, policy makers will choose the outcome they believe will bring the best results (Elster, 1982:464). This acknowledgment of structures suggests that rational choice theory is aware of forces that effect policy making beyond the individual level. This leads to the functionality of the macro/micro linkage within rational choice theory that is appealing to public policy investigations. That is, "policy-makers create institutions; however, institutions, structures and macro-states also influence individual preferences and behaviours" (Levi, 1988:8).

The work of Lindblom (1965, 1977) provides the initial rational choice theoretical examination of the policy making process. The assumption of Lindblom's work, as encompassed in his Model 1³⁰ of rational policy making, is that the governing elite are sufficiently wise and informed to solve social problems as well as direct social change (Manzer, 1984). In essence, "... the intellectual leaders of the society are envisaged as having been able to produce a comprehensive theory of social change that serves to guide the society" (Lindblom, 1977:249). Further, it presumes that "there is a

³⁰ Lindblom distinguished two models of political organization based on decision making processes. Model 1 is a "bureaucratic society" founded on central direction and control" while Model 2 represents a *laissez faire* or non-bureaucratic approach to government decision making (see Manzer, 1984).

unified purpose or set of preferences characterizing the entity taking action" (Ross, 1993:4). It is theorized that policy makers will act rationally if they choose to implement a policy whose intended outcome is such that any other intended outcome is less preferred. This initial work in rational choice theory in public policy studies paved the way for analyses of the public policy process that employed rational choice theory.

Following Lindblom, Stokey and Zeckhauser (1978) recognized that a rational theoretical framework for policy analysis must include "the context of the problem and the objectives to be pursued, laying out the alternative courses of action, valuing the outcomes, and making a choice as to the best course of action" (Manzer, 1984:582). Although they develop this rational calculation they do not resolve policy makers problems of assigning values to the outcomes of a particular policy (Manzer, 582-583). As Weale declared

[c]orresponding to the subjective utility function for policy objectives, therefore, there will be an objective function to be maximized stated in terms of tangible policy goals, where these goals are thought to be attainable by the use of certain policy instruments (Weale, 1979:99).

However, this assumes that a more comprehensive policy goal or objective must have been designated. At the same time, "it is as irrational, other things being equal, to treat two successive cases differently as it is to discriminate contemporaneously" (Pennock:1964:100). That is, a rational

government seeks to maintain consistency in their policy. For example, tax legislation of a particular government designed to encourage industrial development would lose its rational efficiency if public policy in such matters notoriously vacillated (Kiser and Hechter, 1991).

The utilitarian roots of rational choice theory declared that societal interests are the aggregate of individual citizen preferences. The rational policy-maker owes some deference to the views of his party leaders; those in the executive and the public they are supposed to represent (Pennock, 1964). It is on this basis that rational policy-making must be cognizant of these preferences. Although policy makers may not know the preferences of their constituents, policy makers usually "make an estimate of how the probable consequences of a particular policy choice will be received by the electorate" (Pennock, 1964:102). As Manzer (1984) purported, contemporary policy-makers comprehend individual opinions only after they are aggregated into public opinion. As such, Friedman and Hechter (1988:214) declared that an appreciation of "variable amounts and types of information" that policy makers receive "...have systematic effects on outcomes". That is, public opinion is usually solicited in rational policy making but the paternal tradition suggests that it is not significant because policy makers are not bound by the instructions of their voters; rather, their duty is to determine what is best for society.

This rational approach to policy development is synoptic and analytic. In other words, this rational style of policy making is anticipatory in nature (Richardson et al, 1982:12-13). Policy-makers are seen as trying to "pre-empt the cycle of policy making by identifying potential policy problems and resolving them before they become a serious issue or social crisis" (Manzer, 1984:581). In essence, they are seen as employing a preventative rather than a curative policy making approach. Calculation of probable consequences through consultation with experts and commissioned reports is therefore an important dimension to rational policy making.

Lindblom (1968) described the classical model of rational choice as follows: A rational approach 1) clarifies goals, values, or objectives and ranks them, 2) creates list of possible means to achieve those goals is developed, 3) investigates all important consequences that would result from each of the alternative policies through commissioned reports, 4) carries out comparison of consequences of each policy with goals, 5) treats all members as a team who agree on the desirability of goals, 6) selects policy with consequences most closely matching the goals and, 7) identifies and maximizes one goal which is regarded as the most significant. If these policy practices were utilized they will be identified in the analysis of each provinces policy process.

4.6 THE EXPANSION OF RATIONAL CHOICE THEORY IN POLICY ANALYSIS

Since Olson's (1965) notion of rational choice theory appeared, the examination of the policy making process has been extended to include several additional economic and noneconomic considerations. Elster (1982) declared that he is not content with the initial "thin" concept of rationality. That is, analyses which declared that rational decision making meant decision making strictly on the basis of what policy choice best advances "an individual's economic cause". This led to a disregard of important political actors within the policy community. This has been the achilles heel of rational choice theory in public policy analyses. This is particularly problematic when the role of political organizations and parties have been identified as significant in the formation of public policy. Lindblom (1977) points out

the voters, politicians, bureaucrats and interest group leaders who comprise the decisions-makers are assumed to make their choices about public policies... (Manzer, 1984:584)

Therefore, public policy analyses that employ rational choice theory must identify and scrutinize the efforts of stakeholder groups within the policy community.

4.7 CONCEPTUAL MODELS

Developing models provides a framework in which to

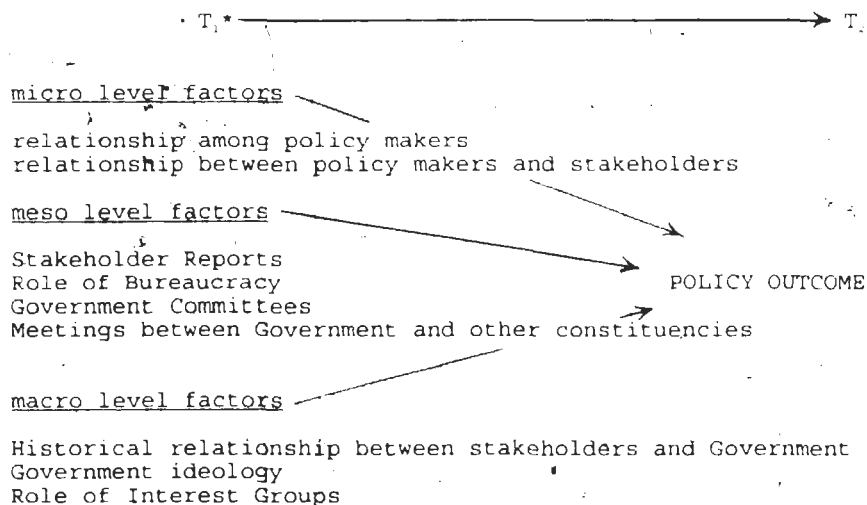
analyze the policy making process. Abell (1991) declared that deductive models become "indispensable when dealing with complex systems of human interaction, and where consequences (intended or otherwise) are dependent upon the strategic calculation of many individuals" (Abell, 1991:ix). The utilization of rational choice theory in public policy analysis allows for the development of conceptual models, and subsequently the testing of hypotheses providing an analytic power to explain (Kiser and Hechter, 1991). At the same time, it forces one to specify potential determinants or independent variables prior to the research stage.

Bennett (1996) stated,

The most familiar conceptualization sees public policy as an 'output' of the structures and processes of the political system. Policy is a dependent variable. Its emergence, production, and character are shaped by that system and the interests that support it (Bennett, 1996:310).

Moreover, Hancock (1983:288) declared the majority of comparativist policy analyses "interpret policy outcomes as the product of antecedent economic, social or political factors". Therefore, based on Phidd's (1996) declaration for the need to establish linkages between macro and micro explanations and the public policy literatures utilization of policy outcomes as the dependent variable the conceptual model for this analysis is as follows:

FIGURE 4.2 - CONCEPTUAL MODEL FOR ANALYZING THE PUBLIC POLICY PROCESS



* T_1 and T_2 represent time.

This conceptual model indicates that there is feedback between the three levels of analysis. That is, there is interaction between the factors¹¹ at the different levels of analysis. Furthermore, the issue of time exists latently in this model. That is, there is a sequencing of events or factors prior to the policy outcome. Temporal sequencing will direct the interaction between the factors. Although there is no particular temporal sequencing of the factors at the conceptual stage the issue of time will be important in the

¹¹ Empirical indicators of these factors will be outlined in the Chapter Five.

development of the hypotheses and the explanation.

THE HYPOTHESES

The utilization of hypotheses aid in the explanation of the development of Native casino gambling policy in both provinces. The following hypotheses offer partial answers to questions about how Native casino gambling policy has been forged. Moreover, these hypotheses represent answers to significant questions based on Lindblom's (1968) properties of rational choice theory. At the same time, each of the three hypotheses examines variables at a different level of analysis as advocated by rational choice theory and represented in the conceptual model.

The first hypothesis is: In Saskatchewan, the Native casino gambling policy process was not *ad hoc* while in Alberta the Native casino gambling policy process was *ad hoc*. This hypothesis is based on Lindblom's (1968) element of rational policy making which maintains that a government must rank goals, values, and objectives and creates a list of possible means to achieve them. At the same time, rational choice theory states that public policy is largely based upon economic decisions (see Olson, 1965). That is, policy makers in Saskatchewan would be more likely to regard Native casino gambling as an economic development policy strategy than the policy makers in Alberta. This can be premised on the

relative economic disadvantage of the province of Saskatchewan.

The second hypothesis is: In Saskatchewan, a relationship of mutual trust between Native leadership and Government policy makers had to develop before there was policy progress while in Alberta a relationship of mutual trust between Natives and Government policy makers was not necessary for policy progress. This hypothesis is based on the rational choice theory's perspective on the maximization of utility (Lindblom, 1968). That is, policy makers are more likely to develop a policy favouring the stakeholders' requests or position if policy makers trust the stakeholders' claims making of mutual benefit. Moreover, Schultz (1980:98-99) and Campbell and Ponting (1982:40) declared that "trust stands in need of development as a variable which can contribute significantly to our understanding of the policy development phenomenon." The importance of trust in the Native public policy process was also illustrated by Campbell and Pal (1991) in their analysis of the Oka crisis.

The last hypothesis is: In Alberta, past Native public policy has not significantly influenced the Native casino gambling policy while in Saskatchewan previous Native policy has significantly influenced the Native casino gambling policy. This hypothesis is based on Lindblom's (1968) rational policy making property that investigates consequences of alternative policies. Moreover, Elster (1982) declared

that structural constraints stipulate the set of feasible actions that exist within structural boundaries in rational policy making. As such, the demographic character of Saskatchewan suggests that the legacy of Native policies are given more attention by the government. That is, Native people constitute a larger proportion of the Saskatchewan population while being represented by an overarching political body. Rokkan and Urwin, (1982) suggest that the political organization of a minority group provides a cohesiveness that leads to consistency in public policy. Similarly, Campbell and Pal's (1991) notion of policy trajectories embedded in political systems is salient.

4.9 AN ASSESSMENT OF RATIONAL CHOICE THEORY

There have been several criticisms levelled at rational choice theory, the following represent the most common. Frequently the notion of rationality, and what represents rationality, has been critically examined. The maximization of benefits whether stated in terms of utility, exchange ratios, or self-interest, have been the subject of endless debate (Moore, 1990; Lewin, 1988). The question remains as to whether people are truly rational. It has been suggested that all human decisions could be considered rational. Nevertheless, rational choice theory delineates several

necessary criterion that determine whether a rational decision or process has occurred. As Kaplan (1964:62) asserted, "it is perfectly rational not to be perfectly rational." In essence, the rationality of policy making lies as much in the human psyche as in the mathematics of choice or advanced statistical analysis. According to Levine et al (1975:91) the most frequent criticism of rational choice theory is that "it is not possible to quantify goals, particularly in public policy." They respond that

this attack rests on a misunderstanding since rational choice theory does not require that individuals be able to quantify their desires or that they should always be certain of the likely outcomes of their choices. It is perfectly possible to be rational even if the most we can do is rank preferences and measure, subjectively, the probabilities of various consequences (Levine et al, 1975:91).

Another criticism of rational choice theory in public policy analysis has been whether a state can rationally pursue its goals, (i.e., continuity and stabilization) when a state can be reduced analytically to a large number of state officials. In response to this criticism, Moore (1990:228-229) argued that policy makers have a great deal of freedom to give priority to individual or organizational imperatives and make them policy issues. "In essence, policy makers have a role in deciding what is a policy issue."

Lowe and Rudig (1987:523) argue that the rationality of behaviour is difficult to test empirically and any action can

be characterized as rational after the fact. The assumptions that individuals or groups behave in a rational and self-interested fashion are implicit in a great many social scientific theories (Coleman, 1986:5).

Nevertheless, Moore (1990) declared that, "for all its limitations, [rational choice theory] does appear to usefully illuminate - perhaps even 'explain' - certain kinds of political behaviour" (Moore, 1990:228). According to Weale (1979) "often the divergence from patterns of rational choice in public policy will be just as interesting as conformity" (Weale, 1979:100).

4.10 SUMMARY

The utilization of rational choice theory in the analysis of Native casino gambling policy challenges the nonempirical beliefs of the literature in this area that have stated that provincial government policies with regard to casino gambling have been "generally lacking in rational and coherent planning" (Campbell and Lowman, 1989).

This chapter began by uncovering the public policy decision making paradigms. It became apparent that, unlike rational choice theory, many theoretical approaches do not link micro and macro levels of analysis. It was the linkage of units of analysis, Campbell and Lowman's statement on the

change to more rational coherent planning of provincial government's gambling policy, as well as the utilization of rational choice theory to "resolve the theoretical and methodological dilemmas inherent in attempts to provide causal explanations of policy choices and changes" that led to rational choice theory being chosen as the theoretical framework for this analysis. Next, the roots and premises of rational choice theory were uncovered. An examination of the evolution of rational choice theory in public policy analyses was conducted. Amendments advocated by several advocates of this approach were incorporated to contemporize and increase the application of this theory. The seven elements in Lindblom's classical model of rational policy making will be used to determine if the Native casino gambling policy process was rational in each province.

Chapter Five will examine methodological issues in comparative public policy analysis and lay the methodological foundation for the analysis of the policy process. In so doing, it presents conceptual models, interviewing techniques and introduces the data gathering techniques. It concludes by examining the issues of reliability and validity.

CHAPTER FIVE

METHODOLOGY

5.1 INTRODUCTION

Academic public policy analysis "do[es] not wish, at least initially, to change policies, simply to explain and understand them" (Pal, 1987:24). Pal (1987:24) further suggested that academic public policy analysis typically focuses on the relationship between "policy determinants and policy content, in other words on explaining the nature of policies, their characteristics and their profiles." Therefore, one goal of a public policy analysis is to determine if factors or conditions exist which explain the origin or maintenance of a policy.

There are at least three general styles of researching public policy: descriptive (which includes content and historical analysis), process, and evaluation (Pal, 1987:25-32). According to Bennett (1996) the distinction in these styles is based in the idiographic versus nomothetic debate (i.e., the debate as to whether description or generalizable patterns are the goals of science). Those advocating a descriptive approach contend that a theoretical framework can be established after the policy process has been described. In response to this, Phidd (1996) stated that it is unlikely

a theory has, or will, ever be added subsequently to a case study of a particular policy process because the socio-political environment and influences being analyzed will have been lost. Therefore, at the very least, the underlying goal of public policy analysis should be explanation via a theoretical framework. In this regard, the goal of this analysis is the explanation of the Native casino gambling policy process.

5.2 RESEARCH DESIGN

As suggested in the first chapter, this dissertation provides an explanation of the development of Native casino gambling policy in both the provinces of Alberta and Saskatchewan. Ragin defines this type of analysis as a case-oriented strategy (1987:xii). According to Ragin (1987), a common goal of case-oriented analysis is to

interpret a historical outcome or process across a limited range of cases. Cases are examined as wholes, which means that the causal significance of an event or structure depends on the context (that is, on other features of the case). This strategy highlights complexity, diversity, and uniqueness, and it provides a powerful basis for interpreting cases historically. However, it is very difficult to use this approach to examine more than a few cases at a time. Faced with a large number of cases, the investigator is forced to make many paired comparisons - too many to grasp all at once - and the analysis may disintegrate into descriptive statements lacking any generality. (Ragin, 1987:xiii)

In this regard, the case-oriented analysis will occur in a twofold manner. First, I will narratively analyze the process of policy development in each of the two provinces. I will then compare the policy making process for both Saskatchewan and Alberta. Finally, I will attempt to ascertain the explanatory value of several theoretically derived variables on the creation of Native casino gambling policy in both provinces.

In order to do so, a reconstruction of the policy process in both provinces will be undertaken, suggesting the employment of a comparative-historical methodology. According to Kiser and Hechter (1991:17) some of the most significant research in "comparative-historical sociology concerns the extent and determinants... and the formation of state policies."

5.3 COMPARATIVE-HISTORICAL ANALYSES

Case-oriented comparative strategies follows in the footsteps German historiography and more specifically Weber (Levi, 1988; Ragin, 1987). This was apparent when Weber declared that

Sociological analysis both abstracts from reality and at the same time helps us to understand it, in that it shows with what degree of approximation a concrete historical phenomenon can be subsumed under one or more of these [type] concepts. (Weber, 1968:20)

An intensive comparative study of a small set of cases "provides a direct route to testing the theory in question" (Ragin, 1989:61). According to Bendix (1963) comparative studies represent an attempt to develop concepts and generalizations at a level between what is true of all societies and what is true of one society at one point in time and space. Therefore, time and space factors are control variables. It is on this basis that Przeworski and Teune (1970) are sceptical about the comparison of social phenomenon. However when conducting a comparative study, interpretations must be made within the contexts of a framework that recognizes spatio-temporal issues as well as theoretical frameworks.

Quantitative comparative policy analyses usually examine a larger number of structural variables with a larger number and variety of cases (Ragin, 1987). However, public policy examinations can lose their identities, when they are disaggregated into a few structural variables (Ragin, 1989). According to Ragin (1989:59)

small-N research study cases as wholes and compares whole cases to other whole cases. That is, they study configurations of structures and events and try to unravel complexity by comparing configurations.

As such, "the intensive case study in comparative social science provides a direct route to testing the theory in question" (Ragin, 1989:61). Ragin (1989) further stated that

studies of the different cultural forces shaping different political outcomes would provide a basis for advancing social scientific knowledge about the effect of culture on political outcomes, despite the fact that each study, in isolation might be an individualizing case study. (Ragin, 1989:67)

Therefore, in Castles opinion, comparative analysis must

apply a rationale that recognizes that comparison is not merely a means of explanation or hypothesis testing, but also a mode of locating and exploring a phenomenon as yet insufficiently understood, and that these two functions can and should be iterative in character (Castles, 1981:22-25).

In other words, comparisons can be used to dissolve apparent differences by demonstrating identity of causation¹², or it can be used to pinpoint what remains singular or distinctive, despite our best efforts to reduce the role of the world to a set of empirical regularities.

According to Castles (1981) equivalence of meaning and concept equivalence are methodological concerns in most comparative analysis. However, most comparative analysis examine two or more nations or societies while this analysis compares neighbouring provinces. Hence, equivalence of meaning may not be as problematic because both provinces are part of the same nation and subject to the same laws (i.e., both are bound by the Criminal Code of Canada). During the pretest it was apparent that most concepts used were equally

¹² John Stuart Mill called this type of causation chemical because qualitative change emerges from a combination of causal agents.

recognized and understood by interviewees in both provinces. However, the case-oriented comparative-historical strategy is not only within the interpretive tradition but also the causal-analytic.

5.3.1 CAUSAL COMPLEXITY IN COMPARATIVE-HISTORICAL ANALYSIS

The issue of adequate causal explanation in empirical analysis has always been debated (Stinchcombe, 1978). This is particularly true when an analysis is of an historical and comparative nature. In Pal's words, "[h]istorical analysis assumes that current public policies have been shaped by past events, and carry with them their unarticulated events" (Pal, 1987:30).

The necessary conditions for causality in the social sciences are readily acknowledged but seldom achieved (Goldenberg, 1992). Arguably, the most important condition for causality is that a theoretical rationale of the interpretation of the relationship as causal is determined to exist (Stinchcombe, 1978; Blalock, 1964). The theoretical rationale is of immense importance because by rationale alone we are able to distinguish between causal and noncausal relationships.

Specifically, the condition of association must be demonstrable. This means that the occurrence of an independent variable must provide an advantage in the

prediction of the dependent variable. As well, there must be the proper temporal sequencing. As such, one must be cognizant of the sequencing of events in the policy process. At the same time, time lag between the variables must be minimized. This time lag may be reduced by specifying the micro-level factors (interests of relevant actors) and meso-level factors (determinants of the outcomes of political conflicts between these actors) within macro analyses (Kiser, 1989). Moreover, the relationships between the variables must be nonspurious.

The minimal control and manipulation of variables in historical data makes it far more difficult to justify causal inference³³. Furthermore, rarely does an outcome of interest have a single cause which operates in isolation. However,

even when causal inferences can be justified in historical data, this will not suffice for explanatory purposes. A complete explanation must specify a *mechanism* that describes the process by which one variable influences the other... (Kiser and Hechter, 1991:5).

Mechanisms, Kiser and Hechter claimed, are vital to causal explanations, because they indicate which variables should be controlled in order to "highlight existing causal relations" (Kiser and Hechter, 1991:5). It is the intersection of a set of mechanisms in time and in space that produces many of the

³³ Kiser and Hechter (1991) suggest that with the exception of experimental data it is difficult to draw causal inferences, yet non-experimental data is the type most often used by social scientists.

large-scale qualitative changes, as well as many of the small-scale events that interest social scientists, not the separate or independent effects of these mechanisms. That is, there are usually a series of factors or variables that cause the dependent variable. These mechanisms or processes exhibit what John Stuart Mill (1843) called "chemical causation". Mechanisms are key features of causal complexity. However, like causality, these mechanisms are not directly observable. Therefore, according to Kiser and Hechter, this causal sequencing or mechanism can be understood from general theories.

There are methodological techniques which may be employed that will aid in the demonstration of multiple or conjunctural causation in case-oriented research (Ragin, 1987). Two of Mill's methods are of particular relevance to case-oriented investigations: the method of agreement and the indirect method of difference. Although Mill's method of agreement is the simplest, it is also the most inferior. Utilizing this method in isolation will fail to demonstrate a multiple causation and may lead to false claims of causality. It is for this reason that Ragin (1987) advocated the employment of both Mill's method of agreement and the method of indirect difference; the indirect method of difference using negative cases to reinforce conclusions drawn from positive cases. In the end, one must examine both similarities (method of agreement) and differences (method of indirect difference) in

the cases and utilize theory to claim causality.

5.3.2 THE CONSTRUCTION OF HISTORY

Stedman-Jones (1972) argues that historians reconstruct not the past as such, but reconstruct selective residues of the past. It is the historical analyst which decides which residues are significant and proceeds to provide an interpretation of them (Campbell, 1994). As Waters (1990) suggested "... the practice of "constructing" history and thereby generating historical knowledge is theoretical by nature" (Waters, 1990:1).

That is, the construction of facts only occurs within a theoretical context. Historians who have sought to focus upon "historical events" and disavow theoretical influence, fail to realize that "events" are meaningful only in terms of overall structure (Campbell, 1994). The determination and selection of "facts" always follow implicit evaluative criteria (Stedman-Jones, 1972:113).

Since historical evidence advances from a social context the researcher must be aware of his or her values when collecting data. In this regard, determining the relevance of evidence entails the subjective structuring of historical facts so that they are intelligible in the present. "Since no description is, or ever can be, complete, assumptions and conceptual orientations often remain implicit or hidden in

historicist research" (Kiser and Hechter, 1991:11). This type of empiricist historicism views knowledge as cumulating through the gathering of facts without employing a theoretical model.

In the inductive case, generalizability and analytic power have been minimized and descriptive accuracy has become the predominant criterion for constructing and judging explanation (Blalock, 1984). Heckathorne (1984) also argues that an overemphasis on descriptive accuracy can lead to a decrease in the analytic power of explanation. This is mainly due to the rejection of general theory and the lack of models indicating the relations between these factors (Tilly, 1975). The problematics of inductive/descriptive research is the reason that this dissertation will be guided by general theory, development models, and test hypotheses.

5.4 THE ROLE OF QUALITATIVE AND QUANTITATIVE POLICY ANALYSIS

Most quantitative public policy analyses have been policy evaluations³⁴ (Leduc, 1994). Leduc (1994) suggested that quantitative policy analyses have, for the most part, been econometric analyses³⁵ or a multifactoral analysis of

³⁴ An example of a quantitative policy evaluation is Kelly and Frankel's article "The Federal Decision to Fund Local Programs: Utilizing Evaluation Research" in May and Wildavsky (1978).

³⁵ An example of an econometric policy analysis is Maslove and Swimmer's Wage and Price Controls 1975-78.

political elements within a macro-structural theoretical framework (Leduc, 1994). He further claimed that public policy analysis is limited by the data available and often quantitative data does not correspond to the conceptual sophistication of variables that effect the public policy process. In other words, when a particular examination has focused on the policy making process the analysis has not been quantitative.

In contrast to quantitative policy analysis, qualitative research allows one to challenge epistemological, ontological and political assumptions of public policy construction. Hence, one of the major aspects/dimensions of qualitative designs is serendipity, or "its ability to spawn fresh ideas, unexpected findings and new ideas" (Gans, 1975:19).

Stone (1987) maintained that any assessment of public policy should begin with an inquiry into the construction of political reality. Essentially, she suggested that the defining feature of public policy analysis is to understand the political reality through a plurality of strategically crafted arguments seeking to impose their own classifications and definitions upon society through the attainment of political power. Fisher and Forester (1993) convincingly argue that "narrative methods can synthesize complexity, can be used in predictive ways, and can be subject to tests of "truth" and validity" (Lawlor, 1996:115). Overall, Lawlor (1996:119) stated that "good policy arguments provides the

crucial link to disciplinary training and formal models of analysis."

This is not to suggest that quantitative analysis does not have a place in public policy analysis. To be sure, quantitative data has played an important role in several public policy studies³⁶. In particular, the comparison of macro-structural variables between jurisdictions and the incorporation of public opinion data can add important evidence to the explanation of policy making (Rutman, 1980). It is on this basis that this analysis will examine pieces of quantitative data such as public opinion and revenue estimates within a larger qualitative, or narrative, framework through the methodological mechanisms of interviewing and document analysis.

5.5 DATA COLLECTION TECHNIQUE

The major source of data for the current analysis came from extensive interviews with the policy makers and members of the Native casino gambling policy communities of Alberta and Saskatchewan. The list of individuals to be interviewed was obtained through several techniques. Media accounts and Hansard supplied the names of Cabinet Ministers in charge of portfolios that were involved with Native casino gambling

³⁶ Herbert Northcott's analysis titled Aging in Alberta: Rhetoric and Reality is an example of the use of quantitative data in the examination of the policy making process.

policy, Government negotiators and other individuals and group actors within the policy community. The policy community included several Native Chiefs and leaders, operators and developers of existing casinos, and interest group leaders. Once initial contact was made with individuals, a snowball sampling technique was utilized. Specifically, numerous Cabinet Ministers, Government employees, Native group employees, and later interviewees were asked to suggest other individuals that should be interviewed. This process continued until the network was complete and no additional names were added to the list.

An interview schedule was developed; however, many questions were open-ended and interviewees generally answered in a fashion in which several questions were answered in their responses. Interviews were not taped. Instead interviewee responses were hand written by the researcher. There was several reasons for this technique. First, by not taping the interview session a more trusting rapport was established with the interviewees. Second, some questions were politically sensitive and some interviewees expressed concerns of anonymity. Therefore, interviewees were guaranteed anonymity when it was requested. Also, assurances confidentiality were provided. On several occasions interviewees requested that the information or interpretations they were providing be "off the record". In these cases that specific information was left out.

It should be noted that some individuals refused to be interviewed. This was the case in Alberta more than in Saskatchewan. One can speculate that this was because the Native casino gambling policy process continues in Alberta. For the most part, interviewees were co-operative and willing to spend considerable time answering questions and in several cases on more than one occasion. Finally, interviewees were asked if it would be possible to ask them a few more questions in the future. The list of the names and titles of the individuals interviewed in both provinces appears in Appendices A and B.

Other sources of data analyzed in this analysis were: newspaper articles, television and radio interview transcripts, government Hansard, internal government reports, government sponsored reports, Native reports, transcripts of meetings, and media releases that were relevant to this topic.

5.6 RELIABILITY AND VALIDITY

Several steps were taken to ensure reliability and validity. First, a pre-tested interview was conducted on the Communications Co-ordinators of the Alberta Liquor and Gaming Commission and the Saskatchewan Gaming Authority. These individuals were chosen to determine if the questions were understood by respondents that were not directly involved in the policy making process (Gordon, 1969). Questions that were

misunderstood or problematic were modified so they more clearly reflected the concepts and issues that were being questioned. The key to reliability is the use of "standardized" language when the questions were asked (Gordon, 1969). This concern was alleviated by utilizing nontechnical language when bureaucrats, interest groups, and Native people were interviewed. Moreover, only one person conducted and analyzed the interviews; therefore, inter-coder reliability is not a problematic issue. Components of the data that involve issues of time and positions that are on record were cross referenced with media accounts, Government Hansard, other interviewees responses, and media releases in order to maximize reliability.

