

Lindrith Davies
238 Hadley Mill Road
Brooks, ME 04921

Casinos and Nations

“On November 6, 1995, Mohegan Tribal Chief Ralph Sturges blessed the earth on which the new \$300-million, 240-acre Mohegan Sun casino would stand.” — the Pressroom at Mohegan Sun

A remarkable ad appeared in *People* magazine, ca. 1997, for a “legendary gaming experience”. The photo of joyous, beautiful people thrilling to the drama of craps was unremarkable — what astounded me was the setting: sunflowers, autumn leaves, stretched deerskins depicting hunting, traditional games, children and elders, the sacred moons and seasons, wolves, basketry, the quiet glory of living utterly grounded in nature’s blessed flow, the Medicine Woman, the heritage and the regalia. It was a kind of eastern woodlands theme park, with slot machines, blackjack and poker. This place was not simply an Indian casino, but a place that seeks to bathe the visitor in some sort of Indian *experience* — in a casino!

From that moment, I was hooked — not on gambling, but on the story of Mohegan Sun. I had to go and see it.

Driving there on I-95, you see signs directing you to the reservations (that of the Mohegans, and of the nearby Mashantucket Pequots). These signs announce that one is about to enter tribal lands, reminding folks that such things still exist, even in the megalopolized Eastern Seaboard. They reassure motorists that the United States now affords, to such natives as are left, the dignity of self-determination. The highway signs don’t play up the real attractions. They simply announce that the Indian reservations are down this road, if anyone is interested.

Architecturally the Mohegan complex has it all over its rival Foxwoods, which is a huge white thing rising out of rolling farmland, like a gravestone in the middle of a field. The Mohegan reservation is nestled in sloping land, down from the elevation of Montville’s Mohegan Hill to the Thames River. It uses this topography, along with a bemusing vortex of access roadways, to create an otherworldly feeling. The complete shift of context is impressive. Even the gas station on the Mohegan Reservation is posh and Indian-themed, a legendary gas station experience. The visitor responds, “Mundo Wigo”, to the reservation roadsign and enters the Mohegan Sun world, embarking on what amounts, perhaps, to the exact opposite of a vision quest.

Every casino has its version of a siren song: the music of the slots. At Mohegan Sun the effect of this sound is extraordinarily eerie, unsettling and seductive. Surely the sheer number of slot machines has something to do with it; Mohegan Sun has over 6,200 in all. One can hear the particular sounds of the machine one is playing, of course, and those nearby. The music of the slots seems to be coming from somewhere deeper, or from nowhere — from, perhaps, the spiritual place emblazoned in all the woodland decor, earthy, ruddy, primal, harmonious, suffused with the oneness, oneness made palpable by the dream-inducing one-note music of the slots — or at least, a fairly convincing cinematic evocation of that sort of thing. On stone outcroppings surrounding the “Wolf Den” cabaret stand six “animatronic” wolves, whose eyes follow you. And that *sound!* The place is open twenty-four hours a day. Not the sort of place where I’d want to be under the influence of anything stronger than a nice glass of chardonnay.

On the way in I picked up a copy of *The Secret Guide*, “intended to facilitate and enrich your visit here by explaining the hidden meaning of all that surrounds you at Mohegan Sun.” It starts with the Mohegan Sun logo (not the tribal symbol, mind you — the *casino’s* logo), which incorporates four ears of corn, corn that “feeds our bodies and spirits”, representing the four sacred directions, four yellow semicircles for the four corners of the earth, four black dots for the people who travel to visit the Mohegan reservation, and a Central red Dot “which indicates the spiritual life force felt throughout the universe.” And that’s just the logo. Every visual element, every piece of carpet, wall hanging, restaurant (the Longhouse restaurant, festooned with hundreds and hundreds of real deer antlers), every conceivable detail is suffused with loamy, fecund nativeness. And that *sound...* In short, the place is a whole new kind of baroque.

Well, now, let’s be fair — people don’t come to Mohegan Sun to learn about native spirituality. And yet, for the spouse, say, who has tagged along but gets little thrill from gaming, there is plenty of interesting stuff in the tastefully-presented, 52-page *Secret Guide*. The Casino of the Earth, for example, is laid out in the form of the circle of seasons. There’s a major entrance for each season, and there are thirteen sections of the circle, one for each of the thirteen sacred moons of the year. Each moon has a lovely, circular emblem of its own, and each is graced with a recollection from Dr. Gladys Tantaquidgeon, Mohegan Medicine Woman. For instance, she says this of “Maple Sugar Moon”:

Maple was used as a sweetening agent and to make frames for dwellings, bowls, scoops, ladles, spoons and strong paddles. The inner bark was taken from the south side of the tree to make a cough remedy... When the geese flew north, the weather changed and the spring season was ushered in. When the geese flew low and were disorganized, it was an indication that a storm was near. When the geese flew in perfect "V" formation, fair weather would prevail.