Validity is the most important consideration in qualitative analysis (Goldenberg, 1992). However, since reliability precedes validity the maximization of reliability leads to an increase in validity (Gordon, 1969:60). Specifically, construct and content validity were important considerations in this analysis. A number of techniques were employed to maximize validity (e.g., triangulation). This is the systematic and organized approach that can be utilized to cross reference information obtained from an interview (Finsterbush and Hamilton, 1978:100). Therefore, when interviews were conducted, several important responses were reiterated in the form of a question such as "If I understand you correctly are you saying that...?". As well, responses

from bureaucrats on questions that were not strictly interpretational were compared to the answers received from Native Chiefs and leaders and/or other individuals (including gambling critics from opposition parties) within the policy community. This represented the cross referencing of responses. At the same time, when a politically sensitive question or information emerged anonymity was guaranteed (Gordon, 1969).

The second tool utilized was the pyramiding of evidence. Pyramiding adds many small pieces of inconclusive information together into a relatively conclusive whole (Finsterbush and Hamilton, 1978:100). For the most part, this information came from Hansard, Bills, agreements and news releases. This technique was also employed when there were several interviews from a specific department, organization or group.

The third, and most utilized technique, is argument (Finsterbush and Hamilton, 1978:101). Sound logical reasoning based on theory is insufficient if unsubstantiated; however, when added to other pieces of information it can lead to a more valid analysis. This technique is utilized as a means to maximize construct validity. Goldenberg (1992:196) concluded that "[f]undamentally, it is the ability to disqualify plausible alternatives" that leads to validity. If care is taken in the interview process a valid and reliable analysis is possible when utilizing a narrative method (Przeworski and Teune, 1970).

5.2 OPERATIONALIZATION OF VARIABLES

The conceptual model used in Chapter Four illustrated the factors in this analysis. At the micro level of analysis the professional relationship between policy makers is based on the variable of trust (see Campbell and Pal, 1991). Trust is operationalized as, the perceived level of trust in the professional relationship between government policy makers and Native leaders. This was measured by asking all policy makers and members of the policy community.

The meso level variables are, Government and Native Reports, Government Committees, Government and Native meetings, and the role of the bureaucracy. The above are variables in that a deficiency of Reports, Committees, etc. exhibits variation. All of these variables except role of the bureaucracy are self-explanatory. The role of the bureaucracy is operationalized as, the magnitude of the bureaucracies role in the formation of the Native casino gambling policy (see Lindquist, 1996). This is measured by examining any reports the bureaucracy developed, by querying both Native and Government policy makers about the role of the bureaucracy, as well as directly asking members of the bureaucracy.

The macro level variable, historical relationship between Natives and the provincial government, is operationalized as, the importance that Native issues are afforded in the political culture of that province (see Tuohy, 1996). This is

measured by examining secondary sources on this topic, asking members of the bureaucracy, examining Hansard, and asking Native leaders. Government ideology is defined as the ideological disposition driving the current provincial government (see Phidd, 1996). Again this variable is measured by examining secondary sources, examining Hansard, and asking members of the bureaucracy. The role of interest groups is operationalized as, the effect that interest groups had on the policy. Again this is measured by asking Native and Government policy makers, members of the policy community, media reports, and Government Hansard (see Atkinson and Coleman, 1996).

5.8 SUMMARY

This chapter opened with a discussion of the methodological goals of public policy analysis. Next, the issues surrounding comparative-historical research were examined and, consequently, a framework was developed. The next section revealed the design of the project. Qualitative and quantitative approaches to policy analysis and the roles they play were explored. The models guiding the research were developed and interviewees were identified. Finally, issues of reliability and validity were addressed and the means of maximizing both were generated.

Chapter Six begins the presentation of findings.

Specifically, a narrative account of the policy process and policy determinants in Saskatchewan are explored. Extensive interviews and document analysis are the basis of this reconstruction.

CHAPTER SIX

THE RECONSTRUCTION OF SASKATCHEWAN NATIVE CASINO GAMBLING POLICY

6.1 INTRODUCTION

Native casino gambling policy in Saskatchewan is difficult to separate from the larger policy issue of for-profit casino gambling. Although numerous people were part of the policy making group, there was a nucleus of individuals shaping the policy. The policy makers were Cabinet Ministers, their advisers, senior civil servants and representatives of Native governing bodies. Overall, the bulk of the policy process lasted approximately eighteen months, beginning in late 1992 and ending May 19, 1994, when the Government and the Federation of Saskatchewan Indian Nations signed an agreement establishing large scale casino gambling.

6.2 THE PROVINCIAL GOVERNMENT

From the outset the development of Native casino gambling policy in Saskatchewan was complex and contentious. In order to understand the Native casino gambling policy making process it is necessary first to have an understanding of the Saskatchewan provincial government. In 1991 the province of Saskatchewan elected Roy Romanow and the New Democratic Party

in a landslide victory. The New Democratic Party government had taken over after two successive terms of a Progressive Conservative government led by Grant Devine. The Progressive Conservative government was defeated after charges of corruption, which later led to criminal charges against several of its members, for fraud and misuse of government expense accounts. Hence, the Romanow administration took power when there was a mistrust of government, particularly "patronage-style" government, in Saskatchewan (Harding, 1995).

However, the election of the New Democratic Party in 1991 was not a return to the political ideologies of previous New Democratic Party governments of Saskatchewan (Harding, 1995). Harding (1995) has suggested that the Romanow government represented a significant shift to the right in the ideological spectrum from the ideologies of Blakeney's New Democratic Party governments of the 1970s and early 1980s. In particular, the Romanow government was more "pro-business" (Saskatoon Star-Phoenix, A-2: December 27, 1995) than previous New Democratic governments. The New Democratic Party government's elimination of the deficit by 1994 along with the charging of eleven former Progressive Conservatives Members in the Devine government with fraud, coupled with the lack of experience in the Liberal party, led to a 42 seat second term mandate for the Romanow government in June 1995.

From the beginning of the first term, the portfolio of the Minister in Charge of Gaming was a problematic portfolio.

In early 1992 Janice MacKinnon was appointed as the third Minister in Charge of Gaming in as many years in the Romanow government. However, MacKinnon was replaced by Eldon Lautermilch on March 17, 1993. One of the main reasons for this particular Cabinet shift was MacKinnon's "poor personal relationship with Native leaders" which was described by several members of the caucus and the bureaucracy as well as Chief Roland Crowe as "confrontational". This poor relationship was seen by the Cabinet as obstructing the execution of the Government's policy goals. As such, change was seen as necessary in order to achieve the policy goals established by the Government³⁷.

In late 1992, while still the Minister in Charge of Gaming, MacKinnon had some initial conversation with the Chiefs of several Tribal Councils including Prince Albert, Agency Chiefs, Battlefords, Saskatoon, Touchwood File Hills, Qu'Appelle, Meadow Lake, and Yorkton regarding Natives' involvement in casino projects. However, early discussions with Tribal Councils were primarily conducted with Gord Nystuen, the President and Chief Executive Officer of Saskatchewan Liquor and Gaming Authority and Dave Innes, the Vice-President of Licensing. In fact, the initial discussions involved Tribal Councils making presentations to Nystuen and Innes and, therefore, no negotiations per se took place. The

³⁷ However, MacKinnon had a close relationship with the Premier and was later given the portfolio of Minister of Finance and President of the Treasury Board.

casino gambling policy at that time did not allow any for-profit casinos, only exhibition associations were allowed to hold casinos; therefore, these presentations served as a means by which the Government could develop an understanding of how Native leaders would like to participate in a casino gambling industry and the strategy they were planning to employ.

6.3 THE HISTORY OF NATIVE GAMBLING IN SASKATCHEWAN

According to Ernie Lawton, the Assistant Deputy Minister of the Saskatchewan Indian and Metis Affairs Secretariat, and Chief Roland Crowe of the Federation of Saskatchewan Indian Nations, several bands throughout Saskatchewan expressed an initial interest in gambling in the early 1980s when the economic success of Indian gaming in the United States of America was documented. In 1985 a delegation of Native leaders from Saskatchewan travelled to Florida to witness a large Indian bingo on the Seminole reservation which is credited as the site leading to the explosion in Indian gaming in the United States of America. The first foray into gambling by Saskatchewan Natives was in 1985 when an off-reserve bingo was operated by Natives in the northern community of La Ronge. (Table 6.1 reveals the chronology of important dates, issues and actors in the policy process).

TABLE 6.1: CHRONOLOGY OF IMPORTANT DATES, ISSUES AND ACTORS IN THE SASKATCHEWAN NATIVE CASINO GAMBLING POLICY PROCESS

Date	Issue	Actor(s)
1985	Natives' initial interest in casino gambling.	Chief Sanderson
late 1992	Native representatives present casino proposals to government officials.	Native representatives and Liquor and Gaming officials.
November 1992	Introduction of Video Lottery Terminals in bars and lounges.	Government, Liquor and Gaming Officials.
January 1993	Fox Report completed.	Government
February 1993	Government casino expansion policy document.	Government
March 17, 1993	Lautermilch Replaces MacKinnon as Cabinet Minister responsible for Gaming.	Government
March 22, 1993	Royal Canadian Mounted Police raid of the Bear Claw casino.	Royal Canadian Mounted Police, Ministers and Native leaders
April 1, 1993	Minister's Advisory Committee established.	Government and Dr. H. Dickinson
July 1993	Citizens Against Gambling Expansion initiate court action to halt casino	Citizens Against Gambling Expansion and Government
Summer to December 1993	Negotiation process with draft Agreements sent to Treasury Board under inter-departmental committee.	Government and Native negotiators, Treasury Board
January 1994	Switch to Planning and Priorities Committee responsibility.	Planning and Priorities and Treasury Board
January 1994	Switch to Chief Crowe as Native negotiator.	Chief Crowe of Federation of Saskatchewan Indian Nations

February 1994	Eadington Report commissioned.	Dr. W. Eadington and Government
March 1994	Natives commission the Harrah's Report.	Natives
May 19, 1994	First Agreement reached.	Natives and Government
October 1994	Saskatoon* plebescite.	Natives and Government
February 10, 1995	Second Agreement reached.	Natives and Government

*refers to provincial government unless otherwise specified.

At this time Chief Sanderson of the Federation of Saskatchewan Indian Nations as well as a number of other Native leaders wanted to develop some sort of relationship with the Western Canada Lottery Corporation¹⁸ in an effort to allow Native participation in gambling. However, as Chief Roland Crowe noted "we tried to get in [at this time] but quite frankly we lacked Indian support". According to Chief Crowe, there was concern within the Native community as to how the Progressive Conservative government would react to a Native casino gambling initiative.

¹⁸ Western Canada Lottery Corporation at this time was an initiative of the provinces of British Columbia, Alberta, Saskatchewan and Manitoba to implement and manage lottery games in these provinces. Currently, only Saskatchewan and Manitoba participate in the Western Canada Lottery Corporation.

The province of Saskatchewan has a long history of New Democratic Party governments and, therefore, the Natives of the province have a long standing relationship with access to the party leaders (Wotherspoon and Satzewich, 1993). Both Chief Crowe and Thomson suggested that this historical relationship meant that the Native leadership felt comfortable in initiating a discussion regarding a Native casino gambling policy with the New Democratic Party government. According to Chief Crowe, the Native community had a higher level of trust with a New Democratic Party government than they did with Devine's Progressive Conservative Party. As suggested, the political ideologies of the Romanow government differed from previous New Democratic Party governments (Harding, 1995). However, Harding (1995) argues that the Romanow government examined all policy issues within the boundaries of their policy goals. That is, the established policy goals were the basis of all policies.

6.4 THE GOVERNMENT'S POLICY GOALS

As suggested earlier, casino gambling is a public policy issue that encompasses political, ethical, moral and religious concerns. Therefore, it is not surprising that all policy makers were not in agreement about the role of for-profit casino gambling in Saskatchewan. In fact, several Cabinet

Ministers, including Joanne Crawford who became the fifth Minister in Charge of Gaming, voiced their opposition to casino gambling in Saskatchewan to Romanow in the early stages of the policy process. On several occasions even Romanow voiced his personal opposition to casino gambling. The Premier's position on casino gambling was an issue of discussion during the legislature question period when Liberal leader Lynda Haverstock stated that

in 1990 he [Romanow] told the people of Moose Jaw he would under no circumstances support casino expansion in the province of Saskatchewan, and if he were ever the premier of the province it would never happen. (Saskatchewan Hansard, May 6, 1994:2100).

Romanow's personal position towards casino gambling was further illustrated in the Premier's annual year-end television interview broadcast on December 30, 1993. During this interview Romanow declared that he was opposed to gambling "on a personal level" but the "role of government, no matter what political persuasion, is not to provide moral judgements". He also maintained that the Government wanted to "co-operate with First Nations" with regard to casino gambling. In essence, Romanow suggested that the issue of Native casino gambling should be a product of the Government's policy goals rather than his personal convictions on this topic. This suggests, as was declared by Thomson and Crawford, that the Government expected that all members of caucus, including the Premier, agree on the goals of a

particular policy even if they did not personally agree with it on moral or other grounds.

As a mechanism of defining their policy goals with regard to Native casino gambling the Government conducted an internal study. In February 1993 the Government published a short internal document defining the goals for their casino expansion policy. This document declared that Native people would be involved in some type of "joint-venture framework" with the Government in a casino project (Government Casino Expansion Policy Paper, 1993).

According to the Government's internal document and Andrew Thomson, Chief of Staff to the Minister - Saskatchewan Liquor and Gaming Authority, the Government had three overriding goals in the policy process. 1) The issue of control and regulation must be upheld. This could be translated into, as Thomson suggested, "the belief in a common law for all individuals" in the province of Saskatchewan. Further, there was a strong sentiment in the Cabinet that Native casino gambling policy must fit into a framework consistent with the Criminal Code of Canada. As such, a Saskatchewan Liquor and Gaming Authority news release claimed that "our goal in gaming policy has been to provide a comprehensive package that limits, regulates and controls gaming activities... consistent with the Criminal Code." According to Crawford, the Cabinet felt it was important to give the impression that a legitimate and regulated Native casino industry be developed, (i.e.,

provincial government regulation of Native casinos). This position was solidified when an Ontario Court of Appeal decision declared that casino gambling was not considered a traditional Native activity. Thomson declared "the government did not want to be a dog in a manger with regards to Indian gaming... and if they [Natives] could meet the control aspect with government a deal could be structured". In other words, a policy could be developed that facilitated the Natives' casino request as long as it fulfilled the Government's policy goals. 2) The issue of government revenue generation must be met. The Government recognized that for-profit casino gambling could provide much needed revenue in a time of fiscal crisis. In fact, the revenue from the provincial video lottery terminal program which was instituted in November 1992 was viewed by the Government as a revenue generator and, as such, was operated as a Treasury Board Crown corporation. It will become clear that the video lottery terminal program was an important policy initiative in the creation of a Native casino gambling policy. However, the Government recognized that a casino(s) would not be as important a revenue generator as video lottery terminals. Nonetheless, Thomson maintained, the Department of Finance viewed any model of casino gambling as a revenue producer and, as such, strongly advocated that it should be the main policy goal. The revenue generation objective attached to Native casino gambling would also satisfy the Government's overall main policy goal of deficit

elimination.

Moreover, revenue generation of Native casinos was, as Crowe stated, a particularly important goal to the Finance Department as a means to recuperate an off-loading of federal expenditures for off-reserve Native welfare expenditures that year. Specifically, at a Finance Ministers' conference, federal Finance Minister Don Mazankowski indicated to a disgruntled Finance Minister MacKinnon that Saskatchewan was facing off-loading in this area because every other province had faced off-loading with regard to off-reserve Native welfare. Saskatchewan had been able to avoid this fate for a number of years because of Federation of Saskatchewan Indian Nations Chief Roland Crowe's close relationship with the federal Progressive Conservative Ministers of Indian Affairs and Northern Development. Chief Crowe successfully contended that this type of off-loading was not a wise long term decision for the federal government. Still, MacKinnon agreed quietly to accept the off-loading of off-reserve Native welfare for a one time tax concession of eighteen million dollars from the federal government in the area of northern development. According to Chief Crowe, the off-loading of these welfare expenditures onto the province has been estimated at a cost of approximately twelve to fifteen million dollars per year. It is apparent that the immediate economic situation (i.e., immediate deficit elimination) was more important to the Government than the long term economic

interests.

However, Andrew Thomson stated "if the Government was only interested in increasing revenue it would have just expanded the Video Lottery Terminal program." In the end, Cabinet decided that a casino industry be considered an employment generator for Native people as well as being a revenue generator. Increased Native employment would compensate for the welfare expenditures which had been off-loaded to the provincial government. This broadening of the revenue goal into Native employment creation was evidenced by several of the Government's news releases which focused on jobs (Government of Saskatchewan, 1993).

At the same time, two people interviewed maintained that Cabinet decided that the best way to maximize revenue would be if private companies could not own casinos. It was this decision, along with the stipulation in the Criminal Code stating that all electronic gaming devices such as slot machines and video lottery terminals must be owned by the provinces, that led to the proposal of a gambling Crown corporation. The idea of creating a Crown corporation was not a particularly new concept to New Democratic Party governments in Saskatchewan. In fact, there is a history of Crown corporations in Saskatchewan since the time of Tommy Douglas and the Co-operative Commonwealth Federation. In other words, the Government recognized it could sell the idea of a Crown corporation in order to maximize the utility of their policy

goals, even though, they were not ideologically inclined to Crown corporations. Furthermore, there would be no taxation of casino revenue if the casino was a Crown corporation. According to several policy makers, the political culture of Saskatchewan, and the New Democratic Party specifically, favoured the establishment of a Crown corporation. 3) Was the modernization of the hospitality industry in Saskatchewan¹⁹. According to Dave Innes, Vice-President of the Liquor and Gaming Authority, the Romanow government was aware that Saskatchewan did not have an extensive tourism industry and that in order to maintain the current hospitality industry there would have to be significant changes. According to Lautermilch, the Minister in Charge of Gaming at this time, the hospitality industry in Saskatchewan employed 40,000 people (Saskatoon, Star-Phoenix, June 12, 1993). Thomson and Chief Crowe maintained, the Cabinet realized that the Native community, and their ties to fishing and hunting, would be suitable partners in a modernized hospitality industry. This was particularly evident when they recognized that the tourism industry in Saskatchewan is largely based on the abundant natural resources of the province. Specifically, the importance of the hunting and fishing industries and the growing popularity of eco-tourism was the backbone of Saskatchewan tourism. On the basis of extensive market

¹⁹ This policy goal is closely related to revenue generation and economic development.

research, the Government recognized that the Native community had a lot to offer in the expansion of this segment of the tourism industry. Therefore, as Gord Nystuen, President and Chief Executive Officer of the Liquor and Gaming Authority, stated casinos were considered an important dimension to a partnership.

In fact, modernizing the hospitality industry was one of the reasons that the video lottery terminal program was established in bars and lounges across the province in late 1992. Thomson maintained that although casino gambling was not considered an issue tied to the election of the Romanow government there had been promises made to the hospitality industry to eliminate the provincial sales tax on all products and services associated with the hospitality industry as well as a reduction in the small business tax during the 1991 election campaign. In addition, Romanow made further "promises to help sustain the [hospitality] industry". As one member of caucus asserted "once VLT's started casinos were seen as inevitable by the Government". Therefore, the policy goals were related to economic development and, hence, revenue policy because the hospitality industry supports significant employment and taxation.

Finally, there was a growing recognition in the provincial Government that neighbouring provinces in Canada as well as American states had reputations of more mature hospitality industry which included casino gambling. Innes

declared that the pervasive attitude of policy makers was that "Saskatchewan is not an island that is immune to casino gambling available in other jurisdictions". In essence, there was a recognition that a substantial loss of revenue from not only ~~Casino~~ casino gambling but also related hospitality industries was flowing to other provinces and states. Again, this demonstration of "fit" into the larger policy arena suggests a rational approach in regards to policy creation.

The modernization of the hospitality industry led to the reform of liquor policy in the province. Essentially, there was a more liberalized approach to liquor policy such that private beer and wine stores were opened and the off-sale of alcohol was expanded. This change in liquor policy not only represented the liberalization agenda it also resulted in increased government revenue. This approach to liquor policy spilled into gambling policy because both areas were considered to be directly tied to the hospitality industry. The linkage between alcohol and casino gambling policy was made by Lautermilch in the legislature during the Second Reading of the Act to Amend the Alcohol and Gaming Regulation Act when he stated

in the early 1920's Saskatchewan people began to realize that prohibition did not effectively control the sale and consumption of beverage alcohol... today we face a similar modernization of gaming regulation. (Saskatchewan Hansard, March 16, 1994:937)

This amalgamation was further witnessed by the Romanow

Government's formation of the Saskatchewan Liquor and Gaming Authority in 1993 as part of their overall "liberalization" project. Lawton suggested there has been a "move to personal responsibility rather than big brother [government]" or "a move away from micro-management" as Joanne Crawford the Minister in Charge of Gaming succeeding Lautermilch declared. Although Romanow made it clear that he saw the role of government as to "not provide moral judgements" his government did make moral judgements by "loosening" the regulation of liquor and gambling. That is, by making the decision to expand the liquor and gambling markets at this time the Government decided that the attainment of their policy goals was what the public wanted.

Overall, the importance attached to the Government's policy goals as confirmed by the consistency of caucus members response to casino gambling demonstrates a rational approach was employed. The Department of Finance and Treasury Board members reminded the caucus at this time that fiscal management and, hence, revenue generation was the Government's primary policy goal. While some caucus members saw the need to license and regulate as the most important goal, Thomson maintained, there was an unrelenting commitment to the policy goal of deficit elimination.

6.5 THE POLICY PROCESS

As suggested earlier, the Romanow government recognized in late 1992, after the announcement of the video lottery terminal program, that casino gambling was the next step in the evolution of gambling. At the same time, the Native community had expressed a strong desire to develop a casino industry on-reserve. Within the parameters of the policy goals, the Cabinet had established initial discussion between the top officials of the Saskatchewan Liquor and Gaming Authority and Chiefs of several interested Tribal Councils. However, whenever the Minister in Charge of Gaming had direct discussions with Native leaders the atmosphere was very contentious. For example, MacKinnons' relationship with Native leaders was poor and appeared to be deteriorating. This prompted the Cabinet to prepare an internal document outlining the Government's casino expansion policy in February 1993. This document demonstrated an anticipatory problem solving approach to the policy as well as a recognized need to include experts in the policy process - both properties of rational choice theory. Once the Cabinet disclosed their decision to include Native people in casino gambling via the news release, policy makers believed that the Minister in Charge of Gaming could not continue to have a "confrontational relationship with Native leaders". It was this utilitarian strategy of changing the Minister and the Government's

announced casino expansion policy that initiated the negotiation with the Native community.

As mentioned earlier, Eldon Lautermilch, a government Member of the Legislative Assembly from Prince Albert Northcote, was appointed the Minister in Charge of Gaming on March 17, 1993. Lautermilch along with Gord Nystuen, President and Chief Executive Officer of the Saskatchewan Liquor and Gaming Authority; Dave Innes, Vice-President of the Saskatchewan Liquor and Gaming Authority; Ernie Lawton, Assistant Deputy Minister of Saskatchewan Indian and Metis Affairs Secretariat, and Andrew Thomson, Chief of Staff to the Minister - Saskatchewan Liquor and Gaming Authority, were the initial members on the Government negotiation team. Negotiations were initially conducted with the Chiefs of the Saskatoon, Yorkton, Prince Albert, Battlefords, Meadow Lake, Agency Chiefs and Touchwood File Hills Qu'Appelle Tribal Councils. When Lautermilch became Minister there were rumours that the White Bear band was building an on-reserve casino and they were not concerned about obtaining a provincial license. It was this threat of an unlicensed on-reserve casino that became a watershed event in the policy process.

6.6 THE CRIMINAL CODE OF CANADA AND THE WHITE BEAR INCIDENT

The White Bear band is located in southeastern

Saskatchewan near the Canada/United States of America border. It is also situated close to the popular tourist attraction of Moose Mountain Provincial Park and Kenosee Lake. It was this close proximity to these tourist destinations and the fact that White Bear is closer for Saskatchewan and southwestern Manitoba residents than Native casinos in North Dakota, South Dakota, and Minnesota. However, Chief Bernard Sheppard and councillors of the White Bear band strongly believed that a casino operation on their reserve should not concern the provincial government or other bands throughout the province (Regina Leader Post, March 21, 1993). Chief Sheppard and band councillors believed that the unique geographical situation they occupied was worth forcing the issue of an on-reserve casino. This opinion was based on the contested terrain over jurisdiction on-reserves. That is, Native people declared that the provincial government had no jurisdiction on reserve land and as a sovereign nation Native people did not require a provincial license to operate a casino on their land.

Cabinet Ministers defined the White Bear band via the media as a "renegade band" which "took the law into their own hands" (Regina Leader Post, March 31, 1993). That is, as Thomson maintained, policy makers further believed that other bands would be more co-operative with regard to negotiating an agreement before establishing a casino. Although most bands throughout the province did not expect that a casino would reap the revenue that White Bear expected they supported Chief

Sheppard's contention that the provincial government did not have jurisdiction on reserve land. According to Roland Crowe the "revenue potential from a White Bear casino led the band to promote the Minnesota model". The "Minnesota model", as the name suggests, is based on the United States of America model where any casino revenue generated on that reservation remained on that reservation through either individual band member allotments or band infrastructure funding.

The Government's policy goal regarding regulation and control led them to maintain that any casino in Saskatchewan must be licensed, and regulated by the province. Since the establishment of a casino at White Bear would not be licensed, the Government viewed the situation as a Criminal Code of Canada violation. As such, Justice Minister Bob Mitchell initiated discussions with Chief Sheppard of White Bear as well as with the Chiefs of the other Tribal Councils. Mitchell reiterated the Government's policy position that any unlicensed casino, even if located on a reserve, would be considered illegal according to the Criminal Code of Canada and appropriate measures would be taken by the Government (Regina Leader Post, March 21, 1993). However, this warning did not prevent Chief Sheppard and the White Bear band from opening the Bear Claw casino in early March, 1993. The Bear Claw casino consisted of a modest log building with video lottery terminals and table games such as blackjack, roulette and craps. Mitchell and other policy makers from the

Government let it be known via the media that ordering the Royal Canadian Mounted Police to shut down the Bear Claw casino was a possibility. Thomson stated that as soon as the Bear Claw casino opened, policy makers discussed the option of a Royal Canadian Mounted Police raid. However, Crawford stated, there was no agreement in Cabinet or amongst the Government policy makers as to whether a raid should be carried out. In fact, Thomson declared that he "initially advised against a raid because he felt it was the wrong thing to do". Nevertheless, the policy goal of control and regulation as specified by the Criminal Code of Canada was seen as more important by policy makers - again an indication that the Government's policy goals were of utmost concern. After considerable debate Mitchell informed the Royal Canadian Mounted Police that the unlicensed Bear Claw casino was in violation of provincial legislation and ordered they shut it down.

During the night of March 22, 1993 the Royal Canadian Mounted Police initiated a raid on the Bear Claw casino. According to Federation of Saskatchewan Indian Nations employees, the raid was described as a "para-military attack by the Royal Canadian Mounted Police [in which] helicopters and armed-personnel were deployed in the middle of the night". The force used by the Royal Canadian Mounted Police was considered "excessive" by Natives since only a few casino employees were in the casino completing their nightly duties.

As well, there were reports of the "destruction of machines [video lottery terminals] and gaming equipment and the confiscation of between \$100,000 and \$150,000 in gaming revenue from the casino by the R.C.M.P.". The raid, although considered essential by the Government policy makers, was instrumental in its attempt to try and "avert a potential Oka crisis" according to Nystuen. However, Lawton suggested that "it [the Royal Canadian Mounted Police raid] showed the Native community that the Government meant business." In so doing, the raid represented a demonstration of power by the provincial government and an attempt at social control over the Natives. As Skolnick declared

Violence is an ambiguous term whose meaning is established through political processes. The kinds of acts that become classified as "violent" and, equally important, those which do not become so classified, vary according to who provides the definition and who has superior resources for disseminating and enforcing his decision. (Skolnick, 1969:4)

This was apparent in the discourse surrounding the raid. Specifically, Natives described the White Bear situation as a "raid" or an "attack" while the Government called it a "closure".

There were several complaints about the Government invoked raid in the provincial and national media which led to serious public concern about Native casinos and potential violent confrontations between Natives and the Royal Canadian Mounted Police over this issue. In response to this outcry,

four days after the White Bear raid a meeting was scheduled in Moosomin that was attended by Romanow, Mitchell, Lautermilch, Nystuen and Thomson. The goal of this meeting was to calm the fears of citizens in the area surrounding the White Bear reserve. It also allowed the Government to set the agenda of discourse with regard to the raid and other issues. Many citizens were concerned that a backlash by the Native community would lead to further violence. Chief Crowe suggested that it demonstrated to Native people that the provincial government considered Native casino gambling a serious matter worthy of the attention of senior government officials.

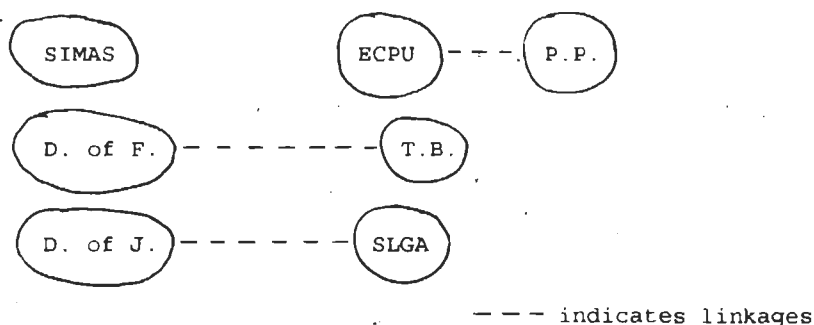
In the end, public concern was subdued when Romanow agreed to meet with Chief Roland Crowe of the Federation of Saskatchewan Indian Nations in order to avert any violent confrontations with Natives in the province. At this meeting Chief Crowe was strongly encouraged to advise Native people to be patient while an agreement was worked out with the Government. In return some type of understanding was to be made with the White Bear band in regards to the Bear Claw casino. Shortly, after the Crowe meeting the Government made a deal with the White Bear band that was legal according to the Criminal Code of Canada. Specifically, the Government issued the Bear Claw casino a temporary "tables-only" license four days per week in conjunction with the Weyburn Exhibition Association as the licensee. That is, a Native casino could

only operate if it conformed to the Criminal Code and was licensed by the province.

6.7 THE FOCUS OF GOVERNMENT DEPARTMENTS

Native casino gambling as a public policy issue involved several Minister and Departments in the Government. The Government regulatory agency involved was the Saskatchewan Liquor and Gaming Authority. As well, the Saskatchewan Indian and Metis Affairs Secretariat, Department of Finance, the Treasury Board, the Executive Council Policy Unit and later the Planning and Priorities Committee were the Cabinet committees that were involved. (Figure 6.1 schematically illustrates the departments and committees involved in the policy process).

FIGURE 6.1 SCHEMATIC DIAGRAM OF GOVERNMENT DEPARTMENTS AND COMMITTEES INVOLVED IN THE POLICY PROCESS



SIMAS - Saskatchewan Indian and Metis Affairs Secretariat
ECPU - Executive Council Policy Unit
P.P. - Planning and Priorities Committee
D. of F. - Department of Finance
T.B. - Treasury Board
D. of J. - Department of Justice
SLGA - Saskatchewan Liquor and Gaming Authority

The differing opinions and positions of policy makers with regard to Native casino gambling was mirrored by and perhaps a function of the way in which government departments looked at the issue. That is, all of these department and committees believed that the issue of Native casino gambling should be based in only one of the three policy goals. For example, the Department of Finance and the Treasury Board viewed Native casino gambling as a revenue generating project. This deviated from Saskatchewan Indian and Metis Affairs Secretariat which, according to Lawton, viewed it as an issue of jurisdiction and Native sovereignty. Finally, Nystuen and Innes stated that the Department of Justice and the Liquor and Gaming Authority viewed the issue as a legal concern tied to the issues of licensing and regulation as specified in the Criminal Code of Canada. In other words, each of these departments was concerned about the Government's policy goals but each placed priority in the goal which most influenced that department.

According to Thomson and Crowe once the legality of the Bear Claw casino was resolved, there was a desire within the caucus and Cabinet to come to an agreement with Native people

because as Lautermilch stated "you might as well get on with it because at the end of the day you are going end up with them [Native casinos] anyway". At this time, the Department of Finance and the Treasury Board initially had the most influence in the policy process, according to Thomson and Crowe, because the Government's main policy goal was deficit elimination. Specifically, the Treasury Board's involvement was based on the criterion that any policy issue that involved revenue automatically became a Treasury Board responsibility. Since a Crown operated casino meant considerable Government revenue and the video lottery terminal program fell under the policy direction of the Treasury Board, it was expected that Native casino gambling would also be a Treasury Board responsibility. According to Thomson, the Treasury Board and the Department of Finance had considerable influence in the development of all policy. Chief Crowe felt that in the early stages of the policy process the Department of Finance was a stumbling block to an agreement. Specifically, Crowe felt that the Department of Finance saw Native casino gambling as a way to recover some of the costs of federal off-loading of welfare expenditures for off-reserve Natives. Nineteen ninety-three was also an important fiscal year for the Government because the next provincial election would occur within two years and the deficit had not been eliminated. This meant that there was only one fiscal year left in the term in which the budget could be balanced. A balanced budget.

was the Romanow Government's primary policy goal because it represented a necessary element in their platform of responsible government and was the principle component in their bid for re-election (Harding, 1995).

Although Native casino gambling was seen as a jurisdictional issue by Saskatchewan Indian and Metis Affairs Secretariat, collectively Cabinet saw Native casino gambling as a revenue issue. In Thomson's words, "it was the Government's position that gaming was a minor [Native] issue... it was Indian gaming **only**; not any other issue such as health care or justice." This was reiterated by Joanne Crawford, the Minister in Charge of Gaming after Lautermilch. However, there were apparent differences of opinion within the caucus with regard to the creation of a for-profit casino industry that included Native people in Saskatchewan. At this time, several members of the caucus, including Crawford, collectively sent a letter outlining their concerns about the announced casino projects with the Federation of Saskatchewan Indian Nations to the Premier. It was apparent that the concerns of a few individual caucus members had little impact on the policy making process because negotiations continued. That is, the concerns of these caucus members did not change or slow the Government's policy position on Native casino gambling at this time. Later Crawford was given the portfolio of Minister in Charge of Gaming. However, when "the letter fronting the policy was leaked [to the media] Crawford

apologized and stated that she had changed her mind." The issue of attitudes toward casino gambling led the Government to explore public opinion in Saskatchewan.

6.8 THE ROLE OF PUBLIC OPINION

The measurement of public opinion on public policy issues is a common feature in contemporary Canadian government. The nature of Native casino gambling drew considerable media attention and public debate in Saskatchewan. As a result, the media commissioned their own research regarding this issue. The June 12, 1993 issue of the *Saskatoon Star-Phoenix* focused on gambling issues, and published the results of their own public opinion research conducted by Business Consulting Services of the College of Commerce, University of Saskatchewan. Policy makers were aware of the *Star-Phoenix* survey because Lautermilch was questioned about the results. Basically, there were two main questions that examined the overall public opinion. The first asked "Are you in favour full-time casinos in Saskatchewan?" Overall, 46.5 percent of respondents stated they were in favour - 57.4 percent of males responded "yes" while only 39.4 percent of females replied "yes". The second question was "There are proposals by Native organizations to own and control casinos in Saskatchewan. Do you agree with these proposals?" Overall, 46 percent of

respondents responded "yes". Again, males responded "yes" far more than females (54.1 percent and 40.7 percent respectively).⁴⁰ Lautermilch stated "the poll numbers are not a concern for the government [and]he expects public support for the new gaming options to rise when they get under way" (Saskatoon Star-Phoenix, A1, June 12, 1993). This apparent indifference over public opinion is consistent with what all other interviewees including Nystuen, Innes, Thomson, Crawford and Crowe suggested.

This disregard of public opinion suggests that public opinion did not determine the entire contents of the policy. As Key (1967) suggested, governments recognize that public policy may change public opinion, particularly when it is based on the Government's policy goals. The Government decided that public opinion was not about to determine public policy because they strongly believed that ~~the role of~~ government is to create policies that are deemed to be in the best interests of the electorate (i.e., paternalism). In other words, it was apparent that a significant event around the public opinion issue would have to occur before the Government was prepared to change or alter its policy on Native casino gambling.

The Romanow government was aware of this much debated issue and was interested in public opinion, enough to

⁴⁰ The ambiguity provided by these statistics suggest that the Government could interpret them as having no clear demonstration of support or opposition.

commission opinion research a year later. The results of this data have never been released because the New Democratic Party commissioned the survey. As such, the results do not have to be released under the Freedom of Information Act. However, Andrew Thomson noted that the results "showed support for government regulated and licensed casinos with a majority not supporting Indian gaming." According to Crawford, public opinion limited casino gambling by "the sense of control, limitation and regulation" apparent from the research. According to Thomson, some of the public opposition to Native casinos was seen by the caucus as a "race issue". Specifically, "the Government felt that the rural areas in the western part of the province were strongly opposed to Native casino gaming on the basis of race". As such, he felt this opposition was racist. This interpretation was used to dismiss public opinion. According to Crawford and Nystuen, "public opinion advocating Native casino gambling was suppressed by this racist element".

Nonetheless, the opposition to Native casinos in Saskatchewan was not limited to these events. A group known as CAGE (an acronym for Citizens Against Gambling Expansion) established a chapter in Regina after the announcement of the video lottery terminal program in late 1992. Citizens Against Gambling Expansion was initially established in Vancouver in the early 1990s as a splinter group from a protestant church. Citizens Against Gambling Expansion was the most organized

group that opposed casino gambling in Saskatchewan throughout the policy process. Their ideological disposition was to promote the immoral aspect of gambling. Nystuen and Innes were quick to label and stigmatize the group via the media as "angry zealots that do not represent the views of the people of Saskatchewan". The first action Citizens Against Gambling Expansion selected was to put a motion before Regina city council calling for a ban against a casino development in Regina. However, that motion was quickly defeated by the city council. Their second action was the initiation of a court injunction halting the construction of a casino. Citizens Against Gambling Expansion lost this decision when the Saskatchewan Court of Appeal dismissed the injunction thereby permitting the construction of a casino in Regina. Lastly, a Citizens Against Gambling Expansion member ran as a candidate for city council in a Regina inner city ward. However, their candidate was defeated and Citizens Against Gambling Expansion fell into relative obscurity. The ineffectiveness of Citizens Against Gambling Expansion and their methods to halt casino expansion demonstrated to the provincial government that opposition to a casino project, at least in Regina, was not strong. Nystuen and Thomson asserted that the Cabinet felt that Citizens Against Gambling Expansion "didn't represent the majorities view on casino gambling." This provided further legitimacy to fuel their policy objectives of casino gambling expansion.

6.9 THE CROWN CORPORATION IDEA AND COMMISSIONED REPORTS

There were a number of reports commissioned by the Government to determine policy outcomes. As Lindblom (1968) suggested, the commissioning of "experts" and "arms-length reports" are tools utilized in a rational approach to policy making. Specifically, the Fox Report and the Minister's Advisory Committee on the Social Impacts of Gaming were commissioned to address the public's concerns while legitimating the Government's policy regarding Native casino gambling. It was felt that by demonstrating that the Government and Natives had a coherent strategy and that provisions had been made regarding problematic social issues, public concern would be alleviated.

The Fox Report was titled "Economic Feasibility of Casino Gaming in the Province of Saskatchewan". It was prepared for the Saskatchewan Economic Development and Saskatchewan Gaming Commission by Fox Consulting of Reno, Nevada in January, 1993. This was the first report commissioned to determine the economic feasibility of casinos. This report was commissioned at the very beginning of the policy process when the Government decided that Natives would be partners with them in a large scale casino industry. The Fox Report estimated visitor projections, direct and indirect employment, new dollar injections into the province, tax revenue from casino facility, average gaming expenditure per visitor, and the size

and game mix of the casino facility. It concluded that "low and high visitor estimates indicate average daily attendance at the casino of 350 and 880, with gross gaming revenue of \$6.4 million and \$16.1 million respectively." (Fox Report, 1993:37). Further, it declared that the province can only support one "first class" casino within an urban area. The net new dollars spend in the province were estimated at \$6.08 million. The most significant conclusion in this report, which effected the policy was related to tax revenue. The report declared that

if the casino is built on an Indian reserve and is staffed by reserve residents, then limited taxes will be realized. If the province owns the casino, incremental annual taxes are estimated at \$212,000 and \$395,000 given the low and high demand visitor projections. If a private entity owns the facility, annual taxes are estimated at \$1.1 million and \$2.5 million for the low and high demand levels (Fox Report, 1993:38).

This findings, according to Ray Clayton, Chief Negotiator for the Government, supported Cabinets' preference for a Crown corporation. Clayton and Thomson declared, the Crown owned casino in Windsor, Ontario represented the ideal casino model for many Saskatchewan government policy makers. A Crown owned casino maximized government revenue and control. The Fox Report provided justification for a Crown owned casino because expected revenue of an on-reserve casino and privately owned casinos would provide relatively little revenue and control.

The revenue basis of the report led Lynda Haverstock,

leader of the Saskatchewan Liberal party, to announce during question period that

Professor Goodman examined her study [the Fox report] and considered it to be unbalanced because little or no information... or mention was even made of the negative costs of casino gambling. (Saskatchewan Hansard, May 6, 1994:2100).

Therefore, in February 1993, MacKinnon announced the Government's intention to appoint a Citizens' Advisory Committee on the social impacts of expanded gaming in Saskatchewan which included casinos. This report served as a destigmatization tool in that it acknowledged that an expanded casino gambling industry would have a social impact but that the Government was going to develop resources and regulations as a solution. This intention was acted upon by Lautermilch by way of a "Ministerial Order, pursuant to section 16 of the *Government Organization Act*". The Advisory Committee was initially established for a one year term, effective April 1, 1993. The committee was chaired by Harley Dickinson, a Sociology Professor at the University of Saskatchewan with Darryl Mills from Saskatchewan Liquor and Gaming Authority as the project co-ordinator. The mandate included the identification of "potential problems and recommend possible solutions to the Minister in an on-going basis." (Minister's Advisory Committee Report, 1994:2). As such, a survey regarding participation in gambling and the prevalence of problem gambling by type of gaming, age, and socio-economic

status was conducted. The Committee's term was subsequently extended for a second year and the reporting mechanism was altered to include the Associate Minister of Health, Lorne Calvert as well as the Minister in Charge of Gaming. Kathleen Donovan, Gambling Research Officer in Saskatchewan Health, stated the social impacts of casino gambling were absorbed by the legitimacy of the medical model. That is, the Minister's Advisory Committee illustrated that the Government had "taken care of" the social impact of casino gambling through counselling programs and services developed for problem gamblers. This gave the Government's policy some necessary legitimacy.

A preliminary report requested by Lautermilch was submitted in August 1993 but the release of the main report for the public appeared in October 1994. However, in December 1993 Lautermilch requested from the Committee an "assessment of progress in implementing the recommendations from the first report and advise him of ways in which outstanding recommendations could be achieved." The Committee responded that "although some progress had been made... much remained to be done..." (Minister's Advisory Committee Report, 1994:4). Nevertheless, a short report was produced for the Government. Essentially, this preliminary report gave the Government an idea of the type of recommendations that they would have to implement in order to attain some necessary legitimacy. The main report was titled "Report on the Social Impacts of Gaming

and the Impact of Gaming Expansion on Charitable Beneficiaries". The Report recommended methods to prevent problem gambling through education and information as well as treatment in order to ensure that expanded casino gambling did not exploit people with gambling problems. This Committee's role as a legitimating policy instrument is demonstrated by the following statement in the August 1993 report

Our Committee would like to make one final point about regulation and gaming policy as it pertains to VLT's and casinos. Although our research and consideration in this area too has been limited, we would strongly suggest that a full set of rules and regulations, as well as policy and procedure guidelines, be developed and distributed in conjunction with further expansion of gaming in this province. (Minister's Advisory Committee Preliminary Report 1993:11)

In other words, there was a sense of frustration from the Committee that they were not privy to policy goals. There was also frustration with regard to the narrowly defined terms of their mandate. Donovan maintained the Committee served the role of addressing these issues but was never considered an integral element in the development of the policy.

As Chief Crowe stated, once the social impacts of casino gambling were addressed, the Government needed to commission a report as a response to the "conservative [revenue] estimates given by the Fox Report". That is, the Fox Report did not validate the Government's policy goal of revenue generation to the extent that it would have liked. Therefore, the Government commissioned Professor Bill Eadington from the

University of Nevada, Reno to settle the revenue and regulations discrepancies. Again, the Government decided that rather than have the Eadington Report commissioned by the provincial government they would have the New Democratic Party commission the study so that the findings would not have to be released. The decision to keep Eadington's conclusions confidential was questioned frequently in the legislature by Haverstock. In particular Haverstock asked Lautermilch in question period

I have asked repeatedly, Mr. Minister, for copies of all research used to develop the N.D.P. casino expansion policy, including the Eadington report. And in a letter dated March 31, 1994 from you, you said that the report by Bill Eadington and all other research used by the government in developing the casino expansion policy has been undertaken for review by cabinet and as such is exempt from release under the freedom of information and privacy Act. Mr. Minister, the people of Saskatchewan have a right to determine whether the research you are using is objective and complete. What is it that you don't want the people of Saskatchewan to know? (Saskatchewan Hansard, May 6, 1994:2100).

Thomson declared that when the negotiators met with Eadington they gave him very tight regulatory boundaries and insisted that the casinos would be Crown owned. With this information Eadington was asked to examine the Fox Report and re-estimate annual revenue generation and employment. According to Thomson, the Eadington Report was employed as a mechanism to conclude and, thus, legitimate the Government's policy decision. Thomson also stated the Eadington Report concluded that a casino industry as prescribed to him by the

Minister in Charge of Gaming would be the most regulated casino industry in any jurisdiction in North America and that a re-examination of revenue suggested that it should net approximately \$50 million per year. That is, under the conditions prescribed by the Minister in Charge of Gaming a for-profit casino industry would exceed the revenue generation reported in the Fox Report.

6.10 EARLY DRAFTS AND THE INTER-DEPARTMENTAL COMMITTEE

In late summer 1993 Cabinet recognized that the negotiation process was going to be long and difficult. As such, a decision was made to create an inter-departmental committee of Deputy Ministers, Assistant Deputy Ministers, and Bureaucrats to develop a framework for the negotiations. Specifically, this committee was to concretize the Government's policy goals as they related to an agreement. This served as the agenda setting and discourse construction committee for the Government. Subsequently, Cabinet decided that there should be overlap in the Government negotiation team and the inter-departmental committee so a full understanding of the issues would be taken into consideration. As such, members on the inter-departmental committee were from the Saskatchewan Liquor and Gaming Authority, Economic Development, Saskatchewan Indian and Metis Affairs Secretariat

and the Executive Council Policy Unit.

At this point, the negotiation process consisted of the Native negotiators and Government negotiators generating draft Agreements. After a draft Agreement had been developed, the chief negotiators initialled them and sent to the Treasury Board for approval. Between the end of summer 1993 and December 1993 Chief Crowe and Thomson stated that "four or five" draft Agreements had been rejected by the Treasury Board. The problematic issue for the Treasury Board was the issue of revenue. Specifically, the Treasury Board was not satisfied that the policy goal of revenue generation was being fulfilled by the distribution of revenue in the drafted Agreements - in essence Innes and Nystuen declared they were trying to maximize the utility of an agreement. That is, the Treasury Board was attempting to get as large a proportion of revenue as possible for the Government. The inter-departmental committee then examined the drafts in order to determine if the policy goals had been met. The conclusion of the inter-departmental was that these drafts were meeting the policy goals but they were still being rejected by the Treasury Board for revenue reasons.

6.11 THE DISSOLUTION OF THE COMMITTEE

This negotiation framework continued until mid-December 1993. Until this time a draft Agreement was first sent to the

inter-departmental committee then to the Treasury Board for approval. The committee accepted the latest agreement in mid-December and it was sent to Treasury Board for final approval. However, the Treasury Board did not accept the Agreement. The continuous rejection of draft Agreements was considered by Cabinet as a pervasive and problematic issue when they felt they satisfied the policy goals. Thomson and Nystuen asserted that at this time it was apparent that an agreement was going to be difficult to achieve while the Treasury Board was directing and auditing the draft Agreements. That is, the Treasury Board had fulfilled its mandate to maximize the utility of the revenue generation but it was still not accepting the larger political will of the Government as perceived by the inter-departmental committee. At this time, Cabinet decided that Native casino gambling policy should no longer be a Treasury Board responsibility. Cabinet decided that the Planning and Priorities Committee should take over the responsibility of this policy area and examine and approve the draft agreements. According to Thomson, Cabinet felt that an acceptable agreement that fulfilled their policy goals was imminent with some "relatively minor alterations" to the last drafted agreement. Therefore, the inter-departmental committee was no longer seen as necessary and was terminated since the Planning and Priorities Committee was given complete responsibility to approve an agreement.

Thomson reported "as soon as it [Government consent for

the Agreement] moved to Planning and Priorities it was a much better process... on much better ground." Government policy makers spent considerable time from mid-December 1993 to mid-January 1994 reworking the last draft agreement that had been rejected by the Treasury Board. This Government reorganization also led to a change in the Natives' negotiation body.

6.12 THE ENTRANCE OF CHIEF ROLAND CROWE

Until this stage of the policy process Government negotiators were negotiating with the Chiefs and/or Tribal Council Representatives of the seven provincial Tribal Councils. Tribal Council representatives were the Natives' negotiators because historically economic development issues were established in Saskatchewan at the Tribal Council level. That is, each Tribal Council decided its own economic development issues. According to Thomson it was difficult to schedule meetings with all or even a majority of the Chiefs on a regular basis. On five separate occasions from early fall 1993 to January 1994, Lautermilch and Nystuen travelled throughout the province to meet with Tribal Council representatives and Chiefs rather than meeting in Regina. Each of the seven Tribal Council had several casino gambling representatives which meant the negotiation process was uncoordinated and disorganized. At this time, there was

little consensus in the Native community with regard to policy goals except that Native peoples should be involved in a casino gambling industry at some level in Saskatchewan. This was mainly due to the lack of leadership within the Native community on this issue at this time.

Government negotiators suggested to Native leaders that negotiations had not led to an agreement because of the "large and geographically remote location of Native leaders". According to Thomson, the Government declared to Tribal Councils that "if you want this [casino negotiation] resolved we need a unanimous resolution from one [Native] body". Since there was only one overarching Native body in Saskatchewan, this meant that the Government wanted the Federation of Saskatchewan Indian Nations to be the Natives' negotiating body. This was a tactical move by the Government negotiators which was supported by Cabinet, in that it would be easier to deal with and perhaps gain power over the smaller Federation of Saskatchewan Indian Nations negotiating body than with the larger, and more politically and culturally diverse, Tribal Councils. As such, the Government rationally employed this move as a mechanism to agenda setting which would facilitate the attainment of their policy goals.

This move was supported most enthusiastically by Chief Barry Ahenakew of the Meadow Lake Tribal Council because he knew Chief Crowe of the Federation of Saskatchewan Indian Nations advocated casinos in Regina and Saskatoon which would

share revenue with all bands rather than the Minnesota model of on-reserve casinos. This was the model Chief Ahenakew supported because the Meadow Lake Tribal Council is geographically remote and does not have a large enough population to support a casino. However, Chief Ballentyne and several other administrators of the Prince Albert Grand Council opposed Chief Crowe as the Native negotiator because they wanted to negotiate a deal in which a casino would be located in or near Prince Albert and Chief Crowe opposed any agreement with nonurban and/or on-reserve casinos. Nevertheless, Native leaders were convinced that this was the most prudent way of establishing an agreement and the change in Native negotiators to Chief Crowe of the Federation of Saskatchewan Indian Nations was formalized in early January 1994.

As Chief of the most powerful Native body in the province, Crowe had initially advocated Native casinos several years prior to the policy process. However, there was disagreement in the Native Community and the Federation of Saskatchewan Indian Nations with regard to the casino model. According to Chief Crowe, there was a recognition in the Native community that a Native casino gambling policy had to be resolved quickly before the Government backed out of the proposed partnership. That is, coming to an agreement took precedence over the casino model issue at this time. To this point, Chief Crowe had been closely following the negotiations

and had been reviewing the negotiations with some of the Chiefs of Tribal Councils since the beginning. Therefore, it did not take long for Chief Crowe to acquaint himself with the status of the negotiations. Upon entering negotiations, Chief Crowe talked with Chief Bernard Sheppard of the White Bear band and told him he would not discuss the Bear Claw casino situation during negotiations. As Crowe explained to the Government negotiators,

I am not prepared to go to the table to discuss the White Bear situation without White Bear representatives there... and because of the court case and raids they [the Government] felt it was not in the best interest of the Government to have somebody from White Bear at the table... so it really coincided to their advantage. Then I said [to Government negotiators] what do we do sit around the table and see who blinks first?

On January 17, 1994 Lautermilch announced that he and Chief Crowe "would be entering into negotiations to form a partnership for operating two "Saskatchewan casinos" (Saskatchewan Hansard, May 27, 1994:2659). According to Crowe he was always in favour of two casinos - one in Saskatoon and the other in Regina. He proclaimed that

...in order to be successful at a casino you have to have a monopoly and if four or five on-reserve casinos open up in this province they will be successful for a few days and that will be the end... you can't run four or five".

This urban casino model maximized the Government's policy goals in two ways. First, because the Government would be responsible for the licensing and regulation of urban casinos.

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Second, an off-reserve location would mean that Natives had a strong case to negotiate for the majority of the revenue. However, it was the understanding between the Government and Chief Crowe of the Federation of Saskatchewan Indian Nations for developing two casinos in the major cities that created the framework for an Agreement.

At this time, both Chief Crowe and Lautermilch brought assistants to the negotiations. Lautermilch, who was also the Minister of Economic Development, brought in his Assistant Deputy Minister Ray Clayton as the Government's Chief negotiator. Chief Crowe brought in Vikas Kladhar, an official with the Federation of Saskatchewan Indian Nations, to help formalize the details of an agreement.

Although the Government negotiating committee consisted of Lautermilch, Clayton, Nystuen, Innes, and Thomson, a personal and professional relationship quickly developed between Lautermilch and Chief Crowe. According to Thomson and Nystuen this personal relationship was obvious and "it appeared as though the negotiators started to trust one another". This was a dramatic transformation from the mistrust that had developed between the Government and Native since the White Bear raid. Chief Crowe declared that "a better relationship between a government minister and First Nations Chief probably never existed" and that Lautermilch and Clayton were "extremely honourable men".

This trust was amenable to constructive negotiations even

though there was considerable mistrust between Chief Crowe and several other members of the Government negotiating committee. Specifically, the mistrust was between members of the Department of Justice and the Saskatchewan Liquor and Gaming Authority and Chief Crowe. The fundamental aspects to this strained relationship were twofold. First, Chief Crowe was not convinced that Nystuen and Innes, the Liquor and Gaming officials, believed that Natives had any right to develop a casino industry. These officials contended that the Criminal Code of Canada gave the provinces exclusive control over the licensing and regulation of casino gambling and that Natives must adhere to provincial legislation. Second, Crowe believed that these individuals had "absolutely no understanding of casinos". This lack of understanding led Chief Crowe to question the negotiators' experiences regarding casinos. When several Government negotiators stated that they had never been to a "large casino", Chief Crowe arranged a trip to Reno, Nevada so they would have an understanding of the size of the structures, the games offered, and the number of people it attracted and employed. Crowe declared that they were "impressed with the size of the Reno casino industry" and that negotiations were "a bit easier once they had gone to Reno". The importance of this trip was that a better relationship between Nystuen and Innes and Chief Crowe developed so a regulatory framework could be agreed upon at a later time.

6.13 CHANGE IN NATIVES GOALS

Once Crowe and Lautermilch agreed to develop the two urban casinos the next step was to negotiate the specifics regarding revenue sharing, employment and regulation. Chief Crowe recognized that the small and dispersed population of Saskatchewan along with the findings of the Fox Report meant that a large amount of revenue would not be generated by a casino industry in Saskatchewan. He declared that "the studies I was privy to, and they were not in any great detail, was that White Bear could have made it [a profit] and other reserves will not make it". It was on this basis that he convinced Natives that casinos' should be off-reserve and should be used as mechanism for Native employment. As such, his goal was to develop an agreement that provided jobs for Native people not only within each of the casinos but also in the casino construction and "in the hospitality industry which is a part of, or can be, attributed to the casino development" (i.e., hotels and restaurants). When Chief Crowe told the Government negotiators that his goal was to create employment for Native people they told him that he was "chasing a false dream". He replied "that is quite possible but if we [Native people] are, then get the hell out of my life, and, if we are chasing a false dream then why are you chasing it with us?" The Government negotiators responded that if he was trying to create jobs there were other ways. Chief Crowe replied that

if the Government would "guarantee two thousand jobs for Native people in the province he would drop the casino issue right now". When they responded that this would not be possible he replied that Government could create jobs for Natives in Crown corporations and departments until they created two thousand jobs. Crowe asserted that the Government "did not go for that [proposal]". However, the Natives' primary objective of increased Native employment was also advantageous for the Government because most Natives that would be employed in the urban casinos would be those already living in the cities. In this regard, a significant portion of off-reserve Native welfare revenue the province had to absorb would be off-set. Therefore, the commissioning of the Fox Report served as an agenda setting tool for the Government by focusing Natives' objectives on features other than revenue generation.

However, the Natives' did not accept the validity of the Fox Report. Therefore, in March, 1994 the Chief's Legislative Assembly of the Federation of Saskatchewan Indian Nations debated whether they should commission their own feasibility report on casino gambling in Saskatchewan. According to Dan Belleguarde, several powerful Native leaders headed by Chief Peter Ballentyne felt that Chief Crowe would be in a stronger negotiating position with the Government if there was inconsistency in projected casino revenue. That is, if revenue could be projected to be higher than the amount

specified by the Fox Report then Chief Crowe would be justified to ask for a larger proportion of casino revenue because the Government argued they had to recover all initial casino costs. Therefore, a study was commissioned by the Federation of Saskatchewan Indian Nations and conducted by Harrah's Research Institute located in Las Vegas, Nevada. The Harrah Report suggested that the Fox Report revenue estimation was low and that the correct revenue estimation would be approximately \$100 million per casino in the province.

This finding led Tribal Council Chiefs to question the Government's and Chief Crowe's negotiation of an agreement. Specifically, Belleguarde stated there was concern that the Government was negotiating in bad faith in order to keep a larger portion of the casino revenue by proclaiming that projected revenue was modest. According to Chief Crowe this Report changed many of the Tribal Chiefs goals from Native employment to revenue generation. In fact, many were re-analyzing the idea of a partnership with Government and suggested that a Native owned and operated on-reserve casino structure should be a priority. That is, Natives should forgo an agreement with the provincial government. However, Chief Crowe convinced a majority of Tribal Chiefs at this time that an off-reserve casinos industry in partnership with the provincial Government should continue to be negotiated because, in Crowe's words, "on-reserve casinos just will not make it". This suspicion and discontent in the Native

community would continue to grow.