Dr. Gladys Tantaquidgeon, now 103 years old, lives nearby in Uncasville, near the historic Mohegan Congregational Church. She has operated the Tantaquidgeon Museum on that site since 1931. A full-size statue of her is encased in plexiglass inside the Winter Entrance.

Mohegan Sun is many things to many people: an outrageous tour de force of interior design — a dynamite place to get away from your worries for a while — a spiritual pitfall for everyone concerned — a much-needed economic shot in the arm for Eastern Connecticut (the casinos provided some 16,000 jobs, replacing 15,000 lost in the defense plants) — the new home of the WNBA's Connecticut Sun, the first major sports franchise to be owned by an Indian Tribe, returning UConn stars Nykesha Sales and Rebecca Lobo to the state of their triumphs — a tribal enterprise, undertaken in Indian Country, providing much-needed revenue to an Indian nation. Let's start with that last one, for without the government-to-government relationship between the United States and Indian Nations, there would be no native casinos, and no story.

The sovereignty of Indian Nations has long been established in Federal law, although the rationale for it has shifted more than once over the years. Initially, it was a strictly practical consideration. On many occasions it became advisable to strike some sort of agreement with an Indian nation — for example, to end hostilities between it and the US Government. These agreements were treaties between sovereign nations.

Sovereignty, of course, is mostly about the power to control territory. Chief Justice John Marshall recognized that in the seminal 1823 case, *Johnson v. M'Intosh*. In that case, the Court ruled that the US Government was sovereign owner of all lands ceded to it by Britain in the Treaty of Paris, regardless of any Native claims. The Indians had rights of "occupancy" only. This meant that the lands taken from the indigenous people of North America belonged, in law, to the United States and could not be given back, except by Act of Congress. That, coupled with the Constitutional provision that Congress would have power to regulate commerce with the Indian tribes, formed the

basis of the “government-to-government” relationship.

For most of its history, this relationship was certainly not about native empowerment. It had more to do with a duty to protect these supposedly inferior, primitive peoples who were not fit to participate in democratic society (but who had not been utterly exterminated). The Supreme Court articulated this in the 1913 case, *US v. Sandoval*:

[L]ong continued legislative and executive usage and an unbroken current of judicial decisions have attributed to the United States as a superior and civilized nation the power and the duty of exercising a fostering care and protection over all dependent Indian communities within its borders, whether within its original territory or territory subsequently acquired, and whether within or without the limits of a state.... Congress... has a right to determine for itself when the guardianship which has been maintained over the Indian shall cease.

In 1913 Congress had little more than rhetoric to offer Indian nations. By the 1970s, however, the poverty and deprivation of Reservation life had begun to dawn on Americans. Federal aid programs created some incentives for Indian nations to stand up and be recognized as such. At first these incentives were modest — aid for health care, education, etc. (The casinos came later.) But, there are a lot of poor people, and the government didn't want Indian aid being enjoyed by non-Indians. If any question arose over a group's right to be identified as an Indian nation, it was up to the Federal government to decide it. This led to the establishment, in 1978, of a department of the Bureau of Indian Affairs, called the Bureau of Acknowledgment and Recognition, whose task is to evaluate claims of tribal status and submit expert testimony on the existence or nonexistence of Indian nations.

Before that, tribes had become recognized by all three branches of the Federal government in a number of *ad hoc* ways. Now, if a tribe was not already recognized, it had to go through an invasive and embarrassing process of proving its true lineage, by satisfying *all* of the following criteria:

- 1) The tribe has been identified as an American Indian entity on a substantially continuous basis since 1900.
- 2) A predominant portion of the group has comprised a distinct community, existing from historical times until the present.
- 3) Political influence or authority has been maintained over the tribe's members, as an autonomous entity, from historical times until the present.

- 4) The tribe has a governing document which includes membership criteria.
- 5) The tribe's membership consists of individuals who descend from a historical Indian tribe (or group of tribes) which functioned as a single autonomous political entity.
- 6) The membership are not members of any acknowledged Indian tribe.
- 7) No Congressional legislation has terminated or forbidden the tribe's Federal relationship.