6.14 THE ROLE OF INTEREST GROUPS

The most active and vocal interest group during the policy process was the group Citizens Against Gambling Expansion. However, both Government and Native policy makers maintained that Citizens Against Gambling Expansion and all other interest groups did not effect the policy process or the final policy. Nevertheless, Thomson stated that Cabinet, Ministers felt that the Government was responsible for the social issues surrounding the introduction of casino gambling. As such, the Minister's Advisory Committee on the Social Impacts of Gaming and the Saskatchewan Council on Compulsive Gambling demanded that the Government set up a toll free gambling hot line for the province. When the issue was referred to in the legislature question period the Government enacted the toll free line through the Department of Health. As Harding suggested, the campaign against casino expansion by Citizen's Against Gambling Expansion and the Saskatchewan Council on Compulsive Gambling forced the Government to address the social issues and, in particular, problem gambling prevention strategies through the Minister's Committee and additional programs to existing departments.

At the same time, the Government and the Federation of Saskatchewan Indian Nations recognized that they would have to

legitimate a for-profit casino industry in Saskatchewan. Chief Crowe legitimated Natives participation in a casino industry when he decided to publicly meet with a number of groups that "morally opposed a casino industry". During meetings with a number of religious organizations Crowe was questioned about the prostitution and drugs that occurs with the introduction of a casino. Crowe replied that "...prostitution exist anyways. I can take you to downtown Regina or Saskatoon tonight and I can show you prostitution." When examining these issues he inquired "Indian people are at bingos, so tell me did bingos start in your basement or ours? ...at least we would be working at decent jobs [with the introduction of casinos]." In other words, he skilfully destigmatized the casino gambling industry while deflecting the responsibility of the creation of a gambling industry in Saskatchewan away from Natives.

One group that did influence the content of the policy was the exhibition associations throughout the province. The existing casino gambling policy in Saskatchewan since 1967 granted exhibition associations with licenses to conduct popular low stakes table games such as blackjack, sickbo, and roulette on a "limited basis. These casinos were tightly regulated as to the maximum betting limit, hours of operation, number and type of games. As well, the consumption of alcohol was prohibited. The only other casino licenses granted were for the occasional one evening "Las Vegas Night" charity

casino. In other words, the charity gaming industry in Saskatchewan was almost completely limited to the bingo industry while casino gambling was the exclusive domain of the exhibition associations.

As such, the exhibition associations throughout the province felt as though their revenue would be eroded by the agreement to develop large scale for-profit casinos. On January 21, 1994 the Swift Current Exhibition Association sent a letter to Lautermilch regarding the casino gambling policy stating

Your new policy announcement effectively puts us out of the gaming business. With the [proposed] introduction of two major casinos in the province, combined with the VLT program that is already in place, we can no longer compete. (Saskatchewan Hansard, May 17, 1994:2382)

This sentiment of concern was presented to the Government by all exhibition associations throughout the province thereby giving notice that casino gambling was an area of contested terrain. As such, Lautermilch was questioned on several occasions in the legislature question period by Haverstock on the issue of lost revenue by exhibition associations and charities with the development of the proposed casinos. Lautermilch's response to these revenue problems was that

we are cognizant of the reliance on charities with respect to bingo and to break-open and other gaming dollars, and we will ensure, Mr. Speaker, in our negotiations with respect to the revenue sharing on the casinos, that will be taken into account. (Saskatchewan Hansard, May 17, 1994:2382)

The horse racing industry also showed some concern over the introduction of large scale casinos; however, Nystuen stated they were seen as "not a very strong [opposing] force" by the Government policy makers because of the recent changes in the regulation of the horse racing industry. Specifically, the Saskatchewan Horse Racing Commission had been removed from the Department of Agriculture and was now regulated by the Saskatchewan Liquor and Gaming Authority. It was in the Liquor and Gaming Authority that the modernization of the industry was executed through the introduction of pari-mutuel betting. At the same time, the policy makers felt that the Fox Report correctly documented that the horse racing industry would not be substantially effected by the introduction of the proposed casinos.

As well, the Metis people in Saskatchewan declared that as an aboriginal people they should receive some revenue from a for-profit casino industry. As such, the Saskatchewan Metis Economic Development Association supported the position that Metis people have access to revenue in an agreement with Natives because the Federation of Saskatchewan Indian Nations only represented status Indians. Gerald Morin, leader of the Metis Nations of Saskatchewan, in a discussion with Lautermilch, declared that any policy that did not include Metis peoples would be discriminatory and would violate section 15 of the *Charter of Rights and Freedoms*. In so doing, the Metis Association of Saskatchewan threatened to

take the Government to court over the issue. Lautermilch responded to this issue during question period by maintaining that

it's safe to say that we certainly don't look forward to any legal recourse that different entities may make, we respect their right to do so, and they will be handled in the appropriate fashion. The government was aware at this time that charities, exhibition associations, and the Metis were not about to let their revenue decline with the opening of large scale casinos. (Saskatchewan Hansard, June 1, 1994:2758).

Finally, there was lobbying by corporations within the casino gambling industry. In particular Harrah's, International Game Technology's Indian Gaming subsidiary SODAK, and Holland were the largest casino management companies that were in contact with both the Federation of Saskatchewan of Indian Nations and the Liquor and Gaming Authority with regard to the potential operation of the casinos and the supply of gaming equipment. However, Nystuen and Innes stated the effect of these corporations on the policy was negligible except in their lobbying for larger more opulent casinos in which they could extract more revenue if they were the operators. For the most part, this observation is consistent with David Jonston's (1992) examination of the casino gambling industry' lobby with regard to state gambling policies in the United States of America.. Specifically, Jonston concluded that most corporate casino operators, such as ITT-Sheraton and Ramada, as well as casino suppliers now take a more cautious approach in lobbying governments to

implement a casino policy since the reporting of several well documented cases of bribery in the late 1980s and early 1990s.

6.15 THE POLITICAL INTERACTION BETWEEN NATIVES AND THE GOVERNMENT

By early spring of 1994, both the Government negotiation team and Chief Crowe and his team were concerned that the past several months of negotiation were not leading to an agreement. This stalemate led Chief Crowe to threaten Government negotiators that Natives would open several casinos on reserves throughout the province "recognizing that the Government and the Royal Canadian Mounted Police did not have the manpower to shut them all down". This demonstrated Native empowerment in that unlicensed Native casinos and/or a Royal Canadian Mounted Police casino raid would jeopardize the Government's policy goals. According to Thomson and Crowe, this threat led to the recognition by Government negotiators that an agreement needed to be reached expeditiously. Chief Crowe maintained that the Government's chief negotiator Ray Clayton was the individual that took the responsibility upon himself to produce an agreement.

The Agreement being negotiated was based on the two casino model reached a few months earlier⁴¹. Clayton and Crowe maintained, that at this time the Government's policy

⁴¹ The first Agreement was reached on May 19, 1994.

goal of regulation and the accommodation to the Criminal Code of Canada became the essential obstruction to an agreement. That is, according to section 207(1)(a) of the Criminal Code of Canada, the provinces must own all electronic gaming devices. In other words, the provincial government is allowed to license other bodies to conduct gambling but those bodies cannot own electronic gambling devices such as slot machines and video lottery terminals. In order to conform to the Criminal Code of Canada the negotiators again examined the Ontario model. Specifically, the Ontario model was based on the provincial government's ownership of the Windsor casino through the development of a casino Crown corporation. According to Clayton, the Government recognized that the Crown corporation model not only fulfilled the revenue goal, as earlier suggested, but it would "conduct and manage the gaming operations" of the casinos under the auspices of the provincial government. In this regard, the Government saw no other casino model as acceptable. However, a third party was not precluded from being both the developer and operator of a casino if they met applicable qualifications. Negotiators established a board of directors for the Crown corporation consisting of seven persons; four persons nominated by the Government and three persons nominated by the Federation of Saskatchewan Indian Nations. In other words, this split allowed Government control over Natives interests regarding casino decision making. The Crown corporation was named the

Saskatchewan Gaming Corporation and was subject to the "regulatory authority exercised by the Saskatchewan Liquor and Gaming Authority". This systematically excluded Natives from all regulatory aspects.

Once the framework for the Saskatoon and Regina casinos were established within the mandate of the Saskatchewan Gaming Corporation, the next topic of negotiation was revenue sharing. The difficult issue was to include all the groups that would lose revenue with the opening of the casinos as well as meet the revenue goals established by the Department of Finance and the Federation of Saskatchewan Indian Nations. Under the Agreement, the Government of Saskatchewan received the most revenue each fiscal year. Specifically, the provincial government was issued fifty percent of the net profits of the Gaming Corporation each year which will be paid directly to general revenue. The Agreement also established a First Nations Fund. This meant that each fiscal year the board of trustees transferred an amount equivalent to twenty-five percent of the Gaming Corporation's net profits to the First Nations Fund. The final twenty-five percent of the Gaming Corporations' net profits were transferred into an Associated Entities Fund developed by the Government. Essentially, the Associated Entities Fund was created to cover revenue lost by the Exhibition Associations and charity groups but it also created funding for the Metis Nations of Saskatchewan. Therefore, this fund was an appeasement in the

Agreement prompted by the Government so that casino gambling did not turn into an issue of contested terrain as the exhibition associations and Metis people threatened. The framework for the Associated Entities Fund was based on the Government of Manitoba Break-open Compensation Fund. Specifically, the Manitoba fund pays out monies to charities in that province that sell break-open tickets and have experienced a loss in revenue after the introduction of the video lottery terminal program.

The Agreement further specified this revenue to be paid into this fund was to be administered to these groups via a separate board of trustees to which the eligible groups had to apply for funds. Specifically, this fund was developed to sustain the Regina, Saskatoon, Swift Current, Prince Albert, North Battleford and Yorkton Exhibition Associations five year average casino revenue.

For Chief Crowe and the Federation of Saskatchewan Indian Nations the goal of Native employment had to be specified. As such, the Agreement declared that

the Corporation shall have a target of fifty (50) percent aboriginal employment at each of the casinos [and] any request for proposals for the operator of the casino will require submission of a plan aimed at achieving the target of fifty (50) percent Aboriginal employment at each casino and the contract with the selected operator will include the agreed upon plan (Casino Agreement, Appendix A:4).

Finally, upon signing of the Agreement the Government

immediately arranged for the payment of one million, seven hundred and fifty thousand dollars to the Federation of Saskatchewan Indian Nations. This amount was designated to "help cover the costs associated with developing the partnership" (Casino Agreement, Appendix A:5). When questioned about the purpose for this sum of money during question period Lautermilch stated

the vast majority of that money will go to the reserve level for social and economic development, which is what we intend the revenue share for the First Nations' profits to go to - they [Federation of Saskatchewan Indian Nations] have incurred some costs as we've been involved in these negotiations. (Saskatchewan Hansard, May 30, 1994:2680)

More accurately this payment was a necessary component in the Agreement because Chief Crowe was not convinced that these casinos were going to create substantial revenue. This "up-front" money was one way of guaranteeing Natives some economic "seed money". This Agreement was reached May 19, 1994 while Bill (72) of 1994 establishing the Crown corporation was passed June 1, 1994. Bill 33, titled An Act to amend the Alcohol and Gaming Regulation Act which enacted the Agreement was passed on June 17, 1994. This was one of the last days of the Spring session in 1994. The impending casino deal was then left to simmer for the summer but the policy was far from being completed.

6.16 THE SASKATOON PLEBESCITE

After the announcement of the First Agreement there was considerable concern expressed over a casino by the residents and media in Saskatoon. As such, in October 1994 a significant political and public opinion event occurred that led to a modification of the first Agreement. That event was a plebescite regarding the proposed casino during the civic election in the city of Saskatoon. The plebescite was orchestrated by religious organizations with ties to the Regina chapter of Citizens Against Gambling Expansion. The plebescite question did not directly ask if voters were in favour of allowing a casino in the city of Saskatoon, rather it asked whether the City of Saskatoon should allow a casino on city land. An official in the Gaming Crown Corporation stated that it was worded this way so that the City of Saskatoon had "reasonable grounds to not permit a casino". Nevertheless, the city government, its residents and the provincial government all interpreted it as public consent for a casino in Saskatoon. The results of the plebescite indicated, by a four to one margin, that voters opposed a casino on city land. Consequently, the Government prepared to halt their plans for a casino in Saskatoon.

As was apparent in the Government's research conducted four months earlier, there was a regional component to the public opinion on casino gambling in Saskatchewan. As such,

Cabinet was not surprised by the plebescite result in Saskatoon. In fact, their research suggested Saskatoon residents opposed a casino development with or without Native involvement. The Government considered the public discontent for a casino in Saskatoon as an historical reflection of its residents. Saskatoon was originally settled as a temperance colony in the 1880s. The strong religious beliefs of these colonists extended beyond the abolition of alcohol. That is, Saskatoon's original residents not only prohibited alcohol but also gambling. Although the prohibitionist attitudes dissipated over the past century, a strong religious and ideological basis of support for these beliefs still exists. As Ray Clayton, the Government's chief negotiator, suggested, "religious groups had a role in initiating the plebescite [in Saskatoon] but they were not all that vocal." As such, policy makers dismissed the public opinion regarding casino gambling in Saskatoon as existing only in that city. In fact it was suggested by one bureaucrat that the provincial government would have gone ahead with their casino plans in Saskatoon regardless of public opinion but the City of Saskatoon would not have issued a building permit for a casino after the plebescite. This halt to the Saskatoon casino meant that an amendment to the initial Agreement was necessary.

6.17 THE SECOND AGREEMENT

The Saskatoon plebescite determined that a casino would not be built in that city; hence, the Federation of Saskatchewan Indian Nations initiated a new round of negotiations with Government for the purposes of establishing on-reserve casinos to replace the proposed Saskatoon casino. However, since the end of the First Agreement, as will be detailed, there were several changes in the Government as well as the Federation of Saskatchewan Indian Nations negotiators. Specifically, Chief Roland Crowe was defeated after the first Agreement was reached and Chief Blaine Favel was now the top elected official in the Federation of Saskatchewan Indian Nations. According to Patrick Musqua, Administration Officer with the Saskatchewan Indian Gaming Corporation, Chief Favel was well known both within and outside of the Native community as a strong advocate of on-reserve Native casinos. As such, once he was elected his first action was to revisit this issue. For the most part, the Government had the same negotiators: Clayton, Innes, Nystuen and Lawton.

Laura Lockert, Communications Officer with the Saskatchewan Gaming Authority, stated the new administration of the Federation of Saskatchewan Indian Nations was inexperienced and unfamiliar with casino gambling negotiations. Specifically, Chief Favel and the leadership of the Federation of Saskatchewan Indian Nations recognized that

the issues surrounding on-reserve casinos were different than the previous casino agreement with the urban casinos. Therefore, they decided to hire Ken Thomas as their chief negotiator. Thomas was chosen because of his experience in Indian casino gambling in the United States. The Native negotiation committee was headed by Thomas with Favel and First Vice-Chief of the Federation of Saskatchewan Indian Nations Dan Belleguarde. The new Minister in Charge of Gaming and the Minister Responsible for the Indian and Metis Affairs Secretariat was Joanne Crawford. In this regard, the trust that was established between Chief Crowe and Lautermilch was not present in this new round of negotiations.

The Government and the Federation of Saskatchewan Indian Nations recognized, from the findings of the Fox Report, that the casino gambling market in Saskatchewan was finite. Nevertheless, the Government maintained that a new casino agreement involving the Federation of Saskatchewan Indian Nations should be open in principle to both on-reserve and off-reserve casino sites. The proposal for on-reserve casinos in this agreement meant that Ernie Lawton, Deputy Minister of the Saskatchewan Indian and Metis Affairs Secretariat, became more involved in, as well as a full-time member of, the Government negotiation committee. Musqua stated, the Government stipulated that all proposed Native casinos, whether on-reserve or off-reserve, should be restricted to the limitations imposed on the Saskatoon casino. In particular,

the original Agreement allowed for a maximum of five hundred slot machines in each of the Regina and Saskatoon casinos. Therefore, the maximum total number of slot machines and video lottery terminals allowed in the Native casinos was to be five hundred or the total number at the Regina casino at that particular time. As well, Government negotiators insisted that the Federation of Saskatchewan Indian Nations "prepare and present to the Government a development and market plan" (Casino Agreement, Schedule A). This served as a legitimization technique for Native casinos within the Governments' rational policy making approach. That is, these casinos would fit into the Governments' policy goals if they could demonstrate there was a market for them.

Musqua maintained the Government negotiators were flexible as to the number of additional sites but suggested that three casinos would be favoured. Federation of Saskatchewan Indian Nations negotiators countered with a proposal for a maximum of four additional casinos. The Government negotiators conceded with regard to the number of casinos but declared that the maximum of five hundred slot machines was still in effect and a casino development under this Agreement could not be located in or near the city of Saskatoon without "community approval". Other conditions of the Agreement declared that a casino proposed to be on a reserve must get approval from that reserve and the encompassing municipality. This essentially builds in a non-

Native veto with regard to a Native casino. Moreover, the Agreement specified that "a casino to be located on the White Bear Reserve as the first casino under this Agreement." (Casino Agreement, Schedule A:5).

According to Lockert, the most difficult issue was to appease the Government through the development of a licensing scheme that conformed to the Criminal Code of Canada. This was directly related to the issue of jurisdiction. According to a member of the Saskatchewan Gaming Corporation the amended Agreement "almost fell through over the word jurisdiction". That is, Government negotiators told the Federation of Saskatchewan Indian Nations that "you need a regulating body before you get a casino". The Agreement called for the establishment of a body called the Saskatchewan Indian Gaming Licensing to be incorporated under the Federation of Saskatchewan Indian Nations. This agency was designated to issue, monitor and enforce licences

for the conduct and management of similar charitable lotteries in the rest of Saskatchewan, except such variations as are agreed to be necessary to meet special circumstances existing on reserves (including the use of paid employees instead of volunteer workers by licensed charitable or religious organizations so long as it remains consistent with the requirement that the proceeds be used for a charitable or religious object or purpose). (Casino Agreement, Schedule A:3)

As such, the licensing guidelines were the same as those employed by the Saskatchewan Liquor and Gaming Authority. Therefore, Saskatchewan Indian Gaming Licensing was nothing

more than an appendage of the Liquor and Gaming Authority.

At the same time, the Federation of Saskatchewan Indian Nations' chief negotiator Ken Thomas recognized the need for a body which acted as the overseer of casino operations for the Native organization. Therefore, the Agreement also designated the development of the Saskatchewan Indian Gaming Authority as the body incorporated under the Federation of Saskatchewan Indian Nations to manage the operations of the on-reserve casinos. The role of the Saskatchewan Indian Gaming Authority was designed to be "the proponent on behalf of the Federation of Saskatchewan Indian Nations pursuant to this Agreement of casinos in Saskatchewan both on reserves and off reserves." However, the Government negotiators insisted that under the conditions of the Criminal Code of Canada the Saskatchewan Liquor and Gaming Authority would regulate electronic gaming devices such as slot machines and video lottery terminals. In other words, the Saskatchewan Indian Gaming Authority was a relatively benign body. In this regard, the Government of Saskatchewan set a precedent giving the province jurisdiction on-reserve. This will maintain a degree of social control not only over on-reserve casinos but also Native peoples. Moreover, the incorporation of the Saskatchewan Indian Gaming Authority and the Saskatchewan Indian Gaming Licensing represent the bureaucratization of Native casino gambling. In effect, there will be two licensing and regulatory bodies and one operation body.

governing these Native casinos.

As specified in the amended Agreement the net profits of casinos located on reserves as established by this Agreement are to be distributed as follows. Fifty percent will go to the First Nations Trust Fund as established under the First Agreement, twenty-five percent to the Government, and twenty-five percent to be distributed through the First Nations Trust for charitable purposes related to First Nations. In the case of casinos located off-reserve, under this Agreement, the net profits of each casino shall be distributed as follows. Fifty percent to the First Nations Trust, twenty-five percent to the Government, and twenty-five percent to the Associated Entities Fund or a fund with similar purposes designated by the Government. In other words, the Government fulfilled its policy goal of revenue generation in this Agreement. This demonstrates the significant power the Government had over Natives during the negotiation in that the Government does not have any significant expenditures regarding licensing, regulation and operation; however, they secured twenty-five percent of all the casinos net revenue. This Agreement was signed in January 1995 and sent to the Lieutenant Governor in Council on February 10, 1995.

The Agreement had a five year term imposed on it and included several provisions. In particular, the Agreement declared that the Government and the Federation of Saskatchewan Indian Nations would "negotiate in good faith to

conclude the necessary provisions and agreements to implement the provisions of this Agreement" (Casino Agreement, Schedule A:8). These provisions included licensing restrictions, terms and conditions as well as issues relating to the conduct and management of the casino operations and calculation of net profit.

Since the signing of this Agreement three of the four Native casinos are operating. The Bear Claw casino is operating in its permanent location on the White Bear reserve and the North Battleford and Prince Albert casinos have been operating in temporary facilities since January, 1996. The proposed Yorkton casino site has yet to be developed. Also, the Regina Casino opened on January 19, 1996 with 57 percent Native employees.

6.18 WAS THE POLICY PROCESS AD HOC?

This chapter has reconstructed the Native casino gambling policy process in Saskatchewan. In so doing, it was demonstrated the Government developed policy goals, these goals were maximized in the creation of the policy, commissioned reports were utilized to legitimate the Governments policy preference for a Crown owned casino, the Government demanded a unified team approach from its members which accepted the specified policy goals, and the Government did not transform their Native casino gambling policy based on

public opinion. These findings suggest that all of the elements of a rational model as specified by Lindblom (1968) were employed during the policy process in Saskatchewan. In other words, the Government of Saskatchewan did not employ an *ad hoc* approach to the Native casino gambling policy process.

CHAPTER SEVEN

THE RECONSTRUCTION OF THE ALBERTA NATIVE CASINO GAMBLING POLICY

7.1 INTRODUCTION

As in Saskatchewan, it is difficult to separate Native casino gambling policy from the larger issue of gambling policy in Alberta. However, the gambling community in Alberta included more interest groups than in Saskatchewan. As such, the Native casino gambling policy process to date has been remarkably complicated. In order to understand fully this complexity, a brief historical overview leading up to the current gambling policy in Alberta is essential.

7.2 A BRIEF HISTORY OF CASINO GAMBLING REGULATIONS IN ALBERTA

Since the early 1970s, casino gambling in Alberta was restricted to charitable/religious groups and agricultural fairs as a form of revenue generation as specified by the Criminal Code of Canada (Campbell and Ponting, 1983). However, the occasional "Vegas Night" casino as a charitable fundraising event was permitted by local authorities. Campbell and Ponting (1983) suggested that this appetite for casino gambling was attributable to the economic prosperity of

the 1970s and the corresponding dominant view of "free enterprise" that emerged. Nevertheless, it was the charities' relative control over casino gambling in Alberta that made the issue of Native gambling and for-profit gambling so contentious.

The first charitable/religious group to hold a casino was the Kinsmen Club in Edmonton in 1975. However, the heavily restricted casino gambling industry in Alberta changed in 1980 when a report tabled by the Citizen's Advisory Committee on Gaming recommended that casinos be established within one of two models. A Citizen's Advisory Committee was appointed to report to the caucus task force with the task

to review existing government policy in respect to licensing of gaming events and to advise the government of ways in which the [then] current gaming regulations might be revised to meet the needs of volunteer organizations which use gaming events to raise funds for charitable or religious purposes (Citizen's Advisory Committee on Gambling, 1980).

The first model was driven by casino management groups that housed and supplied the casino gambling equipment to charitable and religious groups. The Gaming Review Commission (1986) saw charitable gaming as an alternative form of fundraising by community groups conducted by their volunteers "in a manner consistent with community values". Interested charitable and religious groups applied to the Alberta Gaming Commission for a license which gave them an opportunity to supply volunteer labour for a period of one or two evenings

for ten percent of the casino's net profit. The casino management group was guaranteed five percent of the net profit. The bulk of the remaining profit went to customer winnings. Any remaining monies went to the provincial government. Later, a policy of pooling the charities' portion of the revenues was implemented. Specifically, each casino had to place the number of charity groups necessary to fulfil a three month period of "casino nights" into a pool. At the end of this period the revenues would be distributed according to the number of evenings a particular charity was awarded by the Gaming Commission. The reason for this system was to prevent the penalization of charity groups that generated less revenue based on the dates they were awarded. For example, a casino generated less revenue on a Monday or a day with inclement weather than on a Saturday.

The second model was the continuation of casinos operated and managed by the urban exhibition associations. The largest and most notable of these were the Calgary Stampede and the Edmonton Northlands casinos. Exhibition associations were permitted to operate casinos on a regular basis as a mechanism to raise revenue since 1967 with the changes to the Criminal Code of Canada. Moreover, a 1974 agreement with the provincial government which licensed exhibition casinos mandated that during the annual exhibition all other casinos in that city cannot operate was to be maintained.

Historically, the regulation of casino gambling in

Alberta has been performed by a number of regulatory bodies. The first body was Alberta Lotteries which was initially a joint body created by Edmonton Northlands and the Calgary Stampede. Alberta Lotteries was originally formed in 1974 as the regulators of the large sweepstakes these entities managed. The second was the government body named the Alberta Gaming Control. Formed in 1976, Alberta Gaming Control reported issues of security and control to the Attorney General. The third body was the Alberta Gaming Commission. The Gaming Commission was a government body created in 1980 to report to the Minister of Justice. However, the role of the Commission was to license and regulate charitable gambling and the games they conducted. The final body was Alberta Lotteries and Gaming. This was an umbrella body formed by the Government in 1986 that reported to The Minister Responsible for Lotteries on all gambling policies.

However, these four separate bodies were amalgamated into a new body called the Alberta Gaming and Liquor Commission in March 1995. The only other government body that dealt with gambling in Alberta was the Alberta Racing Commission which dealt with the horse racing industry. This Commission was not initially part of this amalgamation but in late 1995 merged with the Alberta Gaming and Liquor Commission. As will be discussed later, this amalgamation of gaming bodies into the Alberta Liquor and Gaming Commission was part of a restructuring of gambling control and regulation and was

consistent with the Klein Progressive Conservative governments commitment to downsizing.

7.3 THE HISTORY OF NATIVE GAMING IN ALBERTA

Native leaders in Alberta quickly adopted the discourse employed by the gambling industry which replaced the word "gambling" for the more benign term of "gaming". Until now the only form of Native gaming in Alberta has been bingos. That is, on occasion a band would secure a provincial license to hold a bingo. However, in 1993 two bands recognized that their geographic location meant that they would be able to support a larger bingo venue. The Tsuu T'ina band, which is located on the outskirts of the city of Calgary, avoided holding an illegal bingo and approached the Alberta Gaming Commission in the summer of 1993 for a license to hold a "super-bingo" on-reserve. "Super-bingos" are large scale bingos with guaranteed large jackpots in excess of \$10,000. The Gaming Commission replied that gaming regulations in Alberta did not allow for "super-bingos" but that they would ask the Minister Responsible for Gaming. At that time, Ken Kowalski was The Minister Responsible for Gaming as well as Deputy Premier and Minister of Economic Development. Kowalski decided that an exception to the current bingo licensing regulations could be made and that a license could be granted to the Tsuu T'ina band. Hence, in August 1993 the band held

a "super-bingo" in an arena with a \$100,000.00 grand prize.

The Enoch band, which is located on the outskirts of Edmonton, took the Tsuu T'ina band's lead and applied for a "super-bingo" license on their reserve. As such, the Gaming Commission issued the Enoch band a license to hold a "super-bingo" in the fall of 1993. This indicates that even before the idea of a Native casino industry was prevalent that government gambling regulations were flexible on a case-by-case basis. However, it also illustrates Alberta Natives historical commitment to co-operate with provincial government officials with regard to gambling licensing and regulations. (Table 7.1 reveals the chronology of important dates, issues and actors in the Alberta Native casino gambling policy process).

TABLE 7.1 CHRONOLOGY OF IMPORTANT DATES, ISSUES AND ACTORS IN THE ALBERTA NATIVE CASINO GAMBLING POLICY PROCESS

Date	Issue	Actor(s)
August 1993	Native "super-bingo" at Tsuu T'ina.	Tsuu T'ina leaders and Government
February 1994	Louis Bull band signs casino agreement "in principle" with Binion casino of Las Vegas.	Natives and Government
July 1994	Tynan group proposes downtown Calgary casino and convention centre.	Tynan group, Government
October 1994	Kowalski replaced by West as Minister Responsible for Lotteries.	Kowalski, Klein, and West

November 1994	Chiefs' Summit I held.	Natives, federal and provincial government
December 1994	Canmore casino idea.	Government, Canmore town council and media
December 1994	Enoch band signs agreement "in- principle" with Binion.	Natives and Government
December 1994	Lotteries Review Committee established.	Government
January 1995	Creation of Native Gaming Committee established.	Government, Native leaders
March 1995	Chiefs' Summit II held.	Natives, federal and provincial government
August 1995	Creation of First Nations Gaming Congress.	Natives
August 1995	Lotteries Review Committee Report released.	Government
November 1995	Chiefs' Summit III held.	Natives, federal and provincial government
December 1995	Tsuu T'ina casino plebescite.	Tsuu T'ina band members
April 1996	Native Gaming Committee Report released.	Natives and Government

* refers to provincial government unless specified otherwise.

7.4 THE IDEA OF NATIVE CASINO GAMING

As in other states and provinces, Natives in Alberta witnessed the economic success of several casinos on reservations in the United States of America. In light of these successes, several bands in Alberta recognized that they also had the potential for casino gambling on their reserve. The bands most interested in casino gambling were those interested in "super-bingos". In fact, the Tsuu T'ina band council considered a "super-bingo" as a test case or first step in the creation of Native casino gaming. However, casino gambling was only part of a larger economic development project being pursued by some key members of the Tsuu T'ina band administration.

Peter Manywounds, the Tsuu T'ina band's economic development officer, envisioned a number of ventures including an industrial park, ski hill, and a hotel. However, the individual that first brought the idea of casino gambling to the attention of Tsuu T'ina band members, was Brian Barrington-Foote. Barrington-Foote was a lawyer from Saskatchewan that had worked extensively with Natives in that province over issues of Native sovereignty and economic development. He moved to Calgary in the mid-1980s and was quickly retained as legal council for the Tsuu T'ina band. While in this position Barrington-Foote aggressively pursued

the creation of a Native casino gambling industry and convinced Manywounds that a casino should be considered an important economic initiative. Barrington-Foote and Manywounds told band councillors that the contiguous location of their reserve to the city of Calgary indicated that they had access to a large population but, also, they did not have to comply with provincial government gambling policies.

Manywounds convinced Chief Roy Whitney and the Tsuu T'ina band council in 1993 that the proposed casino made good economic sense. According to one Tsuu T'ina member it was at this time that they recognized the importance of establishing the agenda via the discourse. In other words, the Tsuu T'ina band administration sought to derive legitimacy by placing the issue of Native casinos in the economic development category as well as the self-government category. However, by late 1994 the Tsuu T'ina band had a deficit approaching six million dollars. This financial shortfall led to allegations of misappropriation of funds by Manywounds which led to an extensive investigation. Several band members stated that these allegations could not be "conclusively proven" but Manywounds became the "fall guy" for the Tsuu T'ina band deficit. At the conclusion of the investigation in early 1995 Manywounds signed an agreement which forbid him to disclose any information regarding the band's economic development strategies and the investigation for a period of three years. According to several individuals, the band council felt that

knowledge of this scandal could jeopardize the proposed casino project and other economic development issues by stigmatizing the band as unable to manage their financial matters as well as being unable to trust their employees. That is, the Tsuu T'ina band defined this situation as potentially fatal to their casino development - particularly because Manywounds was the driving force behind the casino project. One former government bureaucrat declared that with Manywounds departure, the band's integrated approach to economic development also disappeared. Moreover, this led many band members to distrust their band council. Several band members maintained that band members were leery of the financial scandal that a casino gambling industry could bring to the reserve.

Paralleling the Tsuu T'ina casino initiative, the Enoch Cree Nation also recognized that their reserve was in a favourable geographic position for the creation of a casino industry. Therefore, when the Tsuu T'ina band declared their interest in developing an on-reserve casino so did the Enoch band. Len Crate, Economic Development Officer with the Enoch band, stated that without the financial and leadership scandals that plagued the Tsuu T'ina band, the Enoch band was able to proceed much quicker in their decision to establish a casino.

7.5 GOVERNMENT POLICY GOALS, CROWN CORPORATION, AND THE
CRIMINAL CODE

Prior to Klein's election as leader of the Progressive Conservative party, it was rumoured that Ken Kowalski had aspirations to lead the Progressive Conservative party and become the next Premier of Alberta. According to Dabbs (1995) Kowalski's political savvy allowed him to recognize the immense popularity of Ralph Klein. That is, Kowalski knew at this time Klein was the leading contender to take over as leader of the Progressive Conservative party. Therefore, Kowalski supported Klein from the day Klein entered the Progressive Conservative leadership race and as Dabbs (1995:127) declared "[Kowalski] made sure that he got maximum credit, as well, and nurtured the impression that he had been the king-maker." The support Klein received from Kowalski was surprising since they had contrasting political ideologies. Klein's political philosophy which was the basis of his "Alberta advantage" platform, was based on fiscal or economic conservatism. That is, ideologically, Klein strongly supported the corporate interests of the province that believed in smaller, more efficient and less interventionist government. Contrasting Klein, Kowalski was a moral conservative rather than an economic conservative who represented rural Albertans' convictions but who also supported big government and government intervention as an economic stimulator. Nevertheless, once Klein won the 1993 provincial

election he named Kowalski as Deputy Premier.

After their 1993 election the Klein government quickly embarked upon a program of harsh fiscal cuts and off-loading in the areas of health, education and welfare. Although many provincial governments across Canada saw deficit reduction as a major policy goal, the Klein government was looked upon as the champion of deficit reduction. As such, the idea of restructuring and decentralization became their guiding principle. In Klein's words,

my government will never forget that its plan and its mandate is based on these four pillars: balancing the budget by 1997, creating 110,00 jobs, reorganizing and streamlining government, and maintaining open consultation with Albertans" (*Edmonton Journal*, September 1, 1993).

This suggested only one real policy goal - deficit elimination within a free enterprise economic structure. The government's political ideology is consistent with the political culture of the province and the ideology of previous governments. For example, the Klein government is not willing to utilize Crown corporations as policy vehicles. This is consistent with Campbell and Ponting's declaration that Alberta

has to date shunned the crown corporation as a vehicle for casino gambling. This rejection of the crown corporation is probably partly a reflection of Alberta government's long-standing distaste for crown corporations (Campbell and Ponting, 1983:21-22).

Initially, Klein relied on Kowalski to manage the "day-

to-day" operations of the government. In this regard, Kowalski amassed considerable power during the early months of the Klein administration. As such, Kowalski was rewarded by concurrently holding several portfolios beyond Deputy Premier such as: Minister of Economic Development and The Minister Responsible for Lotteries. This led to what Dabbs (1995) described as an opportunity at empire-building on the part of Kowalski. Moreover, the political philosophy and actions of Kowalski indicated that the members of Klein government were not forced to submit to a set of actions and policy goals that are characteristic of a rational policy making approach. For example, Kowalski did not have to surrender publicly or privately to an overarching government prescribed policy goal with regard to gambling. Kowalski did not hesitate in altering or ignoring, as he saw fit, any particular gambling regulation or policy.

Nevertheless, Kowalski's experience in the regulation of gambling made him the Government's authority on the issue. In the early years of the Klein administration, Kowalski wielded enough power to shape the Governments' gambling policy exclusively. The only obstacle he faced was getting caucus to approve his policy recommendations. This also indicates that a "team policy approach" was implemented by the Government.

According to Kowalski he did have discussions with Native leaders and Chiefs with regard to on-reserve casino gambling

before he was ousted from Cabinet in October 1994. In fact, he was the Minister Responsible for Lotteries when the "super-bingo" licenses were issued to the Tsuu T'ina and Enoch bands. However, Kowalski was somewhat "cool" to the idea of on-reserve casinos. One Progressive Conservative insider suggested that Kowalski did not like the idea because "he would have no control over on-reserve casinos and Ken is a control freak". However, Kowalski declared that he did not think that Native casinos would "make it [financially] in the current [casino] market in Alberta". That is, the established and government regulated charity casino industry has served Alberta well and Native casinos would not survive the "ultimate test of the market" according to Kowalski. As such, Kowalski was willing to let the Government's belief in free enterprise determine the fate of a Native casino industry in Alberta.

Furthermore, Kowalski felt that Native casinos would have a legitimacy problem particularly in regards to public perception of corrupt gambling practices. Nevertheless, he declared to Native leaders that "he would not seek to shut them down through the courts or any other means" and that he preferred the market to be the ultimate judge on a Native casino industry. According to Kowalski, the interpretation of the Criminal Code of Canada was not a concern for the Government because they felt other provinces allowed Native casino gambling; therefore, so could Alberta. However,

occasionally, Klein declared "there would have to be some changes to the Criminal Code provisions" before the Government would license Native casinos (Channel 3 News, March 17, 1995). The Criminal Code was obviously not an important issue to the Government but the media attention and the outcry from charity groups concerning Native casino gambling allowed them to use the Code as a tool to declare that Natives must get their approval.

This indicates, as confirmed by several Progressive Conservative Party insiders, that there was some discussion in caucus at this time over Native casino gambling and that the opinions of caucus members varied. Also at this time, Kowalski recognized that Natives "had a strong desire to be involved in casino gambling as in other provinces", therefore, he proposed to Native leaders that they have a number of representatives on the Gaming Commission. However, as Gregg Smith, Executive Director of Treaty Seven Tribal Council declared, this was an unjustified proposal because the provincial government does not have jurisdiction on reserves and it would undermine the Natives' position.

7.6 THE KOWALSKI YEARS

Ken Kowalski is still a Member of the Alberta Legislative Assembly representing the Barrhead-Westlock constituency and has been a powerful member since 1985 when he was first

appointed as a Cabinet Minister. This has led to Kowalski's characterization as an "old-guard" politician that is a strong believer in the "skills of patronage" (see Dabbs, 1995). This belief in patronage became most apparent when he was the Minister Responsible for Lotteries, the Wild Rose Foundation, as well as his responsibility for the Gaming Commission and Racing Commission in the Progressive Conservative government from 1989 to 1993 and the beginning of the Klein administration from 1993 to 1994. The dispersement of lottery and gaming funds to charitable, sport and cultural groups became blatantly political under Kowalski's control (Dabbs, 1995). At one time, the Liberals accused Kowalski of threatening to pull lottery grants from Tory ridings where "M.L.A.'s did not deliver blocks of votes" (Dabbs, 1995:128). In other words, the Government was not concerned about maintaining a unified gambling revenue distribution policy and Kowalski had considerable power.

Dabbs (1995), Lisac (1995) and Jim Cunningham, gambling policy reporter with the *Calgary Herald*, stated that "delivering of votes" appeared to have been more important than the preservation of the gambling policy. Kowalski declared, as was substantiated by Ian Taylor of the Alberta Gaming Commission, there was no larger policy goals that took precedence or guided the decision making process in regards to gambling policy. This "free-reign" approach Kowalski enjoyed allowed him to implement considerable changes to gambling

policy. According to Kowalski, he recognized the proliferation of gambling technology and presented the idea of a provincial government video lottery terminal program in early 1991 - which was implemented in the fall of 1991. It is evident that Kowalski was able to make any policy or regulatory changes with regard to gambling. That is, decision making in gambling policy was under the tutelage of Kowalski and the empire he created.

7.7 NATIVES GOALS

Like other policy issues affecting Native people in Alberta, the Native leadership was extremely divided over the issue of casino gambling. In Alberta, as in Saskatchewan, the Tribal Councils are the main Native governing structures. However, Natives in Alberta do not have a single powerful over-arching governing body such as the Federation of Saskatchewan Indian Nations. At one time the Indian Association of Alberta served as an overarching provincial Native body but Tom Ghostkeeper, Special Assistant to the Minister Responsible for Aboriginal Affairs, stated that several Chiefs and leaders from a number of the seven Tribal Councils did not feel as though their positions and concerns were being represented. Several bands and Chiefs advocated an individualistic approach to government relations and public policy. As such, the Indian Association of Alberta was

marginalized and is now essentially ineffective". In the end, the only body that co-ordinates Natives' political and social policy matters is the First Nations Resource Centre. In so doing, the Resource Centre provides research and political advice to Chiefs and the Tribal Councils via a representative board of Planning Chiefs. In other words, the Tribal Councils are the largest Native representative bodies in Alberta.

This regionally bifurcated approach to Native government paralleled the approach the Chiefs took with regard to casino gambling. That is, some leaders were opposed to casino projects on their reserve because they believed that the social problems caused by a casino would be greater than the economic benefits while others were prepared to develop a casino on their reserve. One Chief noted that almost all of the bands not interested in gambling were geographically marginalized and that a casino would not survive on those reserves. However, he reported that all Chiefs strongly believed that each band had the sovereign right to decide if they wanted to develop a casino. That is, the Chiefs' definition of the situation was that casino gambling

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Several Native Chiefs have suggested that the reason that the Indian Association of Alberta failed was due to the diversity in language/cultural groups of Alberta Natives. Moreover, there are three separate Treaty areas in Alberta and leaders felt that each area had specific and unique interests making one overarching body awkward. Although there is more to this historical conflict however, it was very difficult to get any information with regard to specific details.

represented issues of Native sovereignty and self-government as well as the issue of provincial government jurisdiction on reserves. This led Native leaders to commission a consulting group to study the issue of a developing a casino industry. However, the Planning Chiefs discovered that the group had financial ties to a band that was attempting to develop a casino. Once this conflict of interest was uncovered the Planning Chiefs felt as though the report was biased in that it promoted the type of casino model which was favoured by the band to which they were linked. Hence, the report was immediately shelved and was not available for public scrutiny.

Once the Federation of Saskatchewan Indian Nations had negotiated an Agreement in which all bands would equally benefit, several Alberta Chiefs saw this as a model that should be employed. The Tsuu T'ina and Enoch bands were the most anxious to develop a casino because of their geographic location but they advocated the "Minnesota model" of gambling revenue distribution. According to one Native leader, executive Director of Treaty Seven Tribal Council, these bands argued that those bands with oil and gas wells did not share the revenue they received with all Alberta bands so why should they share gambling revenue. They maintained that those bands with oil and gas reserves argued that geographic fortune should not necessitate revenue distribution; therefore, neither should those bands with casinos. In this regard, the Tsuu T'ina and Enoch bands pursued this type of casino

gambling project most vigorously.

7.8 KLEIN'S CASINO IDEA

Proposals for profit casinos in Alberta had been presented by several groups within the gambling industry to Kowalski for a number of years prior to the Klein administration. That is, the entrepreneurial desire for the creation of a for-profit casino industry has been in Alberta for a number of years. This is partly due to the considerable disposable income of Albertans, the free market ethos, and perhaps most importantly because Alberta is seen throughout North America as a "mature gambling market" (Angus Reid Group, 1993). This term has been used by market research groups to define those provinces and states where residents have had a variety of gambling opportunities and per capita spend considerable money on gambling. In fact, Alberta has the highest annual number of dollars spent per capita on gambling than any other jurisdiction in North America. According to Kowalski, this has led several entrepreneurs to develop casino proposals.

One proposal in particular caught the eye of several individuals. This proposal called to locate a large for-profit casino in the Canmore district catering to tourists visiting Banff National Park. Jim Cunningham, a reporter with the *Calgary Herald*, asked Klein what he thought of the Canmore

casino proposal and Klein responded that it "looked good". This led Cunningham to write a series of articles in the *Calgary Herald* in December, 1994 questioning the role of for-profit casinos in Alberta. In other words, for-profit casino gambling was now on the public agenda in Alberta.

However, the Canmore casino proposal was quickly turned down by Canmore town council but it led to public concern over the creation of a for-profit casino industry in Alberta. It was apparent from the Canmore fiasco that Klein personally did not oppose a for-profit casino industry but that the Government did not have a clear policy direction on this issue. Klein's favourable stance towards a casino industry was also confirmed by several Chiefs. In fact, Klein told a particular Chief with whom he had close personal ties, that this band "should go ahead and start a casino on-reserve and that he would back them".

7.9 THE CHANGE IN MINISTERS

Since the beginning of the Klein administration several government departments as well as most Klein supporters had complained that Kowalski posed a threat to the Klein government (Lisac, 1995). That is, there was considerable distrust of Kowalski at this time. Specifically, Kowalski was accused of amassing too much power and authority such that he was able to empire build in a government that was committed to

"small government" (Lisac, 1995; Dabbs, 1995). However, Klein was not overly concerned about Kowalski until he tried to implement the Alberta Economic Development Board. While mayor of Calgary, Klein had initiated the Calgary Economic Development Board, as an alliance between the city and the business community to "sell the benefits" of locating in the city of Calgary to prospective businesses. The success of the program led Klein to aspirations of a provincial model with the help of his close friend and advisor Art Smith. However, as Minister of Economic Development Kowalski did not want to implement this joint-venture model between government and the business community because it would undermine his power and legitimacy. Finally, after considerable delay by Kowalski a meeting was set up between Smith and Kowalski in October 1994. When it was apparent that they could not agree on a framework and that this had become an issue of contested terrain, Klein was forced to intervene (Lisac, 1995). According to Dabbs (1995), Klein demonstrated a distrust of Kowalski and subsequently demoted him from Cabinet in November 1994. Essentially, this move led to Klein's empowerment. However, Liberal Members of the Legislative Assembly, particularly Nick Taylor, tried to link the Kowalski demotion to a philosophical difference between Klein and Kowalski over gambling policy during question period.

According to Russ Tynan, Head of the Calgary Century Centre Consortium, Klein's chief assistant Rod Love

recommended appointing someone who would be a tough "by-the-book" Minister Responsible for Lotteries to replace Kowalski. This served two purposes. First, it aided in the social construction of reality and agenda setting. Second, it served as a mechanism of detachment from the Native community. This was important because Klein was known to have had a close relationship with several Native leaders. In fact, Klein spent several weeks living on the Siksika reserve and maintained close contacts with the Native community. At the same time, there was a public perception based on a number of media reports that Klein was in favour of a Native casino gambling industry.

Although Love suggested to Klein that Steve West would be the best choice as the Minister Responsible for Lotteries he was seen by many people as a conservative Minister that was utilized by Klein as the Government's new "lightening rod". That is, since Kowalski's departure from Cabinet someone had to step in and be the Minister that was perceived as doing the "dirty work". Essentially, this removed the onus from Klein to justify continually the Government's unpopular decisions. It was apparent to Klein that West, who occupied the role of Minister of Municipal Affairs, was the person best suited for this role. The validation of this role was apparent when West was also concurrently named the Minister Responsible for the Alberta Liquor Board and given the job of privatizing it.

Once West was in his new portfolio his first move was to

install his Deputy Minister Municipal Affairs, Bob King, as his executive assistant. This was an important move because King was the bureaucrat that supported West's views on the privatization/downsizing initiative; therefore, making the privatization plans relatively natural. In this regard, the first order of business for West within his gambling responsibilities was to amalgamate the five separate gambling regulatory bodies. As stated earlier, the new all-encompassing gambling body was named the Alberta Gaming and Liquor Commission and King appointed Chair. The title of Minister Responsible for Lotteries changed to Minister Responsible for Lotteries, Gaming and Racing under West. The significance of this initiative was that it conformed with the Government's commitment to downsizing. However, the "by the book" approach led to contradiction between West and Klein with regard to the Native casino gambling. Specifically, West declared that "bands have no jurisdiction to have casinos" while Klein stated that "the province doesn't have jurisdiction on reserves." (*Wetaskiwin Times Advisor*, April 10, 1995). Again, this demonstrates that specific policy goals were not developed; however, it also demonstrates that a Ministerial arrangement of consensus was not invoked by Klein.

• 7.10 ESTABLISHMENT OF THE ALBERTA LOTTERIES REVIEW COMMITTEE

In December 1994, after the Canmore casino proposal

surfaced, while in northeastern Alberta on a rural visitation, Klein was questioned about the Government's gambling policy. When Klein declared the Government did not have a strategy with regard to gambling expansion it was suggested that a government review would be a good idea - Klein agreed. The mandate of the review was to develop policy recommendations based on public consultation meetings with citizens and organizations throughout the province. In other words, the Government was fulfilling the mandate of being responsive to the opinions of Albertans.

Judy Gordon, a neophyte Progressive Conservative Member of the Legislative Assembly representing the Lacombe-Stettler constituency, was named the Chair of the Committee. Other Members of the Legislative Assembly on the Committee were Roy Brassard, David Coutts, Bonny Laing, and Lyle Olberg. The remaining Committee members were three elected municipal officials and two other public officials. This gave the Committee a nongovernment component that fostered the impression that the Committee was not just a government policy machine, rather the Government was genuinely concerned about tapping public sentiment. However, this nongovernment element also suggested that the Committee was not the vital determinant with respect to the Government's final policy.

Tom Neufeld, Special Assistant to the Minister of Economic Development and Tourism, maintained that having "Gordon head the Commission and West as the Minister

[Responsible for Lotteries, Gaming and Racing] was not an accident." That is, Gordon was chosen as the Chairperson of the Committee because she represented the antithesis of Steve West. West had a reputation as a "tough" politician with an "extremely conservative" political philosophy, while Gordon was characterized as a compassionate and responsive politician with a "liberal political philosophy". Essentially, Klein and Love felt that the ideologies of these individuals, in the long run, would work well in achieving a popular middle ground over the polarized issue of gambling policy. Again, this suggests that no policy goals had been established and that the Government was willing to compromise in order to develop a policy.

Originally the Lotteries Review Committee was supposed to examine all gambling issues in Alberta, including Native casino gambling. However, once the public hearings began it became apparent to the Committee that there was considerable concern by public interest groups regarding Native casinos. This concern along with the complex issue regarding jurisdiction on-reserves and Native sovereignty implied to Committee members that a separate report was necessary for Native gaming. It was this realization that led to the addition of the Native Gaming Report which they announced would be released after the main report.

Shortly after this announcement the Committee expressed an interest to meet with Native leaders. However, media

reports stated that Native leaders declared that they would only meet with the Committee members that were Members of the ~~Legislative~~ Assembly. The Native leaders made this stipulation because they believed that the Native casino gambling policy process must be considered a government to government consultation process. That is, this move represented a consistency with their contention that as a sovereign nation Native people can implement a casino gaming industry on their lands. As such, Members of the Legislative Assembly on the Committee met with northern Native leaders on April 3, 1995 at Edmonton House and with southern Native leaders on April 12, 1995 at the Tsuu T'ina band office. Gordon reported after the Edmonton House meeting that, at Willie Littlechild's suggestion, "jurisdiction, wasn't discussed Monday ...the Review Committee heard presentations on casinos, Video Lottery Terminals and combating gambling addiction" (Calgary Herald, April 4, 1995). This demonstrates that the Native leader's definition of the situation differed from that of the Committee members. That is, the Committee was not prepared for this type of discourse. According to Strater Crowfoot, former Chief of the Siksika band, this tactic was employed by Native leaders because they wanted to start the policy process from the position that they had the sovereign right to initiate a casino industry and they were only seeking provincial government support, not approval.

However, this was not the only meeting between Native

leaders and provincial government representatives at this stage of the policy process. At the end of February 1995 the Tsuu T'ina band leaders had private discussions with Klein and Aboriginal Affairs Minister Mike Cardinal. It was at this time that Klein promised to have the issue of Native casino gambling on the agenda of the upcoming Chiefs' Summit in Calgary.

During the Committee's meeting with Native leaders it was suggested that the Committee should visit an on-reservation casino in the United States of America so they could observe the economic and social benefits these casinos had created. The Committee decided that this was a good idea and on June 12 and 13, 1995 they visited the Mystic Lake casino in Minnesota and the Coeur d'Alene Tribal Bingo Association in Idaho. When they returned from the tour, Gordon declared that "This trip should not be considered an endorsement... it [the trip to Mystic Lake] was very worthwhile... they've done an exceptional job." (Calgary Herald, August 18, 1995.) This further served to demonstrate the polarized views of caucus and Cabinet members over this policy issue. At this time, the members of the Committee appeared to be somewhat open-minded to the idea of a Native casino industry.

7.11 OTHER FOR-PROFIT CASINO PROPOSALS AND THE GAMBLING INDUSTRY

According to the Government's belief in free enterprise,

the issue of Native casino gambling in Alberta also represented the development of a for-profit casino industry.

As West stated

If you acknowledge a casino on native lands, you'd have to acknowledge a for-profit casino on other lands. Therefore, you literally have to change your whole [i.e. charity only] policy, because you just can't make a reserve policy. (*Edmonton Journal*, March 25, 1995).

Although there was already a number of proposals to develop a for-profit casino industry in Alberta, the issue of Native casinos led to a number of serious for-profit casino proposals throughout Alberta. The largest of these was a group of silent investors in Calgary headed by travel agency mogul Russ Tynan. In July 1994 Tynan's group announced they were looking at building a one billion dollar development project which included a convention centre, hotel and casino to be called the Calgary Century Centre. However, Tynan maintained that the proposal hinged on the casino. Similar to the Natives' objectives, the objectives behind the Tynan proposal was based on the economic issues of: downtown re-development, the infusion of \$505 million dollars to the local economy, the attraction of 45,000 tourists for convention purposes, and the lure of 3500 permanent jobs. In this regard, it validated the legitimating discourse of economic development and free enterprise. Several weeks later Tynan announced that the group had secured an agreement in principle giving the Merv Griffin Atlantic City Gaming Corporation the rights as the

casino developer and operator. This demonstrated that groups other than Natives were hoping the Government would change the "charity only" gambling policy to facilitate for-profit casinos.

However, Tynan's agreement with the Merv Griffin Corporation was not the only large American gambling operator captivated by the potential of a for-profit casino industry in Alberta. In February, 1994, Jack Binion, the owner and operator of Binion's Horseshoe casino in Las Vegas, was in Alberta promoting his company to several bands across the province that were interested in a casino. Within a couple of weeks the Louis Bull band had signed a deal with Binion giving the Las Vegas company the right to build and operate a casino on that reserve upon their approval. In December, 1994, the Enoch band signed a similar deal with Binion. The Tsuu T'ina band was approached on several occasions by the Binion group but did not enter into a contract with them. One Native elder maintained that the reason Tsuu T'ina Chief Roy Whitney and his councillors did not sign was they felt that many band members would be uneasy with a casino on their reserve in which Binion was the operator. They felt Binion was well known as "an old-style Las Vegas casino operator" that had ties to the Mob (see Jonston, 1992). Moreover, his Nevada casino frequently violated state gambling regulations. In essence, Chief Whitney and other band councillors felt that Binion's involvement would de-legitimize their proposed casino

operation. Specifically, they felt it would be easy for the Government or any opponent of a Tsuu T'ina casino to stigmatize a Binion operated casino. As such, they decided to sign an agreement in principle with Casino Magic, another American casino operator, because it would be considered a less controversial operator.

The involvement of Binion in Native casino gambling was not limited to the Louis Bull and Enoch agreements. In March 1995 Binion was in Alberta overseeing the agreements and checking the provincial government's progress on Native casino gambling policy. While Binion was in Edmonton he decided he would become one of the sponsors of the Premier's Dinner. Although several of the 15 sponsors had contributed up to \$2000.00, organizers stated that Binion donated less than \$1000.00. Nevertheless, Binion's sponsorship led Liberal Member of the Legislative Assembly Nick Taylor to reintroduce the conspiracy theory that the "Las Vegas lobby" had convinced Klein that a for-profit casino industry would be a good thing in Alberta. Furthermore, Taylor alleged that the demotion of Kowalski represented the removal of a road block in the Government's plans to develop a for-profit casino industry. In response to such allegation, Binion stated:

I'm amazed at the amount of publicity that I generated over going to that dinner, it was a good will gesture, obviously, I don't know Premier Klein. In fact, I don't know one person up there... I was just introducing myself to the community.

Jonston (1992) stated that Binion was an "old guard" Nevada casino operator who still employed pressure tactics on Government officials. Although the Binion sponsorship may have started out as an agenda setting occasion, it ended up being a battle over the social construction of reality regarding the gambling industry lobby on the for-profit Native casino gambling policy process. In this regard, the need for meaningful and direct discourse between the Native community and the Government was apparent.

7.12 POLITICAL INTERACTION BETWEEN THE NATIVES AND THE GOVERNMENT

The concept of the Chiefs' Summit, initially proposed in the fall of 1994, was the initiative of the seven Tribal Council Chiefs of Alberta. According to Murray Smith, Minister of Economic Development and Tourism, Klein's intimate relationship with several Chiefs along with his consultative approach, lead him to support strongly the idea of assembling government and Native representatives. As such, the Chiefs' Summit assembled a combination of key Ministers from the provincial government, the Minister of the federal Department of Indian Affairs and Northern Development, and Alberta's Native Chiefs. The first Chiefs' Summit was held in November 1994. Since this was the first Chiefs' Summit it was nothing more than a formal introduction of the Chiefs to the key provincial Ministers and federal Minister of Indian Affairs.

and Northern Development, Ron Irwin. According to Tom Ghostkeeper, Special Assistant to The Minister Responsible for Aboriginal Affairs, the first Chiefs' Summit was instrumental in building trust between the government representatives and the Chiefs.

The Chiefs' Summit II took place March 14-17, 1995. However, the bulk of this time was devoted to meetings between the Chiefs of Alberta. Nevertheless, on the last day of this Summit the Chiefs met with Premier Klein; Mike Cardinal, Minister of Family and Social Services and The Minister Responsible for Aboriginal Affairs; Ken Rostad, Minister of Federal and Intergovernmental Affairs; Pat Black, Minister of Energy; Halvar Jonson, Minister of Education; and Murray Smith, Minister of Economic Development and Tourism. It was just prior to this Summit that the issue of Native casino gambling created controversy and contradiction among Government representatives in the media. As Savage-Hughes and Taras (1992:198) stated "all [governments in Alberta] have suffered the stings of media criticism and have mounted media management campaigns of varying effectiveness". Specifically, Mike Cardinal stated that

[Natives] should take the leading role [in determining if a casino industry will exist] because it's their project - I think Native leaders should propose what they'd like to see in Alberta and then we'll negotiate" (*Edmonton Sun*, March 16, 1995).

This contradicted what Kowalski, West and Klein publicly

stated at this time when they "flatly rejected" the idea of a Native casino industry. However, Klein declared at the beginning of this Summit that the agenda was open but the "controversial and sexy" topic of gambling should be discussed. He then asserted that

we're looking at the big issue here... [to] formalize the relationship [that] recognizes and puts in place the processes to recognize the Inherent Right of Alberta Indian Nations to self-government. (Chiefs' Summit II)

With that expectation Chief Meneen presented a resolution passed by the Chiefs the day before in order to build a government to government relationship. In essence, this represented a battle over the discourse and, consequently the social construction of the discourse. That is, what did the phrase "the Inherent Right of Alberta Indian Nations to self-government" specifically mean to both parties. In this regard, Chief Strater Crowfoot maintained that there was "lots of apprehensiveness from Chiefs on an agreement... misunderstandings or fears about what our discussion with the Province and how those discussions will impact our treaties." Similarly, Chief Wesley stated that "...it was difficult to get my other colleagues to agree on a process of co-management" (Chiefs' Summit II minutes). This set the stage for a larger battle between Native leaders and the provincial government over the discourse.