One can imagine how difficult it might be, for victims of sustained campaigns of genocide and, then, assimilation, to satisfy such criteria. And yet, some did. For the first decade of this program, the Bureau of Acknowledgement and Recognition, which had a full-time staff of about ten people, went about its work in obscurity. The difficulty of the process functioned as its best check of authenticity — why, after all, would anybody subject themselves to this, if they were not really an Indian tribe? The criteria and related procedures were considered sensible, at any rate, and the results were generally uncontroversial.

In 1987 the stakes were raised precipitously. The Cabazon Band of Mission Indians sought and won Federal relief from the State of California's attempt to enforce its laws regulating gaming activities (high-stakes bingo). The Supreme Court held that the State lacked the authority to prohibit gambling on an Indian reservation, if the State permitted (but regulated) the same forms of gambling. The State had no authority to regulate gaming in Indian Country — unless it had some sufficiently weighty interest — which the Court denied was the case here.

The upshot of *Cabazon* was that if state law did not forbid a church to have a roulette wheel at its “casino night”, an Indian nation could have all the roulette wheels it wanted — and the state could not regulate them, unless it had a sufficiently weighty interest. Just how weighty that interest had to be was not made clear. It was quite clear, though, that the opening of Las Vegas-style casinos would have profound effects on the surrounding communities.

It fell to Congress to resolve that huge ambiguity. Its attempt to do so was the Indian Gaming Regulatory Act of 1988. The Act required tribes who wished to operate Las Vegas-style casino games (those referred to in the law as “Class 3 games”) to negotiate a “compact” with the state, ironing out issues such as infrastructure demands and compensation in lieu of lost tax revenues. Interestingly, if the state refuses to agree to the compact, the law provides for the appointment of a

mediator, under the authority of the Secretary of the Interior, to work it out. Thus, under the law, the only way a state can prohibit a casino in Indian Country is to specifically prohibit all such games at all times. States do, however, have the much more attractive option of negotiating to add a share of the take to their annual revenue.

To benefit from this opportunity, an Indian nation must be Federally recognized. One of the many quirks of Indian law is the historical division between “Federal Tribes” and “State Tribes”. Federal tribes are those that were granted Reservation land, mostly in the 19th century, in the West. They got the worst land available, and endured the most crushing poverty and racism — but they retained their sovereign status. Dozens of tribes in the East — which had been recognized by British Colonial governments prior to the establishment of the United States — had never been relocated. These “State Tribes”, whether because they dwindled, or assimilated into mainstream society, were never granted Federal recognition. Unlike Federal Tribes, they were subject to state laws — including those regulating gaming operations.

Unfortunately, the “Indian Country” of Federal tribes is seldom situated in prime locations for gaming resorts. This becomes clear, for example, on I-25 from Albuquerque, New Mexico to Santa Fe. You pass Pueblo after Pueblo — each one a sovereign Indian nation, each one operating a casino, one after another, in the middle of the desert. These establishments do provide the Pueblos with better economic options than they had without them — but they don’t bring in whopping big revenues. Indeed, although many people believe that casinos represent a cash cow for Indians generally, the truth is far different. Less than half of the tribes have casinos at all, and of those that do, 13% of them bring in a whopping 66% of the volume. Many barely break even — providing low-wage jobs for Reservation dwellers and little else. The five states that have half of the Native American population — Montana, Nevada, North Dakota, Oklahoma and South Dakota — account for a mere 3% of Indian gaming revenue.

It was on the Eastern seaboard — in, say, Connecticut — where Indian reservations would really be goldmines for the gaming industry. Charter buses were running thousands of tourists every day to the casinos of Atlantic City — but most Mid-Atlantic voters wanted no such thing in their back yard. How convenient it would be for gaming investors if a Sovereign Indian nation could be

found, conveniently located — but, alas, Connecticut had no Indian reservations.

Meanwhile, some influential people in the East had found incentives to settle with the state tribes and their pesky land-claims litigation. Although states cannot confer sovereignty upon an Indian nation, tribes can be recognized by states for other reasons (they can be incorporated in a state, for example) — and, those tribes can bring actions of various sorts in state courts. These suits generally claimed that lands given by treaty to the tribe had been improperly seized — often very long ago. Some of these claims are for pieces of land that actually turned out, after a century or two, to be quite valuable. If many of these claims were tried by the strict letter of the law, it seems likely that they would be judged in the Indians' favor — and that fact, odd as it may sound, is the rolling stone that began the legal avalanche that brought tribal mega-casinos to Connecticut.

One might wonder why modern municipal and state governments would be afraid of such a thing. After all, an unpopular legal claim needs more than mere validity; it needs sufficient lawyerage to bring the case through an exceedingly detailed process, against moneyed opponents who control the agenda. The process could be held up in appeals for a generation, at least. But the answer to this riddle lies in the fact that what is under litigation here is real estate. When land ownership has a “cloud over its title”, its asset value is greatly diminished, if not erased entirely. That is why the state of Connecticut, and the folks in the town of Ledyard, decided in 1983 that it would be prudent to settle with the Mashantucket Pequot Tribe. The initial settlement set aside twenty acres, and provided a compensation of \$900,000 in consideration of other lands taken. In 1983, it seemed a reasonable price to pay.

So, the twenty acres were taken and held in trust for the Mashantucket Pequots by the United States — which also recognized them as an Indian tribe, having a government-to-government relationship with the USA. The Mashantucket Pequots opened a high-stakes bingo operation and made a bit of money, buying up more land for their reservation. Then, when the legal path cleared for them, the Mashantuckets opened the stupendously profitable Foxwoods Resort and Casino — an American success story for the millennium.

Once Foxwoods started to rake in the serious dough, the process by which it came to be came under scrutiny. People wondered why Federal recognition had come through Congressional

action rather than via the Bureau of Indian Affairs administrative process, which by then had been operating for five years. There are really only two plausible answers to that: either the Mashantucket Pequots would have failed to pass the BIA criteria, or the parties involved were in too much of a rush to wait for the BIA to do its work. When Rep. Sam Gejdenson of Connecticut testified before Congress in favor of the Pequot settlement, he urged his colleagues to approve Federal acknowledgment outright (which Congress had the Constitutional authority to do). Gejdenson argued that nothing could be gained by making Connecticut, and the Pequots, sit through the methodical unwinding of the administrative process. His colleagues in Congress, concerned about the recession and the defense cutbacks in Connecticut, took him up on it.

By the time the Mohegan case came up, however, the BIA process had become an important issue. When Rep. Gejdenson argued on the House floor in favor of the Mohegans' settlement, he emphasized that the Mohegans had *already* been recognized via the BIA process, so that Congress did not have to take that precipitous step! The Mohegan tribe, like the Pequots, had land claims pending in Connecticut courts. The Federal law establishing the Mohegan Reservation also permanently extinguishes three other land claims, dating back to 1861, 1736 and 1684. It wasn't likely to be a problem, in any case; the politicians were sure the Mohegans would give up those claims in return for the whole ball game. Their backers, Trading Cove Associates, spent some \$10 million on the process of Federal recognition and other negotiations to pave the way for the casino project.

The Mohegans first petitioned the Bureau of Indian Affairs for Federal recognition in 1978, as soon as it became an option for them. Here is how their website describes the process: "The sovereignty of the Mohegans was recognized by the Connecticut Colony in the Treaty of 1638, and that state recognition is maintained to this day. In 1978, the US Government created a process through which the tribes could petition for federal acknowledgment. The Mohegans filed for federal recognition that same year. After reviewing 20,000 pages of paperwork, the Federal Government formally recognized the Mohegan Nation on March 7, 1994." A sixteen-year process generating forty reams of documentation: certainly sounds rigorous enough.

I wanted to know more about the Mohegan Tribe — so I started doing some web-searching. There were a number of different sites to choose from. In fact, there were a number of different

Chiefs of the Mohegan Nation to choose from. The site of the “Mohegan Tribe”, quoted above, was very slick, professionally-designed and obviously connected with the casino. That site, curiously, seems not to have been updated since August, 2000. (I did learn there, though, that “Tribal art, language, song, and dance are inseparable from the rhythms of nature and the spirit beings which inhabit the natural realm.”) No email contact is offered. I called the phone number given for the tribal office, twice; the people I spoke with had little to say, and promised follow-up calls never came. The tribal office itself is in the back side of large sheet-metal complex, up the hill from the casino, that also houses utility vehicles and maintenance equipment.

Through the website of the “Native American Mohegans”, however, I found an email contact, who actually did call me back, and had plenty to say. Their office is on Franklin Street in Norwich — a modest office in a neighborhood for which Eleanor Fortin, a.k.a. Grand Sachem Queen Rippling Waters, apologized as soon as she arrived. She seemed embarrassed to have a visitor see her tribe’s office in such a littered, unsavory setting. “I’m happy to say we’ll be moving in a few months, to a much better part of town.” We went for take-out coffee, and she immediately asked me about my family, and described hers, which includes four great-grandchildren. She mentioned having recently retired from her job for the State. “Oh yes, I started early.”