The first component of the Chiefs' proposal was the creation of an "interim body of key [provincial Cabinet]

Ministers dealing with First Nations relations." The second component was to establish a meeting between "representatives of the various areas of concern, such as health and justice, from the Chiefs' Summit and the Government". Klein stated that he would

take it [the resolutions] back to cabinet, but it looks like a good framework for an agreement. It looks similar to the ones we already signed with Treaty Eight, the Grand Council, and Siksika (Chiefs' Summit II minutes).

This illustrates the individualistic and disjointed nature of the Native communities in Alberta. However, it also suggested to Native leaders that, in principle, the Government recognized Native governments and supported the concept of Native self-government. Again the issue of Native gambling was never specifically discussed at this Summit because Native leaders felt it was more important to get Klein to commit to the legitimacy of Native self-government initiatives. At the same time, Native leaders wanted to obtain assurances that they would be consulted with regard to provincial government policy issues that involved Natives. However, this quest for legitimacy of Native governments was carried over until Chiefs Summit III.

The Chiefs' Summit III took place on November 8, 1995. The goal of this Summit was to establish an understanding of relations between Natives and both levels of government while maintaining treaty rights established in section 35 of the Constitution Act. Willie Littlechild, Head of the First

Nations' Gaming Congress, stated that Native leaders felt that this type of agreement had ramifications regarding gambling policy that rested on the contested terrain over the recognition of Native government and the inclusion of Natives in the policy making process. Thus, an agreement represented the empowerment of the Natives' position on casino gambling. Native leaders felt it was necessary to win the discourse battle of Native self-government surrounding casino gambling.

Consequently, on the morning of November 8, 1995 an Understanding on First Nations - Canada Relations⁴² was signed by Ron Irwin and the Chiefs of Alberta. According to a 1995 Department of Indian and Northern Affairs document the goal of the Understanding on First Nations-Canada Relations was "to develop a mechanism for discussion of issues of mutual interest or concern, including matters relating to jurisdiction and authority" (Department of Indian and Northern Affairs, 1995:5). This Understanding not only covered Native issues of federal responsibility but it served as an enticement to a provincial government understanding. In this regard, the Understanding on First Nations - Alberta Relations was signed on the afternoon of November 8, 1995 by Klein, Cardinal and the Chiefs of Alberta. These Understandings served, as Ron Irwin stated, "a way to resolve issues and

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The framework for this Understanding was established by a similar agreement signed by the White Bear band in Saskatchewan and the federal government.

concerns emanating from a relationship between First Nations and individual government departments." In other words, Native leaders felt that they had laid the necessary groundwork for casino gambling by setting the agenda and empowering their position for self-government.

7.13 FIRST NATIONS GAMING CONGRESS

Kowalski stated that since he was the Minister Responsible for Gaming in early 1993, the Government had requested that Natives create one body which would speak on behalf of Native people in regards to casino gambling. As in Saskatchewan, this served as a social control mechanism for the Government because it is easier for the Government to set the agenda when they are speaking with one Native body as opposed to several. Furthermore, the Government knew that it was unlikely that the Chiefs of Alberta would agree on the creation of such a body and this could be used to discredit the Native community and their casino gambling aspirations. Alvin Manitopyes, a Native Gaming Consultant stated that, there was never much support amongst Native leaders for this type of body. That is, Native leaders felt that individually their bands would lose power. The distrust within the Alberta Native community exists particularly between the Treaty six and Treaty seven bands. It was this conflict that led to the virtual demise of the Indian Association of Alberta.

Furthermore, bands such as Louis Bull, Enoch and Tsuu T'ina definitely would not surrender their control over the casino issue.

However, in response to the Government's demands several Treaty Six bands formed the First Nations Gaming Congress in August 1995. Willie Littlechild, a lawyer and former Progressive Conservative Member of Parliament representing the Wetaskiwin constituency, was named as head of the Congress. However, the Congress only represented the Emerskin, Louis Bull and Samson bands. The main roles of both the Congress and Littlechild was the social construction of reality, via the media, regarding Native casino gambling. Native casino gambling policy had not been in the media for several months and it appeared that the Government was not anxious to resolve the issue. Savage-Hughes and Taras (1992:215) maintained that "media crises can have a dramatic effect on the behaviour of decision-makers". To be sure, several Native leaders, including Chief Howard Peacock and Chief Jonathan Bull, felt that Native casino gambling should be back on the agenda (Chiefs' Summit II minutes). However, Littlechild did not demand that the provincial government change the existing policy in order to allow Native casinos; rather, he framed the Native casino gambling as an economic equality issue. On August 25, 1995 Littlechild held a news conference and announced that Alberta bands would be asking the provincial government for approximately \$100 million in exchange for

staying out of the gambling industry. Littlechild suggested that if the Government "[does not] want [Natives] to build casinos... then give us a share of what we put into the provincial coffers." The sum of \$100 million was calculated by estimating the amount that Native people in Alberta spend on gambling annually. According to Littlechild the amount that Native people get back in "grants from the Gaming Commission" does not come close to the \$100 million amount (Calgary Herald, August 26, 1995).

In other words, the Congress became the agenda setting mechanism for Native leaders with regard to casino gambling. However, the Congress was not well organized because Littlechild was still maintaining his law practice and had little time to devote to Congress issues. The relative ineffectiveness of the Congress was exacerbated when Littlechild became ill and took a hiatus from his practice and the First Nations Gaming Congress. The rapid rate of the policy process meant that the First Nations Gaming Congress was losing its legitimacy and was terminated at this time.

7.14 THE TSUU T'INA PLEBESCITE

Although the Louis Bull and Enoch bands were poised to develop an on-reserve casino, by this time Tsuu T'ina was the band that was most vigorously pursuing a casino development. Once the discussions of a casino project by the Tsuu T'ina

became more than a fleeting idea, several band members voiced their concern over the proposed development. Much of the concern was tied to the Manywounds financial mismanagement/misappropriation of funds scandal in late 1994 and early 1995. Moreover, the Native community has placed emphasis on the concept of consensus with regard to controversial band issues. Chief Whitney maintained that band leaders must respect the feelings of all Tsuu T'ina members and obey their political traditions. That is, "We [Tsuu T'ina leaders] want to create an image of being business people and not of being in it [the casino business] just for a fast dollar." This prompted the call for a band plebescite on casino gambling. A plebescite not only fulfilled democratic principles of consent, it was also used as a legitimacy tool.

The plebescite question asked members if they were in favour of the proposed for-profit casino and hotel complex along with a film studio and sports facility to be built on Tsuu T'ina reserve land. Band leaders decided that the plebescite should include the larger economic development initiative that the band was proposing rather than just questioning the role of a casino. Nevertheless, one band member stated that both band leaders and members recognized the plebescite really concerned the casino issue.

Originally the plebescite was to be held on April 27, 1995; however, band leaders recognized that the vote would be very close and that a clear consensus would not be achieved.

As such, they delayed the plebescite until August 1995. At this time, band leaders determined that support for the proposal would not be achieved and again they delayed the vote. According to one band member, band leaders delayed the plebescite and petitioned members until a vote which rendered approximately 80 percent support could be achieved. This would facilitate their notion of consensus and strongly demonstrate that their proposal had member support. Finally, the plebescite was secretly held on December 18, 1995. However, the results were not released until Calgary Alderman Barry Erskine disclosed the rumour that reserve members supported the proposal by plebescite to the media in January, 1996. In the end the Tsuu T'ina band members voted 73 percent in favour of the proposal. However, band leaders did not comment on any proposal details and the plans to implement the proposal until they had a meeting with Klein. On January 29, 1996 Chief Whitney and the Tsuu T'ina band council met with Klein and Gordon. According to Klein there was "agreement that casino size, location, construction dates, and revenue-sharing possibilities still needed to be discussed" (Calgary Herald, January 30, 1996). Furthermore, Chief Whitney promised that

we [Tsuu T'ina band] want to work in conjunction with all communities. Certainly we are not hard people to get along with... It's in our best interests that we attempt to address these concerns. (Calgary Herald, January 30, 1996)

7.15 THE LOTTERIES REVIEW COMMITTEE REPORT

As suggested earlier, the members of the Native Gaming Committee consisted of the Members of the Legislative Assembly on the Lotteries Review Committee. The Lotteries Review Committee made several recommendations regarding all aspects of gambling; however, it excluded any matters directly pertaining to Native casino gambling. The *Edmonton Journal* stated that

If anyone wanted to see what a real public consultation looks like... the lottery review committee makes a pretty good example. One way you could tell this was a real grassroots meeting was the equal time allowed for different viewpoints" (February 18, 1995).

Although differing viewpoints were expressed during the Committee's public hearings it was apparent that those groups and individuals that were opposed to for-profit casino gambling far exceeded those in favour of this type of casino model.

The Report and Recommendations of the Lotteries Review Committee was released on August 31, 1995. The Report stated that

while the review process was open to all Albertans, the vast majority of respondents at public hearings and in written submissions were from interest groups and organizations currently receiving lottery funding. (Report and Recommendations of the Lotteries Review Committee, 1995:4)

Casino gambling and the revenue it generated had become issues

of contested terrain. The charitable, religious and sport groups that currently received funding wanted the "charity casino only" policy to remain. Specifically, most of the presentations by individuals representing charity groups in the Lotteries Review Committee hearings felt that any type of "for-profit" casino gambling would seriously erode their funding. The hearings became a way for the charity groups, via the media, to claim casino gambling as their domain. This claim allowed the Government to situate casino gambling as the sole responsibility of charity funding. This allowed the Government to save considerable monies while furthering their endorsement of "small government". The importance and the obvious sensitivity of the current charity only casino policy meant the Lotteries Review Committee Report was sent to several key Departments and the Cabinet for revisions before it was released. In the end, the Report stated that in the hearing process, 89 percent of respondents objected to a "for-profit" (e.g., Native) casino gambling industry and on this basis the recommendations called for the continued licensing of charity casinos and the further restriction of "for-profit" casinos. Kowalski stated that by maintaining the current "charity casino only" gambling policy the Government was able to please the massive number of charitable and religious organizations. This was important, as Campbell and Ponting (1983:8) declared, because "many of the members of these civic and charitable organizations were themselves active in the

Progressive Conservative Party."

7.16 THE NATIVE GAMING COMMITTEE REPORT

After the release of the Lotteries Review Committee Report (1995) there was considerable anticipation by Natives, the casino gambling industry, and the charities in Alberta for the release of the Native Gaming Committee Report. Initially, the Native Gaming Committee Report was to be released at the end of November 1995. When it was not released at that time the Committee stated the Report would be released by the end of December 1995. Again, the Report was not distributed and the release date was moved back to the end of January 1996. When, for the third time, the Report was not released the Committee declared that it would not be ready until April 1996. This demonstrates that the Government utilized delay tactics in order to employ every available piece of information. Specifically, Murray Smith suggested the Government was waiting for the Supreme Court of Canada ruling *R. v. Pamajewon* which was scheduled for release in late February 1996. The outcome of *Pamajewon* would provide the Government with more information as to Natives' argument that they have the constitutional right to establish a casino industry!

However, several Chiefs felt that there were two likely reasons for the delay. The first was that Klein had asked

Chief Whitney of the Tsuu T'ina band to delay any negotiations with the Government with regard to casino gambling so that it would not impede with the provincial election slated for the spring of 1997. The second reason was that Government was allowing potential for-profit casino developers such as the Calgary Stampede and Edmonton Klondike an opportunity to become established in a "Las Vegas-style" for-profit gambling market (Chiefs' Summit II minutes). That is, recommendations from the Lotteries Review Committee called for the transfer of video lottery terminals from bars and lounges with more than ten machines to the existing casinos. This made the existing charity and exhibition casinos much closer to "Las Vegas-style" casinos and more attractive to the gambling public. Although neither of these suspected reasons could be substantiated it demonstrates that there was considerable distrust by Native leaders towards the Government in regards to casino gambling policy.

Once the Department of Aboriginal Affairs and Steve West were satisfied with the Native Gaming Committee Report the Government recognized that they could no longer delay its release. As such, the Government called all interested Chiefs to the Legislature Building for a meeting with the Native Gaming Committee and Steve West at noon on April 18, 1996 for "final input" on the Report. However, immediately after this brief meeting, a news conference was scheduled and the Report was released. This revealed that the Government did not seek

the Chiefs" "final input" rather they wanted to give the impression at the news conference that the Chiefs were privy to, and involved in, the Report's recommendations. In fact, when several Chiefs at the news conference were asked for their comments on the Report they declined to comment and stated that they would respond once they talked to their advisors. Again, this suggests that at this time the Chiefs did not have any clear indication from the Government on what the Report recommended. This also provides further evidence that the Government was committed to at least the appearance of a consultative approach throughout the policy process. In other words, the Government was always observing the concepts of responsiveness and consultation.

During the news conference in which the Report was released Klein again contradicted himself in regard to provincial government authority on reserves and the Government's relationship with Native people. First Klein stated that:

We [the provincial government] have a memoranda [sic] of understanding with various First Nations and treaty areas saying that we will deal with these as nations to government.

However, then he declared:

Indian reservations [sic] are not a formal government in the sense of a municipal government, a provincial government or a federal government.

This last statement also contradicts Klein's statement at the Chiefs' Summit II when he declared that they "recognize the

inherent right of Alberta Indian Nations to self-government".

It would appear as though the Government recognized that the Report only provided recommendations and that the final policy would be negotiated with Native leaders.

The main recommendation of the Native Gaming Committee Report was that "First Nations casinos must be government regulated and retain their non-profit, charitable status." (Native Gaming Report, 1996:16). The Committee recommended that Natives be allowed to develop four casinos on reserves in Alberta; however, they must be charity casinos with 40 percent of revenue going to Native charities, 10 percent of revenue to a First Nations' trust fund that would be pooled and shared amongst all Alberta bands, and the remaining 50 percent of revenue going to the casino management/casino operator company. These casinos would then be subjected to the licensing and operating regulations as specified by the Alberta Gaming and Liquor Commission. The recommendations ostensibly excluded Native owned and operated companies from managing and operating these charity casinos because the Report stated that

All management fees must be approved by the province. The Casino Management Company must be approved by and registered with the Alberta Gaming and Liquor Commission (p. 17).

This demonstrates social control through regulation. That is, even though the provincial government does not have jurisdiction on reserve lands they maintain that a casino must

comply with provincial government regulations.

The Report recommendations do not fulfil any of the requested necessary policy changes by Native leaders for a for-profit on-reserve casino industry. Moreover, the recommended policy does not conform with the Government's philosophy of free enterprise. However, the recommendations do correspond to the opinions of a majority of Albertans. In this regard, the Committee and, therefore, the Government was very sensitive to the public and the charities that supported the current charity casino policy. This suggests that the issues of jurisdiction, sovereignty, Native self-government, as well as free enterprise were not regarded as important to the Committee and the Government.

When Native leaders examined the Native Gaming Committee Report there was considerable concern over the recommendations. Gregg Smith, Executive Director of Treaty Seven Tribal Council, stated that the Report was considered a starting point and that negotiations with the provincial government were not over. Moreover, he maintained that Natives would proceed with casino development plans regardless of what the Government Report recommends. In other words, the Native Gaming Committee Report not only laid the Government's framework for a policy, it marked the beginning of intense negotiations between Native leaders and the provincial government. Native leaders recognized that they would have to develop a model or a revised model in which an agreement could

be negotiated. Contradicting his earlier comments, Chief Whitney of the Tsuu T'ina band suggested that Native leaders should employ the Saskatchewan model as a framework for negotiations with the provincial government. The Government declared that the negotiation process with Native leaders would occur immediately after the Native Gaming Committee Report was released. West stated that "... I don't expect a long term dissertation. I think that we'll be on the decks quickly." After the Report was released, West clarified that the ensuing six week period would be set aside for discussions with Native leaders, then, at the conclusion of that time frame the Government would officially adopt a policy.

The six week time frame passed and negotiations between Native leaders and the provincial government continued. In late June, 1996, the Government announced that the Enoch band was the only band in Alberta in negotiation with the Government with regard to a casino that complies with the recommendations in the Native Gaming Committee Report. Since June, 1996, there have been no talks or major events between Natives and the Government. However, some Natives declared that they will approach the Government once the provincial election is called in the hopes of establishing a casino industry if the Klein government is re-elected.

7.17 WAS THE POLICY PROCESS AD HOC?

This chapter has reconstructed the Native casino gambling policy process to date in Alberta. In so doing, it was demonstrated that the Government perceived Native casino gambling policy differently than other policy areas. That is, the Government has demonstrated ideological inconsistency by being a strong proponent of free enterprise in other policy areas but not in regard to casino gambling. Furthermore, the comprehensive policy goal of government downsizing was not interpreted as being compatible with Native casino gambling policy. As such, the Government had no specific policy goals regarding Native casino gambling. At the same time, the Government has not commissioned expert reports on any aspects of a Native casino gambling policy. Rather, there was a commitment to the consultative process through bodies such as the Lotteries Review Committee. Throughout the policy process there has been disagreement and contradiction between Government policy makers and other caucus members over this issue which demonstrated that a "team approach" has not been advocated by the Klein administration. Finally, the Government has not conducted any research to anticipate the effects of the different policy choices regarding Native casino gambling. These findings suggest that none of the elements of a rational policy making model as specified by Lindblom (1968) have been employed by the Klein government.

As such, the Government has taken an *ad hoc* approach in the Native casino gambling process.

CHAPTER EIGHT

THE ALBERTA AND SASKATCHEWAN POLICY PROCESS COMPARED

8.1 INTRODUCTION

Thus far, the creation of the Alberta Native casino gambling policy has differed from the Saskatchewan process. The contrasting political organization of the Native communities, interest groups, and the ideological dispositions of each provincial government led to different events in the policy process. Nevertheless, there were some similar aspects of the policy process. This chapter will examine the similarities, then the differences, between these provinces' policy process at the meso, micro and macro levels of analyses. The comparative examination is organized by level of analysis in order to test the hypotheses which were established from rational choice theory. The information gathered from testing the hypotheses will aid in the explanation of the Native casino gambling policy process in these provinces.

Additionally, this chapter will argue that examining the Native casino gambling policy process in Alberta and Saskatchewan by level of analyses illustrates three sociological phases. That is, at each level of analysis the policy process in both provinces consisted of a series of

common situations, events and, in some cases, resolutions. However, it must be recognized that these sociological phases are conceptual phases which occurred sequentially, not in a temporal vacuum. As such, they were prolonged phases that were, at times, occurring concurrently.

8.2 CAUSALITY IN THE POLICY PROCESS

As suggested in Chapter five, causal explanation is one of the goals of this analysis. Causal explanation in social research is a difficult task. The criteria for causality (as outlined in Chapter five) in many cases are difficult to achieve. Although there are many problems with regard to causal explanation in this type of analysis, with the proper precautions a case can be made.

Mill's method of agreement and difference is the most powerful manner in which to determine causality; however, Ragin (1987:25) warned about multiple causation and conjunctural causation. Multiple causation is defined as a situation in which "several different combinations of conditions produce the same outcome" (Ragin, 1987:xii). That is, there is multiple paths to a common outcome. Conjunctural causation is designated as the "intersection of a set of (conditions in time and space" (Ragin, 1987:25). That is, the combination of causal factors.

Managing multiple causation is not possible unless "all

cases (or almost all) - the universe - of the phenomenon in question may be examined" (Orloff, 1993:31). However, Orloff (1993:31) provides "a way of coping with...conjunctural causation". Specifically, she explains the "methodological strategy that Theda Skocpol and I (1984) pursued in our article comparing policy outcomes in turn-of-the-century Britain and America" provides a means of managing conjunctural causation and a comparable example for this study. After employing commonly hypothesized causal factors these authors

looked for additional causal factors that could differentiate between the two cases and found that variation in the character and capacity of state and political institutions was associated with the different policy outcomes (Orloff, 1993:32).

The "variation in the character and capacity of state and political institutions" is also an important factor in this analysis. In this regard, these factors will be examined in the forthcoming analysis.

As Kiser and Hechter (1991:5) stated "a complete mechanism must specify a mechanism that describes the process by which one variable influences the other". Theoretically derived causal mechanisms avoid the problems levelled at Skocpol's (1979) work which inductively generated causal links on revolutions. That is, by employing rational choice theory and paying attention to the temporal sequencing of the policy events in these provinces (see Tables 5.1 and 6.1) a case for causal explanation can be made. Moreover, the testing of the

theoretically derived hypotheses facilitates the causal explanation. A more detailed examination of actual causal mechanisms in the policy process will appear at the end of this analysis.

8.3 THE MESO LEVEL OF ANALYSIS

8.4 BUREAUCRATIC POLITICS

The meso level of analysis in public policy corresponds to the relationship between the bureaucratic structure of the state and the ruling partisan government (e.g., the bureaucratic politics in policy making) (see Schultz, 1980). This level of analysis is examined first because it uncovers "the variation in the character and capacity of state and political institutions" (Orloff, 1993:32). That is, the power of, and within, the bureaucracy that is the sociological basis to the examination of the meso level of analysis.

To Weber, "it is the rationalized bureaucracies that have become the key players in the power struggle" (Grabb, 1990:65). Grabb (1990:66) further states "among the most crucial structures for Weber is the interrelated set of 'public organizations' that make up the modern state:...the judicial and executive branches of government, the civil service bureaucracies". Weber is concerned about the power of

bureaucracies and their officials found in the state, according to Grabb (1990:68), because "government bureaucracy is also a hierarchy of authority, influence, experience, and expertise." As such, the government bureaucracy represents what Weber called "enduring structures of domination" (Weber, 1922:972-975).

The common bureaucratic event that took place during the policy process in these provinces was the amalgamation of the regulation of gambling and alcohol. Although this amalgamation was part of the downsizing efforts of both provincial governments it also represented policy homogenization. That is, the policy domain of the licensing and regulatory aspects of gambling and alcohol were seen by both governments as complementary; therefore, leading to a larger and more powerful bureaucratic agency according to Nystuen and Thomson in Saskatchewan and Taylor in Alberta. This link may also be attributed to the gradual liberalization of both policy areas in the past thirty years. In Saskatchewan, Lautermilch made the direct comparison of casino gambling liberalization to the liberalization of alcohol regulation in the first half of this century. While this direct connection was never made by elected officials in Alberta, the bureaucracy had essentially been reduced and amalgamated under Klein so that both liquor and gambling officials made up the new department designated the Alberta Gaming and Liquor Commission.

Moreover, these regulatory bodies were employed as screening mechanisms by both provincial governments in the policy process. Specifically, the Saskatchewan Liquor and Gaming Authority and the Alberta Gaming and Liquor Commission met with Native leaders and heard their casino proposals prior to the Government developing a policy. These bodies also served as the regulator of casinos, both on and off reserves. In Saskatchewan, all electronic gaming devices in casinos, as stated in both Agreements, are the responsibility of the Liquor and Gaming Authority. Similarly, in Alberta the Recommendations of the Native Gaming Committee maintained that Native charity casinos will be owned and/or regulated by the Gaming and Liquor Commission.

8.5 THE POWERFUL DEPARTMENTS

In all governments there is a hierarchy of departments that have the most power in influencing policy. In Saskatchewan, the Cabinet made most of the major decisions but the bureaucracy played an important role in the development and negotiation of the policy. The goals of revenue and control and regulation dictated, as discussed in Chapter six, that the Department of Finance, the Treasury Board, the Liquor and Gaming Authority, and the Department of Justice played significant roles. The Treasury Board, and the affiliated Department of Finance, had the most power in negotiation of an

Agreement at the beginning of the policy process because drafts of an agreement were examined by the Treasury Board. According to Thomson this was because revenue creation was the Romanow Government's most important policy goal. The Liquor and Gaming Authority and the Department of Justice also contributed to the policy negotiation in the area of licensing and regulation. The Casino Expansion Policy document declared that "all casino projects will be subject to provincial licensing and regulation within the limits of the Criminal Code of Canada." According to Lawton, Assistant Deputy Minister, the Saskatchewan Indian and Metis Affairs Secretariat was not an important department in the developing of the policy goals or the negotiation of the first Agreement. He further suggested that the issues of Native sovereignty and jurisdiction on reserve land was not a particularly important issue to the Romanow government probably because casino locations were to be limited to Regina and Saskatoon. However, the power of Saskatchewan Indian and Metis Affairs Secretariat was elevated during the negotiation of the second Agreement because according to this agreement casinos could be developed on reserve land thereby making the issues of jurisdiction and sovereignty salient. In this regard, the contribution of the bureaucracy and the amount of power they had was directly related to the Government's policy goals. Overall, based on the ranking of the policy goals the Department of Finance and the Treasury Board had the most

power, followed by the Department of Justice and the Liquor and Gaming Authority and Saskatchewan Indian and Metis Affairs Secretariat with the least input of the departments involved.

In contrast to the role that the bureaucracy played in the Saskatchewan policy process, the bureaucracy in Alberta has not played a significant role. According to Ghostkeeper, only the Department of Aboriginal Affairs had any meaningful role in the policy process. He stated, the intended location of casinos on reserve lands meant that "the issue of jurisdiction was of utmost importance." According to Kowalski, ~~when~~ he was the Minister Responsible for Lotteries, ~~the Gaming Commission~~, the bureaucracy, had little effect on casino gambling policy. However, this appears to have changed somewhat under West. When West created the amalgamated Gaming and Liquor Commission and brought in King as the Chair, Kowalski stated "it appeared as though some direction was coming from the Gaming and Liquor Commission by way of the Native Gaming Commission."

However, Kowalski and Smith maintained the Department of Finance and the Treasury Board played a relatively minor role because charity casino gambling had generated little government revenue. That is, the taxation of a for-profit casino industry, both Native and non-Native, according to projections by the Gaming and Liquor Commission would be regarded as a minor revenue generator. The taxation of for-profit casinos in Alberta would generate relatively small

amounts of revenue for the Government compared to the revenue that the Crown owned casino generated in Saskatchewan. Furthermore, programs such as the video lottery terminal program brought in considerably more revenue for the provincial government than charity casino gambling ever had. As such, the Treasury Board has not been significantly involved in the policy process.

Smith maintained the caucus will make the final policy decision based on recommendations from the Appropriations and Planning Committee with regard to Native casino gambling in Alberta. The Appropriations and Planning Committee is the Equivalent to the Planning and Priorities Committee in Saskatchewan. In Smith's words, "caucus members democratically determine all public policies in the Klein government but the bureaucracy has input into the political feasibility of a policy." This explains the lack of policy goals outside their commitment to government downsizing as well as the relative lack of power by the bureaucracy in the Klein administration compared to the Romanow Government. In contrast, the caucus in Saskatchewan played a minor role in the policy process. As stated in Chapter six, caucus members were expected to support the Government's policy goals and decisions even if they did not personally agree.

The most important role of any government body throughout the policy process in Alberta has been the Native Gaming Committee. In other words, a nonbureaucratic structure to

date has had the most power in the Alberta Native casino gambling policy process.

8.6 THE POLITICAL CULTURE OF ALBERTA AND SASKATCHEWAN

The political culture of Alberta and Saskatchewan are historically rooted in the dominant political movements of this century as well as their elected provincial governments. In Saskatchewan, the 1944 election of the Co-operative Commonwealth Federation (C.C.F.) resulted in the emergence of the first social democratic government in North America. Based on social democratic political ideologies, the early Co-operative Commonwealth Federation governments under Premier Tommy Douglas developed large bureaucracies with an obvious preference for Crown corporations. When the Co-operative Commonwealth Federation and the Canadian Labour Congress merged to become the New Democratic Party in 1961, the belief in a large bureaucracy and Crown corporations remained. Although the Romanow government's ideologies were more "pro-business" (see Harding, 1995), particularly with regard to the economic policy of previous New Democratic Party governments, the historical precedent of Crown corporations and a large bureaucratic structure became the tools for their policy goals.

In Alberta, the Social Credit Party under the leadership of William Aberhart, and later Ernest Manning, was the

dominant provincial government in Alberta from the early part of this century until the late 1960s. The common element that the Social Credit Party had with the Co-operative Commonwealth Federation was they were both grassroots movements that were based in agrarian politics which acted as "political vehicles of the farming petit bourgeoisie" (Laycock, 1990:425). Nevertheless, the basis of the Social Credit government was rooted in moral and economic conservative ideologies (Pal, 1992:1-3). As such, there has been a climate of free enterprise emanating from the provincial government since early Social Credit governments and its successor Progressive Conservative governments (Pal, 1992). In this regard, and in contrast to Saskatchewan, historically there has been an unwillingness to utilize Crown corporations as a policy vehicle in Alberta (Richards and Pratt, 1979). At the same time, the dominant political ideology in Alberta frowned upon "big government" (i.e., big bureaucracy). In other words, in the past fifty years the bureaucracy has always been larger and more instrumental in policy construction in Saskatchewan than in Alberta.

Overall, the political culture of these provinces has led to the dichotomy of big bureaucracy versus little bureaucracy. By identifying the systems of governance of each province the ideological history of policy making is uncovered. However, to understand fully contemporary policy making in these provinces, the ideological system of governance of the current

government's needs to be uncovered (Orloff, 1993).