I met with Ms. Fortin and Darlene Currier, Tribal Secretary, in the Mohegans’ homely and well-worn tribal office. On the door were posters announcing this June’s Pow-wow, which they were hosting: “All dancers admitted free... No alcohol or drugs permitted...” Inside the office, which was unkempt enough to seem genuinely active, were many photos and reverential references to their fallen leader, John Hamilton, Grand Sachem Chief Rolling Cloud. In many ways, the modern Mohegan story begins with him.

John Hamilton was appointed Grand Sachem for life in 1933 by his mother, Alice Storey, a direct descendant of Uncas, the great 17th-century leader of the Mohegan nation. (It seems clear that the conferring upon Hamilton of the title of Grand Sachem was consistent with venerable Mohegan tradition; it is less clear, however, how many of the late 20th-century Mohegans still respected these traditions.) Hamilton roamed around the North American continent for quite a while, visiting many Native American communities, and developing a passion for Native advocacy. He was a key figure in

the process that led to land-claims settlement for a number of hitherto unrecognized Indian nations. During those years, however, he kept in touch with his Mohegan community in Connecticut. When he re-settled there in the 1960s, he became the leader of the “Council of Descendants of Mohegan Indians,” which had some 300 members at the time. With the Council’s authorization, he began filing land claims litigation in Connecticut, and submitted the 1978 petition for Federal recognition. Federal recognition was by no means Hamilton’s priority — land claims were. His goal was not handouts from the government, but the restoration of some part, at least, of the Mohegans’ ancestral home. “Let no one doubt that John Hamilton,” Fortin wrote, “lived and died a warrior.”

Not all of the Mohegans welcomed John Hamilton’s warrior spirit. There is a tradition within the Mohegan community of seeking peaceful coexistence with their neighbors, regardless of the injustices of the past. Indeed, the Montville, or “Mohegan Sun”, Mohegans do not even publicly acknowledge John Hamilton’s existence. According to their published material, Harold Tantaquidgeon was their Chief prior to the era of Federal recognition. In the BIA’s final acknowledgement report, Tantaquidgeon’s low-key style of leadership is cited as one of the main reasons why the continuity of Mohegan politics and culture had been hard to track down. As portrayed in BIA Undersecretary Ada Deer’s report, the Mohegans were proud of their heritage, but they kept it alive in uncontroversial, private ways. Harold Tantaquidgeon’s Mohegan heritage, for example, enriched his work with the Boy Scout Troop that he led. His mother, Gladys, the Tribe’s Medicine Woman, operated the Tribe’s museum. They attended the old Mohegan Church in Uncasville. Land claims and political organization were not their priority. They even frowned upon Hamilton’s use of the old title “Sachem” (possibly because it had been usurped in the popular mind by Tammany Hall, which bestowed it upon their notorious 19th century leaders). Their leader of the Montville Mohegans — if they could be said to have one at all — was called the “Chief”. The Montville branch of the Mohegans were “good Indians”: ethnic, yes, and proud of their heritage — but not in any way that would stir up trouble with their white neighbors.

In 1970 there was a pivotal meeting of the Council in which a faction of the Mohegans, led by Courtland Fowler, expressed their dissatisfaction with Hamilton’s land-claims litigation and sought a new leader. According to Eleanor Fortin, the meeting was illegal and its actions invalid. It seems that the Hamilton supporters stormed out of the meeting, leaving behind a non-quorum who

proceeded, nevertheless, to elect Fowler as their new leader. Courtland Fowler went on to lead the Montville faction — and yet, during the year prior to that meeting, Fowler had been serving as Vice Chairman of the Council of Descendants. Notes of those Council meetings refer to Hamilton as “Sachem” — although later it would be claimed that the Mohegans had not used that title for centuries.

Despite this split in the Tribe’s allegiance, however, an attorney (Jerome Griner) continued to press land claims through the 1970s, under John Hamilton’s direction, in the name of the Mohegan Tribe. These actions were opposed by the Fowler faction. The reason for their opposition seems inexplicable — until one realizes that real estate owned by one Jayne Fawcett was put under cloud by Chief Rolling Cloud’s litigation. Jayne Fawcett is now the “Ambassador” of the Mohegan Tribe of Indians of Connecticut (MTIC), and her name appears on all the tribal literature available at the casino. In the 1970s, however, Jayne Fawcett was active in a property owners’ organization, with native and non-native members, which opposed the Hamilton claims on grounds of sheer self-interest. The Montville Mohegans, which had never had, or wanted to have, any political identity before, now felt the need to incorporate as an Indian tribe, in order, in Jayne Fawcett’s words, “to stop John Hamilton.”