8.7 THE GOVERNMENTS' IDEOLOGICAL SYSTEM OF GOVERNANCE

In Saskatchewan, Harding (1995:413-414) has described the Saskatchewan government as "deal makers" and "Romanow as a political tactician" that employed a state planning approach to governing. Laycock (1990:179) declared that technocracies "viewed 'social' or state planning as a positive force in itself, with ...scientific credentials". To be sure, the Saskatchewan government was concerned with the maximization of their policy goals as well as the utilization of experts, such as the Fox Group, Dickinson and Eadington, in the Native casino gambling policy process. Moreover, Laycock (1990) maintains that social democratic governments in Saskatchewan have always been technocracies. In so doing, Laycock (1990) declared

Realistically, however, the relevant cases of technocratic state action under social democratic governments involve planners establishing both priorities and methods that have a "higher authority" than those presented by popular organizations of "the people". This is not to suggest that social democratic governments suspend elections or ignore party programs. Rather, the "higher authority" of the planners is connected with definitive standards set for determining policies. (Laycock, 1990:180)

Therefore, Laycock's explication that technocracies are established on "higher authority" expert planners within the bureaucracy, such as the Treasury Board and Department of

Finance, that are concerned about "maximizing goals" demonstrates that the Romanow government employed a technocratic approach in regards to Native casino gambling policy.

In contrast, the Klein government in Alberta has been labelled as populist (see Denis, 1995; Harrison and Krahn, 1995). The defining feature of a populist government is the widespread acceptance of their "ideological ordering of political and social facts" (Laycock: 1990:18). That is, "populism never displaces... conservatism as the ideological backbone" of a government (Laycock, 1990:19). To be sure, the political support that Albertans have provided the Klein government is unequalled in contemporary western liberal democracies. According to Laycock (1990:19), the public's faith in a populist government is maintained by the "open and egalitarian organization of meetings, offices, and activities". Again, this has been a characteristic feature of the Klein government in the Native casino gambling policy process as witnessed by the Native Gaming Commission and the Lotteries Review Commission hearings but also in the allocation of surplus revenue.

Additionally, Laclau (1977) declared that populist governments

pay little attention to social-structural causes of the people's subordination, often concentrating on a single policy issue without demonstrating what it is systematic of (Laycock, 1990:17).

That is, populist governments do not have an overarching set of policy goals which can be applied to all public policy areas - including social and economic policy. This usually means that political principles and proposals of populist governments

[are] integrated into a structure of meanings and connotative associations existing in 'the people's' historical experience. The point of these efforts is to incline supporters to accept a particular logic of political action and social change. (Laycock, 1990:18)

That is, populist governments usually "adopt a cause" to which a majority of the public associate. This provides the public with a feeling of political efficacy while "ensuring supporters acceptance of the validity of their alternative political project." (Laycock, 1990:18-19). The Klein government's "cause" has been the opposition to "big government" which has caused the deficit and debt problem. Hence, the only policy goal of the Klein government has been deficit reduction through the downsizing of the government.

As such, Denis (1995:374) declared, "populism is, indeed, a signal characteristic of politics under Ralph Klein." However, "Klein's populism has been distinctly geared to the libertarian impulses of Alberta's right-wingers rather than to

their churchgoing morals⁴³" (Denis, 1995:374). This conclusion about Klein's "cowboy libertarian brand of populism" can also be supported with regard to the creation of Native casino gambling policy. This strategy was substantiated by Ian Taylor, former Executive Director of the Alberta Gaming Commission, when he stated that "the Klein government did not have any policy goals" in regard to Native casino gambling policy. The Native Gaming Review Committee and the bureaucracy were not specifically concerned with the moral issues surrounding casino gambling, rather, they were concerned about alienating a significant number of the public, many of whom tended to support the Alberta Progressive Conservative Party, that benefitted economically from current charity casino gambling policy. This public consultation approach to public policy was also demonstrated by the Klein government's 1996 "Reinvesting in Alberta" campaign. Prior to the 1996, budget the Government sent a booklet to Albertans outlining their balanced budget plans along with a questionnaire asking them what the Government should do with surplus funds. In other words, the bureaucracy in Alberta has had a minor role in the creation of public policy.

⁴³ Both Denis (1995) and Harrison and Krahn (1995) suggested that Christian/moral conservatism is the basis of the Reform Party and Preston Manning's political ideology not Klein's Progressive Conservative Party.

The libertarian populist⁴⁴ label of the Klein government can be further supported by the expansion policy of the video lottery terminal program. Specifically, Alberta voters did not strongly oppose video lottery terminals on economic grounds because they did not significantly effect the majority of them, rather, any opposition was moral opposition. In other words, the video lottery terminal program generated significant government revenue without economic impact on the majority of the public. Again, this demonstrates that the Klein government was based within economic conservatism⁴⁵ rather than moral conservatism. That is, these policy changes did fulfil the Klein government's mandate of downsizing government and generating government revenue while keeping the economic conservative elements satisfied and not offending the majority of the public. Overall, the Klein government has consciously satisfied the libertarian and economic features of their public policies rather than the moral aspects.

This issue provides a particularly challenging policy project to the Klein government because the libertarian principle of free enterprise favours a for-profit (e.g., Native) casino gambling industry while public consultation has

⁴⁴ Libertarian populism refers to economic conservatism and moral liberalism.

⁴⁵

Brodie (1996:5) referred to this as "the neo-liberal world view".

demonstrated that a for-profit casino industry is not wanted. This contradiction has led the Klein government to employ delay tactics in the Native casino gambling policy process so that it does not upset its populist principles. In other words, by not developing a policy the Government does not have to compromise public opinion or its belief in free enterprise. In the context of Native casino gambling policy, the rules for legitimizing policy making by these contrasting ideological styles of government must be examined.

8.8 THE ROLE OF LEGITIMACY

A public policy initiative is often dependent on other organizations for its legitimization and/or success. Moreover, political illegitimacy will stigmatize a policy (Leung, 1985). In other words, legitimacy is defined as "power that is justified through reference to accepted values and beliefs" (Perry and Seidler, 1973:213). Legitimacy for a policy is generated by eliciting support while isolating and neutralizing the opposition (Leung, 1985:97). In this regard, the formation of legitimacy usually occurs at the beginning of the policy process (Leung, 1985:96-98). As such, the disentangling of legitimacy is an important component of policy analysis (Doern and Phidd, 1992:79). As such, the legitimization of the Native casino gambling policy was carried out differently in Alberta and Saskatchewan.

8.8.1 SASKATCHEWAN

The process of legitimization has a close affinity to the values of the policy makers and the social construction of reality by the bureaucracy. (Leung, 1985). As such, the bureaucracy became the most effective legitimacy tool for the Government in Saskatchewan. According to Leung (1985:5), rational policy making is generally legitimated through "quantification... with stress on market values". However, they had to be careful not to make the policy appear as though it was solely a revenue generator for the Government and Native people. Therefore, the Department of Finance and the Saskatchewan Indian and Metis Affairs Secretariat joined forces to legitimize Native casino policy.

The first legitimizing element was demographic determinism. That is, the bureaucracy knew that currently Native people in Saskatchewan constitute approximately 14 percent of the population. This led Nyštuen, Chief Executive Officer of the Liquor and Gaming Authority, to declare to the media that "the reality is we have a very significant First Nations population in Saskatchewan". However, Natives are also the fastest growing segment of the province. Natives' high birth rate has led to projections which have estimated that the proportion of Natives in the province will climb to at least 20 percent by 2010. This information alone was not meaningful until it was coupled with the issue of the high

rate of Native unemployment and welfare along with the overall economic disadvantage of Native people. In other words, the Department of Finance maintained that getting Natives involved in a casino industry was a necessary economic strategy by the Government. That is, the bureaucracy was utilized to warn the province via the media that if the Native community did not establish some type of economic ventures there would be a fiscal crisis of the state in the future. Casino revenue was then portrayed as a essential mechanism for "seed money" for Native economic ventures.

The Department of Finance and the Treasury Board then had to demonstrate that revenue could be generated by casino gambling. Therefore, upon recommendation from the Department of Finance and the Treasury Board, the Fox Report was commissioned to determine revenue expectations. When the validity of this report was questioned a second legitimacy tool was necessary and the New Democratic Party commissioned the Eadington Report.

The second bureaucratic means of legitimization was based on the issues of Native sovereignty and provincial government jurisdiction on reserve lands. This argument was forwarded by the Saskatchewan Indian and Metis Affairs Secretariat. Specifically, they asserted that Natives were proceeding to develop an industry with or without the Government's support; therefore, the Government should co-operate at this early stage of the policy process. Lautermilch maintained "You may

as well initiate it [Native casino gambling] and get on with it because at the end of the day that is where you will end up."

8.8.2 ALBERTA

As already suggested, the bureaucracy in Alberta did not play an important role in the policy process. The Department of Aboriginal Affairs and the Liquor and Gaming Commission were the only bureaucratic entities that were involved in the policy process. In contrast to the bureaucracy in Saskatchewan, none of these departments commissioned any research reports as legitimization tools. The nature of the research conducted by these bureaucratic structures was the querying of other jurisdictions with regard to their policy and how it effected that specific department. According to Kowalski and Ghostkeeper, the Department of Aboriginal Affairs in Alberta contacted officials in the federal Department of Indian and Northern Affairs and the Saskatchewan Indian and Metis Affairs Secretariat with regard to germane issues in this policy arena. Similarly, the Liquor and Gaming Commission examined the regulatory and licensing aspects of Native casino gambling in other jurisdictions. In other words, the bureaucracy in Alberta was utilized more as an information service for Cabinet Ministers, caucus members and members of the Native Gaming Commission with regard to similar

issues in other jurisdictions than as a developer or legitimizing mechanism of public policy.

Nonetheless, the foremost differentiation was that the Alberta Government acquired the legitimacy for their policy from the consultation of the public and affected interest groups. This was because Native casino gambling policy is inextricably linked to the larger issue of for-profit gambling policy. According to Darlene Dickinson, Communications Coordinator for the Alberta Liquor and Gaming Commission, all Government bureaucrats were instructed to reply to Native casino gambling questions by declaring "that the policy will be set after the release of the Native Gaming Commission Report". Moreover, Kwalski stated that Klein's response to the call for the Commission was a legitimacy mechanism. As such, the Lotteries Review Committee was the initial legitimating policy instrument employed by the Government. At the same time, the Native Gaming Committee also served as a legitimation instrument. That is, the Government obtained the legitimacy for its policy choices from the consultation of the general public and those groups and individuals directly affected by the policy.

Finally, the Native Gaming Committee Report declared the Government delayed the release of the Native Gaming Commission Report until the Ontario Court of Appeal case *R. v. Pamajewon* and the Supreme Court of Canada case of *R. v. Jones*. *R. v. Pamajewon* ruled that "the gambling prohibitions and licensing

schemes in the Criminal Code apply on aboriginal reserves just as they do everywhere else in the country" (Native Gaming Committee Report, 1996:4); whereas, R. v. Jones represented a challenge to charges laid with regard to an unlicensed bingo on reserve land under the Criminal Code of Canada. The basis of the appeal was that gaming on Native lands was protected under section 35 of the Constitution Act (1982). Kowalski stated the ruling in these cases would provide legitimacy to the policy in Alberta. Regardless what the Klein Government wanted the policy to assert, a policy was not going to be developed prior to these court decisions in the event the policy would have to be changed for constitutional reasons. That is, there was recognition by the Alberta government that a Native casino gambling policy would have to be legitimated but the mechanism of legitimacy was unclear.

Legitimacy is a feature of rational choice theory's notion of goal attainment. Specifically, rational policy making entails the ranking of goals and developing the "means" to achieve them. Governments regard the process of legitimization as one of the "means" to develop a policy (Leung, 1985). This is particularly the case when the policy topic is controversial like Native casino gambling. Therefore, the first phase of the Native casino gambling policy process in these provinces was the legitimacy phase. Although the way in which the Government's of Alberta and Saskatchewan established legitimacy was dissimilar, it was

apparent that the legitimization of this policy was necessary.

This finding of different legitimization techniques corresponds to Doern and Phidds' (1992:79) declaration of the three competing bases of legitimacy in Canadian public policy. Specifically, the Romanow government in Saskatchewan employed the bureaucracy and the commissioning of experts as a means to establish legitimacy quantitatively while Alberta employed a consultative mechanism that was based on the responsiveness of public policy as a legitimization instrument (Doern and Phidd, 1992:79-80). In this regard, the development of legitimacy is related to hypothesis two.

8.9 TESTING OF THE HYPOTHESIS

As suggested earlier, the hypotheses to be tested in this analysis correspond to the micro, meso and macro level of analysis. Specifically, the hypothesis to be tested at the meso level of analysis is: In Saskatchewan, the Native casino gambling policy process was not *ad hoc* while in Alberta the Native casino gambling policy process was *ad hoc*.

The Saskatchewan government's policy approach could be defined as technocratic and rational while the Alberta government's approach as populist and incremental. As such, I would fail to reject this hypothesis. In other words, the policy process in the populist Klein Government of Alberta was *ad hoc*, while the technocratic Saskatchewan government did not

employ an *ad hoc* policy process.

In the larger context, this finding does not support Campbell and Lowman's (1989) conclusion that gambling policy in Canada has "generally been lacking in rational and coherent planning". Clearly, this was not the case in Saskatchewan. In other words, the political and ideological characteristics of the provincial government were more important in determining the overall style of the policy process than the policy topic of Native casino gambling.

8.10 THE MICRO LEVEL OF ANALYSIS

8.11 THE ROLE OF LEADERSHIP

According to Campbell and Pal (1991) the issue of leadership is an important dimension of the policy process involving Natives in Canada. They defined leadership as "a creative capacity to deal with issues in a way that achieves resolution by somehow altering accepted views and assumptions... so much of it appears to be creative and hence unpredictable" (Campbell and Pal, 1991:329). In the Saskatchewan case, leadership played an instrumental role in the policy process. Specifically, Chief Roland Crowe of the Federation of Saskatchewan Indian Nations was the instrumental Native leader.

By virtue of his elected position, Chief Crowe was able to convince other Native leaders from the seven Tribal Councils that a negotiated deal could be reached with the Romanow government. Once this had been accomplished, he was able to negotiate and come to an agreement with the provincial government. However, the most prominent aspect of Chief Crowe's leadership revolved around the larger issues of sovereignty and jurisdiction. Specifically, he was concerned that an on-reserve casino industry would "invite the provincial government onto reserve lands". Chief Crowe felt that negotiating an on-reserve deal made Native people partners with the provincial government, and could be interpreted by the courts as granting the provincial government jurisdiction on reserve land. Therefore, he insisted that the preservation of jurisdiction on reserves along with the issues of sovereignty and the inherent right to self-government were more important than a casino industry. In this regard, Chief Crowe was only interested in a Native casino gambling industry if the casinos were not located on reserves. This led to the negotiated provision in the first Agreement which called for casinos in Regina and Saskatoon.

In so doing, Chief Crowe made it clear to both Native people and Government that revenue generation should not be the sole objective of a Native casino industry. When negotiating with government policy makers he declared he would

"drop the whole casino issue right now if they [the Government] would allocate two thousand government jobs⁴⁶ to Native people". This tactic demonstrated that Native employment and economic integration was more important than the accumulation of revenue from casino gambling. Although several provincial government policy makers were instrumental in the negotiation of the Agreements in Saskatchewan they were concerned with coming to a negotiated agreement rather than the alteration of "accepted views and assumptions" of leadership. As such, this type of "action" does not qualify as leadership according Campbell and Pal (1991).

In Alberta, the lack of a unifying Native body along with the individualistic political style of the Native community meant that an individual never seized the leadership role. Willie Littlechild and the First Nations Gaming Congress was an attempt at leadership; however, the limited participation of Alberta bands thwarted any attempt at leadership by this group. Moreover, the Congress was nothing more than a means to put Native casino gambling in the media spotlight by demanding \$100 million for Alberta Natives to stay out of the casino business. Consequently, with regard to casino gambling it appears as though leadership of the Alberta

⁴⁶ There has been considerable concern voiced with regard to casino jobs mainly because they are "part-time, low paying, with few benefits" (Edmonton Journal, Sept. 21, 1996:H1). There is also a corresponding argument that "in the long term" casino gambling will cost governments more that they will receive in revenue (see Goodman, 1994).

Native community will not come from a Chief or Native leader. In this regard, the Alberta Planning Chiefs and the First Nations Resource Centre are currently seeking advice in regards to the Alberta policy.

The Government of Alberta also has no distinct leader in regards to this policy area. It seemed as though the Government was developing the policy through the media. One could argue that perhaps at one time Kowalski represented leadership in this area for the Government; however, his demotion left the area of gambling policy in a vacuum. This lack of leadership can be demonstrated by the "recommendation only" power of the Lotteries Review Committee and the Native Gaming Committee. The Native Gaming Commission fulfilled the Government's populist requirement of public consultation without revealing lack of leadership or direction. However, the employment of the Native Gaming Commission as the mechanism to develop the Native casino gambling policy in Alberta was an illusion. As suggested earlier, the Native Gaming Commission served as a delay and legitimization mechanism in a policy arena with no leadership.

8.12 THE ROLE OF TRUST

In public policy arenas of contested terrain, such as Native issues, it is necessary for the participants involved to develop mutual trust and cooperation. Trust is

operationalized in this analysis as: when an individual declares confidence in another individual's actions and statements. The context of all Native public policy in Canada is steeped in past policy encounters between Native people and the Government. In this regard, Native leaders recall the broken promises of the federal and Quebec governments during the Lubicon dispute, the Oka crisis and other armed stand-offs. Additionally, Native people are still observing the delay tactics of the provincial governments during land claims negotiations to the point that they have little faith in any government (Campbell and Pal, 1991). As such, Native leaders in both provinces distrust government policy makers.

The distrust in Saskatchewan was initially apparent in the relationship between Native leaders and Janice MacKinnon, the Minister in Charge of Gaming. It continued during the provincial government sponsored raid on the Bear Claw casino. Specifically, the distrust revolved around the issue of jurisdiction. However, beyond this issue Native leaders felt that the raid was unnecessary and overtly violent. This led members of the Native community to threaten violent retaliation. At this time, there was considerable claims making and social construction of reality by both the Native leaders and the Government with regard to the raid. That is, Native leaders described the raid as excessive and military like, while the Government employed a law and order discourse campaign.

Furthermore, executive members of the Saskatchewan Liquor and Gaming Authority that were involved in the policy process consistently argued that Natives did not have any rights to casino gambling under Section 207 of the Criminal Code of Canada. Chief Crowe saw the role of these policy makers as the Government body that undermined Native rights and became the agents of social control. This added to the distrust Natives felt towards the Government and their policy making tactics.

There also was distrust at the onset of the policy process in Alberta. Natives' distrust was made apparent by the relative secrecy of their casino gambling plans. They were particularly reluctant to communicate any of their objectives to the Government. As such, the Enoch and Louis Bull bands signed an in-principle casino operation agreement with Jack Binion without the knowledge of any individuals in the Government. This lack of trust compelled Native leaders to spend considerable time and effort in cultivating a relationship with provincial government policy makers as witnessed by the number of meetings and the Chiefs' Summits. As such, initial discussions included Native self-government issues that appeared to be outside the policy area of casino gambling. After the Alberta Government had undermined the legitimacy of Native casinos, the policy process revolved around the discourse and definition of Native casino gambling. Specifically, Native leaders made the claim that Government

policy makers must recognize Native sovereignty and self-government as well as the absence of provincial government jurisdiction on reserve lands.

After West was appointed as The Minister Responsible for Lotteries, Gaming and Racing for Alberta, Natives grew more distrustful of the Government's policy intentions. That is, prior to the Cabinet shuffle, during the legitimacy phase, Kowalski and Klein took the position that the Native casino policy issue had to be resolved but they were sympathetic and open-minded to the issue on sovereignty and jurisdictional grounds. However, once West became the Minister, Native leaders felt that the Government was not open to the idea. Specifically, Native leaders felt that Klein was not as supportive of the legitimacy of Native casinos as he was earlier.

However, the initial distrust in both provinces did move towards a relationship of trust. In Saskatchewan, the formation of trust revolved around the personal relationship between Chief Crowe and Lautermilch. That is, when Chief Crowe became the Natives' negotiator there had been little progress in the negotiations. Nevertheless, Government policy makers had to reciprocate some amount of trust in the Native leadership. According to Crowe and Clayton, Lautermilch and Clayton developed a trust in Chief Crowe and his agenda prior to the first Agreement.

In Alberta, mutual trust was contingent upon the

Government policy makers' acceptance of the concepts of Native sovereignty and self-government. Native leaders felt it was necessary for them to get Klein and the other key Ministers to acknowledge these concepts. At the first Chiefs' Summit Native leaders chided Klein into acknowledging these concepts (Chiefs' Summit I Minutes). This led to the Understanding on First Nations - Alberta Relations which was signed at the second Chiefs' Summit. According to Gregg Smith, the signing of this formal Understanding was necessary for Native leaders to trust Klein because they did not trust Klein when he told them he would "back them" (i.e., Native casinos) in caucus.

However, Native leaders distrust of Klein and the Government policy makers reappeared when the Native Gaming Committee Report recommended a Native charity casino model under strict Government regulation. At this time, Kowalski stated that Government policy makers do not trust Native leaders because casinos, particularly if not regulated by the provincial government, are susceptible to organized crime. Hence, Government policy makers are reluctant to develop a policy allowing Native casinos that are sanctuaries for organized crime. This illustrates that the evolution of mutual trust has been attempted, but has not occurred in the Alberta policy process.

It is apparent in both of these cases that very little policy progress or negotiation has, or did, occur until the formation of mutual trust. This comparative examination of

micro level interactions in the policy process illustrates that the second phase of the Native casino gambling policy process was the trust building phase. Mutual trust between Native leaders and Government policy makers is a feature of rational choice theory's perspective on maximization of utility. Specifically, individuals act rationally to maximize utility in a policy situation if "selective incentives were necessary for individuals to lend support to interest groups" (Smith, 1985:132). In this regard, the formation of mutual trust in the policy process is directly related to the first hypotheses.

8.13 TESTING OF THE HYPOTHESIS

The hypothesis that corresponds to the micro level of analysis is: In Saskatchewan, a mutual trust between Native leadership and Government policy makers had to develop before there was policy progress while in Alberta a mutual trust between Natives and Government policy makers was not necessary for policy progress.

Based on the above discussion that identified the second phase of the policy process as the trust building phase I would reject this hypothesis. Mutual trust was important in the Saskatchewan policy process because mutual trust was seen as necessary for the Government to maximize utility (Lindblom, 1968; Smith, 1985). That is, the Government's policy

goals surrounding Native casino gambling would not have been achieved if an agreement with Natives was not achieved. Therefore, Lautermilch took the initiative and constructed a mutual trust between himself and Chief Crowe. Although mutual trust has not developed in Alberta it appears to be a meaningful variable in this province as well. To this point, Native leaders and Government policy makers do not trust one another in Alberta. That is, the Alberta Government has not fostered a mutual trust with Native leaders because the Government has no policy goals into which Native casino gambling fits. It remains to be seen if a policy can be established in Alberta without mutual trust.

In light of rejecting this hypothesis it is apparent that mutual trust is an important element in policy making process. This finding is consistent with other policy issues involving Native peoples such as the Oka crisis (see Campbell and Pal, 1991) and was particularly evident in the policy process in these provinces.

8.14 THE MACRO LEVEL OF ANALYSIS

Campbell and Pal (1991:329-330) maintained that the development of contemporary Native public policy is frequently considered by policy analysts as "decision-making in the here and now". This is particularly the case when examining a "new policy issue" such as Native casino gambling. There is a

perception that new public policy problems require new public policy solutions. It was the position of all of the Native casino gambling policy makers in Saskatchewan that the policy they developed represented a "paradigm shift" in Native public policy in Canada because Natives were partners in an economic venture with the Government. However, Campbell and Pal (1991) metaphorically described Native policy process as

something like a living tree of decisions made at each forking point, leading to narrower and narrower branches. Reversing policy at its later stages becomes increasingly difficult, since those later stages - with their constellations of political forces, issues, symbols, and language - are themselves shaped and made by earlier ones. (Campbell and Pal, 1991:328-329)

Specifically, Native public policy in Canada has not only been based on political decisions, but also upon judicial decisions. Arguably the most significant of these has been *Calder et al v. Attorney General of British Columbia* (1973) because it set the stage in allowing the issue of "aboriginal rights" to be entrenched in section 35 of the *Constitution Act* (1982). Nevertheless, since this decision public policy regarding Native issues has still been of a paternalistic nature (Wotherspoon and Satzewich, 1993). Paternalism, in this case, means that governments (either provincial or federal) maintain the authority to regulate and control the conduct of Native people. Therefore, the Governments of Alberta and Saskatchewan had situated the development of Native casino gambling in a paternalistic scheme that was consistent with

other policy areas involving Native people. In other words, the Native casino gambling policy process in Saskatchewan and Alberta symbolized the legacy of Native policy in Canada. If these macro level issues have shaped Native public policy then it is important to examine the role of macro level factors in the development of Native casino gambling policy.

8.15 JURISDICTION v. SOVEREIGNTY

Like most Native public policy issues, casino gambling in both provinces became an issue involving Native sovereignty. Native leaders in both provinces framed casino gambling within the domain of Natives' inherent right to self-government. Ironically, both provincial governments were publicly supportive of Native sovereignty and Native peoples inherent right to self-government but both provincial governments never considered casino gambling as a Native self-government issue. These provincial governments were content to accept this policy area as a jurisdictional issue rather than a sovereignty issue. Both Governments recognized they had more power and authority within the jurisdiction domain as opposed to the sovereignty domain which was preferred by Native leaders. According to Crawford and Thomson, Government of Saskatchewan policy makers quickly asserted that the policy regarding casino gambling "did not include other Native issues like health care, child services and welfare". That is, the

Government of Saskatchewan was not prepared to allow casino gambling to be the precedent for self-government issues. A similar strategy occurred in Alberta such that the Government seemingly supported Native self-government initiatives but, according to Tom Ghostkeeper, quickly framed the issue of Native casino gambling, via the Department of Aboriginal Affairs, as a jurisdictional issue. In this regard, both provincial governments quickly set the agenda into the contested terrain of the Criminal Code of Canada amendment which declared that all gambling licensing and regulation are the responsibility of the provinces.

Native casino gambling was also being framed by the courts throughout the policy process in both provinces. Specifically, the *Saskatchewan Court of Appeal* (1993) and the *Ontario Court of Appeal* (1994) ruled that the issue of Native casino gambling was not a legal issue rather it was a public policy issue that must be resolved by the provincial government and the Native people residing in that province. These court rulings essentially gave the provincial governments in Canada the authority they were looking for to assert their control over Native casino gambling. This added to the empowered position of the provincial governments. However, the Native leadership had not given up on the legal argument that section 35 of the *Constitution Act* (1982) provided Natives with the "inherent right to self-government" and, as such, the right to establish a casino gambling

industry. Therefore, the Federation of Saskatchewan Indian Nations and the Rama First Nations led the *Supreme Court of Canada* appeal of *R. v. Pamajewon* based on an earlier constitutionally grounded *Ontario Court of Appeal* ruling which declared that casino gambling at a Native destination for-profit casino was not a "traditional Native activity".

As such, in February 1996 the *Supreme Court* dismissed the Natives argument in *R. v. Pamajewon* with regard to Natives' constitutional right to develop casinos on reserve lands. There has been speculation that part of the grounds for this decision can be placed within the larger constitutional crisis in Canada. One can speculate that the *Supreme Court* Justices may have been reluctant to grant Natives a constitutional basis for a casino industry for fear that Quebec would have considered this as justification to appeal for the transfer of a number of federal responsibilities to the province of Quebec on constitutional grounds. This insensitivity⁴⁷ to Native issues by the *Supreme Court of Canada* has been documented since *Supreme Court* Justice Dickinson left his seat to be a member of the Royal Commission on Aboriginal People. As such, the legitimacy of Native self-government initiatives has been undermined in Canada since the lack of confirming *Supreme Court of Canada* rulings.

⁴⁷ The word insensitivity is meant in general rather than specific terms. This insensitivity by the *Supreme Court* parallels Boldt's (1994) view that Native policy issues are always grounded by the federal government in the "national interest" rather than in Native's interest.

8.16 OTHER STRUCTURAL INFLUENCES

To be sure, there were interest groups in both provinces that lobbied the Governments with regard to the framework and the elements contained within the policy. As already stated, interest groups had little effect on the policy process in Saskatchewan⁴⁴; however, in Alberta interest groups played a significant role in the policy process. This differentiation is based on the ideological system of governance employed by each provincial government. That is, the technocratic Romanow government in Saskatchewan was not overtly concerned with interest groups and public opinion while the populist Klein government in Alberta was responsive to interest groups and public opinion. However, the question remains as to the relative effect of each particular interest group, both for and against a Native casino industry, on each province's policy.

Interest groups that were proponents of a Native casino industry were mainly from the Native community. Although some Native people had reservations about a casino industry, most were supporters on the basis of sovereignty. However, it was the larger Native bands and organizations which provided most of the pressure on the Governments. In Saskatchewan, the

⁴⁴ This observation corresponds with Henrikssons' (1996) declaration that "poorly-funded coalition of church and citizens' groups that opposed the project [Vancouver Seaport casino] was easily labelled 'anti-jobs' and 'anti-tourism'....

White Bear band forced the Government into the development of a policy with the opening of the unlicensed Bear Claw casino. In Alberta, to date, there has not been a band like White Bear that has opened a casino; however, the Enoch and Louis Bull bands provided similar pressure on the Government by signing an agreement in-principle with Jack Binion. Nevertheless, it was the Tsuu T'ina band that provided the most pressure because they had an agreement in-principle with a casino operator but they also had member approval and appeared to be the most anxious to construct a casino. Since the member plebescite, the Tsuu T'ina band have represented a constant threat to open a casino on their reserve. In this regard, Tsuu T'ina was the Alberta band equivalent to White Bear in that they forced the Government into the policy process.

Similarly, the Federation of Saskatchewan Indian Nations was the overarching Native body in Saskatchewan while a comparable body does not exist in Alberta. The only body which represents Alberta Natives with regard to casino gambling policy is the First Nations Gaming Congress. However, as earlier suggested, this body did not represent all bands and, therefore, was not an effective lobbying group. There was also a strong non-Native lobby in Alberta. Specifically, the corporate entities that were interested in creating a for-profit casino industry in Alberta quietly, but effectively, supported the Native casino industry. In so doing, this corporate lobby recognized that the creation of a

Native casino gambling industry provided strong grounds for the creation of a non-Native or corporate for-profit casino industry. This lobby never existed in Saskatchewan for two reasons. First, Saskatchewan was never considered as lucrative a casino gambling market by the corporate community as was Alberta. Second, the ideological nature of the Saskatchewan government along with the provincial history of Crown corporations indicated to the corporate community that a Crown operated casino like the one in Windsor, Ontario would probably be the Romanow government's model. According to Lockert, this effectively obstructed all opportunities by the corporate community at casino ownership in Saskatchewan.

In contrast, to the proponent lobby there was a strong opposition lobby in both provinces; however, the basis of this counter lobby differed. The effectiveness of the opponent lobby was based upon the power they possessed. That is, those lobby groups that had more power had a greater effect on the policy. In Saskatchewan, there were two separate forces that opposed a Native casino gambling industry and, therefore, intensely lobbied the Government. The first was the urban exhibition association. The reason they were leading this lobby was because until this time exhibition associations had been the only benefactors of casino gambling in Saskatchewan. The second category of groups was the anti-gambling force headed by Citizens Against Gambling Expansion (CAGE). Furthermore, as Thomson stated, the Government's public

opinion research indicated that a majority of people favoured casinos, although not Native casinos. However, as already stated, this moral reform movement had very little power and, therefore, very little effect on the Saskatchewan policy. Specifically, the ineffectiveness of Citizens Against Gambling Expansion and the technocratic government meant that the Government did not let public opinion radically alter their policy objectives. Nevertheless, the urban exhibition associations possessed significantly more power and, therefore, effected the policy. As indicated in Chapter six, the exhibition associations lobbying efforts were supported by Liberal leader, Lynda Haverstock, during question period. In particular, they convincingly argued that their revenue would be eroded by casino expansion and, as such, they were successful in establishing access to revenue from the newly formed Native/government casino industry to maintain their current funding.

In Alberta, the opposition lobby differed significantly. Specifically, the urban exhibition associations were not as concerned as their Saskatchewan counterparts because they did not regard on-reserve casinos as a threat to their revenue base. The reason that Saskatchewan urban exhibition associations anticipated an erosion of their revenue was based on the location of Native casinos. That is, under the first Agreement in Saskatchewan the two proposed casinos were to be located in Regina and Saskatoon. This would be in direct

competition to the exhibition associations in these centres, whereas the urban exhibition associations in Alberta never felt threatened because if Native casinos were allowed to operate in Alberta there was a strong case, as Steve West acknowledged, in also permitting an expanded for-profit casino industry for non-Native interests. The municipal level governments have also had a small role with regard to opposing casinos. For example, Calgary city council did not approve zoning changes that would permit a proposed charity casino. The applicant has taken the city council to court over the matter because they believe that a decision was alleged to have taken place for moral rather than planning reasons. The court case is pending but there was speculation in the media that a similar tactic would be employed by the city council with regard to for-profit or Native casino applications.

In this regard, a policy which permitted a for-profit Native casino industry in Alberta had larger implications than in Saskatchewan because the Government of Saskatchewan, via the Gaming Crown Corporation, was the only other organization which could be involved under the policy. The political culture of these provinces essentially determined how the policy could be shaped and, consequently, the composition of the opposition lobby.

The main lobby opposing a Native casino gambling industry in Alberta was the charity groups that have benefitted from the existing casino gambling policy. This opposition was most

apparent during the Lottery Review Committee's public hearing when most of the 462 oral presenters represented charity groups opposed to both for-profit casino gambling and a Native casino industry. Although, early in the public hearing process it was announced that a separate report would be completed on Native gaming the majority of presenters still declared their opposition to a Native casino industry. This opposition by charity groups was also apparent by the media portrayal of this issue. As in other public policy issues in Alberta, the media decided when Native casino gambling policy received coverage (Savage-Hughes and Taras, 1992). The media also set the agenda by constructing Native casino gambling industry as the betrayal of the current charity casino policy (see Chapter seven). The basis for this opposition can be located in the loss of revenue that charities will encounter if a for-profit casino industry is permitted. Contrasting this economic opposition, groups that are socially and morally opposed to gambling have been vocal in their opposition to a Native casino gambling industry. They have based their arguments on the increased rate of problem gamblers in the Alberta Native community as reported by a 1995 Nechi Institute⁴⁹ report. Their opposition was grounded in the medical model but it exemplified the paternalistic approach towards Native issues. That is, Native people are not capable

⁴⁹ The Nechi Institute is an Alberta based Native addiction treatment and research organization.

of "controlling" themselves; therefore, they must be supervised at all times. Nevertheless, the moral and social opposition lobby in Alberta has not been a strong force in shaping the policy. An explanation for this is that the Klein administration has been, as Denis (1995:374) stated, "geared to the libertarian impulses of Alberta's right-wingers rather than to their churchgoing morals". Again, this illustrates the prominent role that the government's ideological systems of governance play in the policy process.

8.17 INSTITUTIONALIZATION

It is apparent that the Saskatchewan policy and the Alberta Native Gaming Committee's recommendations as well as the current negotiation process in Alberta have determined that the provincial governments are, or will be, the regulatory agency of any current or proposed Native casino industry in these provinces. The Alberta Liquor and Gaming Commission and the Saskatchewan Liquor and Gaming Authority ultimately are the Government regulatory bodies for Native casinos. This may seem unfounded in light of the second Agreement in Saskatchewan; however, closer scrutiny of this Agreement identifies the actual regulators. Under this Agreement, Saskatchewan Indian Gaming Licensing is an entity of the Federation of Saskatchewan Indian Nations that licenses Native casinos. Specifically, the Agreement declared that

"the Federation of Saskatchewan Indian Nations and the Government shall negotiate and agree to the restrictions, terms and conditions that will apply to the issuance of licenses by the Saskatchewan Indian Gaming Licensing". Similarly, the Saskatchewan Indian Gaming Authority is nothing more than "the proponent on behalf of the Federation of Saskatchewan Indian Nations" with no real regulatory authority. This was illustrated by the clause in the Agreement that declared that the total number of slot machines and video lottery terminals which were allowed to operate at any one time in the four Native casinos allowed by the Government cannot exceed the number operating in the Regina casino. In this regard, these Native gambling bodies are insignificant because of their negligible decision making power with regard to the size and number of the casinos as well as their operation and regulation.

According to Doern (1977:20) "regulation can be viewed politically as a rule of behaviour backed directly by the legitimate sanction of the state." In this regard, the type of regulation instrument used

does matter politically, because the way one secures legitimate compliance in a democratic state is not merely a matter of technique. The selection of instruments is in part an end in itself. (Doern, 1977:20)

As such, one must carefully examine the normative standards employed by the regulators. That is, how much discretion, and thus, power does this body possess? In other words, the

Native public policy arena has always been based on government paternalism. As such, government regulation of Native casinos represented the legitimacy of the industry but it also represented the social control of Native people. On normative grounds, the regulation of the specific elements⁵⁰ of the Native casino gambling industry, particularly on reserve land, would be inappropriate. Native people in Canada have been recognized by the federal government as sovereign which also grants the right to self-government within their lands.

The jurisdictional debates surrounding this topic leads to the issue of regulatory responsibility. In other words, do the provincial governments have the jurisdictional authority, to regulate on-reserve casinos? Obviously, these provincial governments have maintained throughout the policy process that they do have this authority. However, these provincial governments declared that their facilitation of Natives request for a casino industry was a co-operative gesture. Nonetheless, they recognized that Natives needed to secure the consent of the province for legitimacy reasons as well as an assurance against further threats of government closure as in the case of the White Bear casino. These potential threats to a Native casino industry have probably been the major reason that none of the Alberta bands has opened a provincially unlicensed casino. At the same time, it is for these reasons

⁵⁰ Specific elements refers to: hours of operation, number and type of games and gaming devices, ownership of video lottery terminals and slot machines, and whether alcohol can be served.

that the Native casino industry in these provinces are government regulated.

Doern (1977:22) described most government regulatory bodies as "susceptible to being captured over time by the interests they were intended to regulate." This regulatory capture has typically manifested into less stringent government regulation of industry. However, this scenario would probably not be the situation with regard to Native casinos. In contrast to the capture of government regulators by corporate giants which have power over the state and its regulators it is unlikely that the Native community, via bodies such as the Saskatchewan Indian Gaming Licensing and Saskatchewan Indian Gaming Authority, will possess power over provincial government regulators⁵¹. In fact, it is the Government regulators that possess considerable power over these Native bodies.

A similar regulatory control has been attempted in Alberta by the Native Gaming Committee's recommendation that all Native casinos in Alberta must exist within the existing charity model policy which is government regulated. However, this stage has not concluded in Alberta although the Native Gaming Committee's recommendations provide evidence that it has been initiated by the Government. That is, there is the

⁵¹ This usage of regulatory capture does contrast with previous usages; however, it is still meaningful in that government regulatory agencies are capturing the Native casino industry rather than the opposite.

possibility that the government regulators will capture these Native bodies and, hence, the Native casino industry. Any flexibility in regulation can be utilized by the Government regulators as a mechanism of empowerment that will erode the negligible powers of Native bodies; thereby, capturing the Native casino gambling industry.

By socially constructing this policy issue as a provincial government responsibility and, then, implementing an empowered regulatory mechanism both on and off reserve, these Governments have effectively institutionalized the Native casino gambling industry. For purposes of this analysis, institutionalization means the translation of the Government's values and ideas into the regulatory control over the actions and interactions of the members of a collectivity (see Rocher, 1972:310). In other words, the provincial government's empowered position over Natives has led to the institutionalization of Native casinos. Institutionalization is a feature of rational choice theory in that structural constraints, such as regulatory bodies, stipulate the set of rational actions that exist within structural boundaries (Elster, 1982). Specifically, it is rational for a Government to institutionalize a policy in order to achieve their policy goals. Thus, "institutionalization in a sense makes cultural [and political] elements concrete, and is a kind of transposition of them into applicable and applied forms" (Rocher, 1972:310). Structural constraints on Native people

and their lives are not an innovative policy approach by provincial governments in Canada. Historically, governments have regulated Native policy (see Frideres, 1988:255-257). Therefore, institutionalization is directly related to hypothesis three.

8.18 TESTING OF THE HYPOTHESIS

The hypothesis that corresponds to the macro level of analysis is: In Alberta, past Native public policy has not significantly influenced the Native casino gambling policy process while in Saskatchewan previous Native policy has significantly influenced the casino gambling policy.

Based on the conclusions of Chapters five and six along with the above findings I would reject this hypothesis. That is, past Native public policy has effected both the Saskatchewan and Alberta Native casino gambling policy. However, the explanation of the effect of past Native policy on the Native casino gambling policy process in these provinces is distinct. Specifically, the historical regulation of Natives in Saskatchewan is well documented (see Wotherspoon and Satzewich, 1993), but the Government saw the institutionalization of Native casinos as the means to achieving their policy goals. In Alberta, the historical regulation of Natives is also pervasive (see Frideres, 1988)

but the proposed institutionalization of Native casinos is not part of a rational policy making approach, rather it was a paternalistic reaction, as made apparent by Kowalski's statement that the Government has always been concerned with the self regulation of Native casino gaming devices.

Although the courts and the Constitution Act (1982) have established Native rights such as the "inherent right of self-government" the casino gambling policies of Saskatchewan and Alberta have not recognized such initiatives. As such, the legacy of Native public policy has been promoted throughout the policy process in these provinces as well as in the actual policies.

8.19 CAUSAL EXPLANATION

As suggested earlier in this chapter the employment of Mill's method of agreement and difference and the temporal ordering of events are the basis to causal explanation in this analysis. I have argued the Native casino gambling policy process was characterized by three conceptual sociological phases that, for the most part, occurred sequentially. Examining the similarities and differences of the sociological phases in these provinces lends support to explanation.

Specifically, in Saskatchewan the legitimization of Native casino gambling policy was initiated early in the policy process by the Fox Report in January, 1993, the

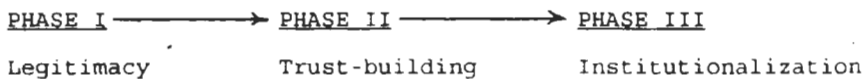
arguments presented in the Government's Casino Expansion document released in February, 1993 and the White Bear raid in March, 1993. In Alberta, the Government also legitimized Native casino gambling at the beginning of the policy process. Specifically, Klein created the Lotteries Review Committee, which later spawned the Native Gaming Committee, to develop policy recommendations. Klein also stated to the media on several occasions that Natives in Alberta "have a strong case" to develop a casino industry.

The second, or trust-building, phase in Saskatchewan was initiated when Chief Crowe had the trust of Native leaders to negotiate a deal with the Government. At this time, a mutual trust between Chief Crowe and the chief Government negotiators developed. This occurred just before the details of the first Agreement had been negotiated in the months of January through April, 1994. In Alberta, the trust-building phase began at the conclusion of the legitimacy phase in March, 1995 with the second Chiefs' Summit. As suggested earlier, trust-building continued through the third Chiefs' Summit in November, 1995 but was eroded with the recommendations of the Native Gaming Committee in April, 1996. In this regard, the trust-building phase has not concluded in Alberta. This may explain why a policy has not been developed in Alberta at this time.

The third phase was the institutionalization phase. In Saskatchewan, the regulation of casinos in the first and second Agreements via bodies such as: Saskatchewan Liquor and

Gaming Authority, Saskatchewan Indian Gaming Licensing and Saskatchewan Indian Gaming Authority were mechanisms of institutionalization. A similar institutionalized regulatory control has been recommended by the Native Gaming Committee in Alberta. There has been an initial attempt of institutionalization of Native casino gambling by the Alberta Government. That is, the Native Gaming Committee Report recommended that four casinos be allowed in Alberta but they must conform to the current "charity only" casino policy and be regulated by the Alberta Gaming and Liquor Commission. As such, I would suggest this phase will emerge in Alberta if the negotiation of a policy permitting Native casinos was to take place. The following represents the phases diagrammatically:

FIGURE 8.1 THE THREE CONCEPTUAL PHASES OF THE NATIVE CASINO GAMBLING POLICY PROCESS IN ALBERTA AND SASKATCHEWAN



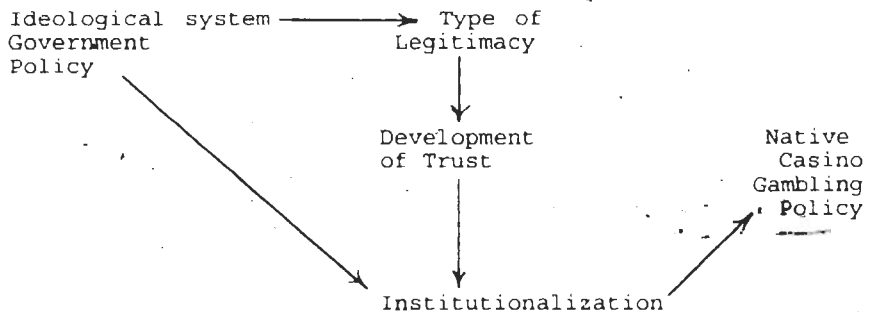
As suggested earlier, these phases correspond to the hypotheses that were formulated on the basis of rational choice theory as specified by Lindblom (1968). At the meso level of analysis, the Saskatchewan Government legitimated the policy rationally through the bureaucracy and the commissioning of expert reports based on economic criteria, whereas, the Alberta Government employed the noneconomic means of public consultation as their legitimation technique. At

the micro level of analysis, the Saskatchewan Government policy makers acted rationally to maximize utility in a policy situation such that "selective incentives were necessary for individuals to lend support to interest groups." That is, the Saskatchewan Government recognized that a trusting relationship between Native leaders and the chief Government negotiators was necessary so they replaced MacKinnon in order to eliminate the distrustful relationship that developed between the Government and Native leaders. To date, the Alberta Government has not attempted to cultivate mutual trust with Native leaders. At the macro level of analysis, the policy process in both Alberta and Saskatchewan have been affected by structural constraints, such as court decisions, that set rational boundaries (Elster, 1982).

Overall, the legitimacy stage has occurred in both provinces, albeit in a different fashion. The trust-building phase has take place in Saskatchewan but has not concluded in Alberta. Finally, the institutionalization phase has been completed in Saskatchewan but only the foundation of this phase has been established in Alberta.

The following diagram represents the causal explanation of the Native casino gambling (if not prohibited) policy process in these provinces.

FIGURE 8.2: CAUSAL MODEL OF NATIVE CASINO GAMBLING POLICY MAKING



8.20 RATIONAL CHOICE THEORY AND ALTERNATIVE EXPLANATIONS

On the basis of the hypotheses it appears as though the Saskatchewan Government employed a rational policy process in the creation of its Native casino gambling policy. Results from the micro and meso level hypotheses tests suggest that the Alberta Government did not employ a rational policy making approach. One might argue that macro structural constraints, such as court decisions, will always affect public policies whether they are rationally developed or not. It would appear the Government's ideological system of governance is more important in determining Native casino gambling policy than the actual policy issue.

An alternative explanation may be the Alberta Government

has employed a rational policy making approach to this point by initiating and facilitating a public consultation process. That is, the Klein Government recognized that Native casino gambling can fit into their economic policy goals but in order to maintain their populist approach to policy making they have gone through the public hearing process of the Native Gaming Committee. In other words, the Native Gaming Committee is an illusion of populism and the policy will be rationally developed according to the Government's goals, if public opinion becomes more closely divided on this issue.

8.21 SUMMARY

It was concluded that the Native casino gambling policy process was not *ad hoc* in Saskatchewan but the process in Alberta, to date, has been. This was explained as the consequence of the ideological system of governance employed by each provincial government. Furthermore, the mechanism of legitimacy employed by these Governments also illustrates whether there was a rational approach to the policy process. As such the first sociological phase of the policy process was the legitimacy phase. Mutual trust between Native leaders and Government policy makers occurred in Saskatchewan, because Government policy makers recognized an agreement with Natives would maximize the utility of their policy goals. This development of mutual trust, the second sociological phase,

has not occurred in Alberta to this point because the Alberta government does not have any goals to maximize with regard to Native casino gambling. Finally, government regulation of Native casinos in Saskatchewan as well as similar recommendations by the Government of Alberta indicates the importance of this policy strategy to these Governments. Government regulation represents the institutionalization phase of Native casino gambling policy. Moreover, this regulation may lead to regulatory capture by the Government and pave the way to provincial government jurisdiction on-reserve.

CHAPTER NINE

CONCLUSION: TIME TO DEAL?

9.1 INTRODUCTION

At the beginning of this research it was stated that there has been relatively little work in the area of gambling policy in Canada and almost no analysis of the issue of Native casino gambling. Moreover, any research carried out on this topic was performed by American researchers who employed an abstract empiricist model that did not utilize a theoretical framework. The narrative reconstruction of the policy process in Saskatchewan and the policy process to date in Alberta provides insights into both provincial government's policy making but also a contemporary analysis of Native policy making at the provincial level. Additionally, the hypotheses corresponded to the micro, meso and macro levels of analysis and uncovered the sociological stages of the policy process. Overall, this analysis of the Native casino gambling policy process is significant because

.... a real understanding of gambling is rare outside the gambling industries themselves, and legislators, who deal with the range of society's concerns, have as their primary interests raising sufficient revenue for their constituents' need and ensuring their own reelection. (Abt et al, 1985:176).

Therefore, a broader understanding of the public policy process that includes the issues of casino gambling as well as Native people is worthwhile.

9.2 THE RESEARCH QUESTION

In this dissertation the general research question was: what socio-political factors lead to the emergence of Native casino gambling policy in Saskatchewan and Alberta? However, beyond this main question there were a series of sub-questions that were answered in the analysis of the reconstruction of the policy process in these provinces. The sub-questions were: i) What was the nature of the political interaction between Natives and each respective provincial government? ii) What was the interpretation of the Criminal Code of Canada in regard to gambling regulation? iii) What were the policy goals of the provincial governments? iv) What was the role of the provinces' political culture? v) What were the Natives' goals in these provinces? vi) What role did the idea of a gambling Crown corporation play in the creation of the policy? The attempt at causal explanation dictated that a theoretical approach must be employed in this analysis.

9.3 RATIONAL CHOICE THEORY AND NATIVE CASINO GAMBLING POLICY

The desire to include the micro, meso and macro level of

analysis as well as a historical social constructionist approach led to the employment of rational choice theory in this analysis. By utilizing Lindblom's (1968) properties of rational policy making during the reconstruction of the policy process in Saskatchewan and Alberta, the Native casino gambling policy process was explained.

9.4 THE HYPOTHESES

The first hypothesis tested illustrated that the policy process was not *ad hoc* in Saskatchewan but it was *ad hoc* in Alberta. This indicated that not all Governments have developed Native gambling policy in an *ad hoc* fashion. It would seem that the system of governance based on each provincial government's political ideology rather than the public policy topic of gambling determined the nature and composition of the policy process.

In this regard, it was determined that Native casino gambling policy process may be significantly different in each province. However, both the Alberta and Saskatchewan provincial governments integrated the issue of Native casino gambling into their respective system of governance and socially constructed a definition of the situation. In Saskatchewan, the Government constructed and then legitimated Native casino gambling as an economic necessity not only for Native people but the province as a whole. In Alberta, the

Klein Government legitimated this policy issues by declaring that Natives have a strong argument based on jurisdiction and self-government which would allow on-reserve casinos. Therefore, the first sociological phase of the policy process was the legitimacy phase.

The second hypothesis tested demonstrated that a mutual trust had to develop between government policy makers and Native leaders before there was any significant progress in the policy process. Contemporary Native/government relations in Canada have been strained due to Native peoples distrust of government over armed conflicts such as Oka as well as from numerous historically significant events dating back to the nineteenth century. This distrust was manifest in Saskatchewan after the Government ordered the Royal Canadian Mounted Police raid of the White Bear casino. In Alberta, Native leaders are so distrustful of the provincial government that they did not discuss the issue of Native casino gambling until the Government signed an agreement that recognized Natives' "inherent right to self-government". The distrust of one another persisted after the ~~the~~ the Native Gaming Committee Report. As such, the second sociological phase of the policy process was the trust building phase.

The third hypothesis tested illustrated that past Native public policy had effected the Native casino gambling policy in both Alberta and Saskatchewan. Native casino gambling policy was constructed within the framework of past Native

public policy. In other words, the creation of public policy that involves Native people coexists in the historical and the contemporary. Furthermore, it was apparent that both of these provincial governments intended to maintain control over a Native casino gambling industry. This was observed in the regulation of Saskatchewan casinos as well being evidenced in the regulatory recommendations forwarded by the Native Gaming Committee in Alberta. In other words, the Saskatchewan Government and the Alberta Government have proposed the regulatory capture of Native casinos. Accordingly, the third sociological phase of the Native casino gambling policy process was the institutionalization phase.

9.5 PUBLIC POLICY AND NATIVE CASINO GAMBLING: CONCLUSIONS

This analysis indicated that it is difficult to separate Native casino gambling policy from gambling policy in general in these provinces. That is, the Native casino gambling policy has implications for all gambling policy and, therefore, for-profit casino gambling policy was forged simultaneously. However, a Native casino gambling industry has stood as a symbol for Native sovereignty and right to self-government. Therefore, the implications of the public policies regarding Native casino gambling in Canada are far reaching.

The significance of this policy issue and the policy

instruments created by Native casino gambling policies may shape future Native public policy. Although provincial governments have characterized Native casino gambling policy as a paradigm shift in Native public policy, in reality the policy process has been based on the legacy of Native public policy in Canada. As Campbell and Pal (1991:331) declared

From the native perspective, white society had for generations perpetrated violence against Indians through instruments like the Indian Act and DIAND: ... The rule of law, the reliance on due process, together with the other procedures of white society, were a subtle and bureaucratic use of power and force that, while not conventionally defined as violence, had precisely the same result.

Similarly, the paternalistic role of government has been preserved by these Governments during the Native casino gambling policy process. That is, by extending provincial government jurisdiction on-reserve lands there is the likelihood that the Governments in these provinces will further socially control Native people. Therefore, to date, Native people have not achieved any of the dimensions of self-government and sovereignty with the introduction of casino gambling in Saskatchewan and the current proposed introduction of a Native casino industry in Alberta.

9.6 THE PROSPECT FOR FUTURE RESEARCH

The salience of this research topic is based on the likely expansion of a Native casino industry into other

provinces in Canada. For example, the Rama band near Orillia, Ontario has recently opened a large on-reserve casino. This casino is subject to the regulatory and revenue conditions prescribed by a contract that was recently amended by the ruling government. Natives in the Maritime provinces, Quebec, Manitoba and British Columbia are also seriously exploring casino gambling such that public policy will likely change in some degree within these jurisdictions. Furthermore, the role of the provincial governments in Native public policy may change in Canada with the winding down of the federal Department of Indian Affairs and Northern Development.

Future investigations of Native casino gambling could take one of three routes. The first would be to examine the decision making process within the Native community. It became apparent during this research that the political organization of Natives beyond the band level differs considerably both within, and between, provinces. At the same time, some bands were proponents of a casino industry but only on sovereignty grounds. That is, several prominent Chiefs and bands including the Ermineskin in Alberta openly declared they were not interested in having a casino located on their reserve. In any case, it would be worthwhile to investigate the sociological mechanisms of decision making within the Native community with regard to casino gambling. A potential model for research on Native decision making is Flanagan's (1992) analysis of the Lubicon Lake dispute. In this analysis

Flanagan employed matrix and equation techniques of rational choice game theory to model the potential final courses of "strategic interaction of the three players in the dispute: Canada, Alberta and the Lubicons" (Flanagan, 1992:269).

A second worthwhile course of research could consist of the comparison of the Native casino gambling policy process to other Native policy areas, specifically Native policy areas that also envelop issues such as Native sovereignty, jurisdiction, treaty rights, economic development, and the "inherent right to self-government". One area that may prove to fulfil these criteria in light of recent Supreme Court of Canada ruling *R. v. Badger* is the issue of Native hunting and trapping rights. Specifically, *R. v. Badger* is a case in which an Alberta Native claimed that as a Native person he has the constitutional right to hunt and trap at any time without a provincial license.

A third route of investigation could examine the effect of casino gambling on Native people after the introduction of a casino gambling industry. Specifically, these investigations could be either policy evaluations that determined if Native leaders had fulfilled their goals with a casino industry or, a social impact analysis of both the intended and unintended consequences of a casino industry on Native people and their culture. In any case, the impact of a casino industry, whether positive or negative, on the Native community will likely be significant.

APPENDIX A

LIST OF INTERVIEWEES AND JOB TITLES
IN SASKATCHEWAN POLICY RECONSTRUCTION

Joanne Crawford, Minister Responsible for Gaming.

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

Andrew Thomson, Chief of Staff to the Minister, Saskatchewan
Liquor and Gaming Authority and current Member
of the Legislative Assembly.

Gordon Nystuen, President and Chief Executive Officer,
Saskatchewan Liquor and Gaming Authority.

Dave Innes, Vice President Licensing Division, Saskatchewan
Liquor and Gaming Authority.

Ray Clayton, Chief Negotiator for the Government of
Saskatchewan in the Native Casino Gambling
Agreements and Deputy Minister of Energy and
Mines.

Laura Lockert, Communications Officer, Saskatchewan Gaming
Authority.

Patrick Musqua, Administration Officer, Saskatchewan Indian
Gaming Corporation.

Jim Harding, City of Regina Councillor, and Professor,
Department of Human Justice, University of
Regina.

Ernie Lawton, Assistant Deputy Minister, Saskatchewan Indian
and Metis Affairs Secretariat.

Harley Dickinson, Chair of the Minister's Advisory Committee
on the Social Impacts of Gaming and
Professor, Department of Sociology,
University of Saskatchewan.

Kathleen Donovan, Research Officer, Saskatchewan Health

Milt Tootoosis, Saskatchewan Gaming Corporation.

Dan Belleguarde, First Vice-Chief, Federation of Saskatchewan
Indian Nations.

APPENDIX B

LIST OF INTERVIEWEES AND JOB TITLES
IN ALBERTA POLICY RECONSTRUCTION

Kelly Kimbley, Native Lawyer, Howard Mackie Barristers and Solicitors.

Alvin Manitopyes, Native Gaming Consultant and Program Manager, Native Business Youth Ventures.

Ken Kowalski, Member of the Legislative Assembly and former Minister Responsible for Gaming.

Tom Ghostkeeper, Special Assistant to the Minister Responsible for Aboriginal Affairs.

Tom Neufeld, Executive Assistant to the Minister of Economic Development and Tourism.

Stater Crowfoot, Former Chief of the Siksika band.

Ian Taylor, Former Member of the Alberta Gaming Commission and Vice President of Alberta Bingo Supply.

Jim Cunningham, Gambling Reporter, *Calgary Herald*.

Murray Smith, Minister of Economic Development and Tourism.

Darlene Dickinson, Communications Co-ordinator, Alberta Liquor and Gaming Commission.

Leonard Crate, Gaming Specialist and Economic Development Officer, Enoch Cree Nations band.

Muriel Abdurahman, Liberal Member of the Legislative Assembly, and Opposition Critic for Gaming.

Russ Tynan, Head of the Calgary Century Centre Consortium.

Gregg Smith, Executive Director, Treaty Seven Tribal Council.

Willie Littlechild, Head of the First Nations' Gaming Congress.

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