John Hamilton fired attorney Griner in 1981, who soon afterward began to work for the Fowler group. Hamilton retained another attorney, Robert Cohen, to pursue the land claims that Griner had been working on. Later, Griner’s association with the Hamilton group would prove to be pivotal in the Fowler group’s successful bid for Federal Recognition — and in light of this, Hamilton’s followers still bitterly denounce what they call Griner’s egregious ethical breaches. In 1989 the state of Connecticut asked for clarification on which attorney truly represented the tribe — but the issue was never resolved. It seems, during this period, that the Bureau of Indian Affairs was not let in on the controversy between the two Mohegan factions; it seems all along to have thought it was dealing with a unified Mohegan tribe.

It may well be that attorney Jerome Griner was guilty of nothing worse than knowing which side his bread was buttered on. It is likely that the political lens of the Hamilton faction was clouded by a sense of moral purpose — which is always messy for a group to work out in practical terms. The

Montville faction, on the other hand, with their historic assimilationism and looming casino deal — and attorney Griner to work out the details — were holding much better cards.

John Hamilton died in 1988. In his will he named Eleanor Fortin Grand Sachem for life of the Mohegan Tribe and Nation. She, then, became the leader of the “Hamilton group” in its contention with the “Fowler faction” over tribal policy. Despite their disagreements, both groups continued to participate in tribal activities and to consider themselves members of the Mohegan Tribe.

By 1989, the BIA indicated its intention to turn down the petition for Federal recognition. (This was the petition originally filed by Hamilton in 1978; after lying dormant for many years, it had been taken up by the Fowler faction.) The Mohegans, they said, had not satisfied criteria (2) and (3): sufficient continuity in social community, and sufficient political authority and influence. One year later, a detailed response was submitted to the BIA’s proposed rejection — which included genealogies and other records carefully collected and preserved by Hamilton and his followers. Eleanor Fortin had allowed the MTIC researchers access to the Hamilton files, having been assured that if Federal recognition were achieved, it would cover the entire surviving Mohegan population. The BIA changed its mind on the Mohegans’ existence as an Indian tribe, citing these documents as decisive: “the records pertaining to the Mohegan Congregational Church in Montville were crucial in demonstrating that the tribe did indeed have social and political continuity during the middle of the 20th century”.

Even though the pivotal evidence came from records maintained by John Hamilton and his followers, they were ultimately excluded from the group that was recognized as the Mohegan Tribe. In 1990, after they submitted the revised and extended bid for recognition, the MTIC declared the tribe’s membership to be restricted to descendants from a single family ca. 1860, saying that all other Mohegan families were extinct. This is the group to whom Federal recognition was given. And, because a Federally recognized tribe is free to determine its own membership, this is the group that now comports itself exclusively as the Mohegan Tribe — despite clear evidence that the true Mohegan Tribe encompasses a larger group, *evidence that was crucial in their having achieved Federal recognition*.

The question that the MTIC, the Mohegan Sun Mohegans, were supposed to get back to me

about concerned their relationship with the Native American Mohegans (NAM) just across the river in Norwich, who claimed to be their relations. “They are not Federally recognized,” snapped the person on the phone. The hostility I sensed in that call was not just my imagination. In 1996 the MTIC filed suit to prohibit any other group from using the name “Mohegan” — claiming trademark infringement! This seems, at first glance, to represent a nearly incomprehensible level of bitterness. However, there is voluminous evidence that the Montville group, which defines itself as descending from *a single family*, is by no means the only surviving group of Mohegan Indians. Five years later, the Connecticut Supreme Court ruled against the MTIC. They could not, the Court declared, prohibit descendants of the historic Mohegan tribe from using the name. In 2002, a year after the trademark lawsuit was decided against them, MTIC Chairman Mark Brown acknowledged in an interview that some members of the Norwich Mohegans do have Mohegan lineage.

As if the Native American Mohegans weren’t having a bad enough time, another factor emerged in 1995 (the year the Mohegan Sun casino opened its doors) to complicate matters even further. Grand Sachem Chief Moigu Standing Bear, a.k.a. Randy Johnson, emerged, claiming to be the illegitimate son of John Hamilton, and thus — according to the tribe’s ancient tradition of succession — to be the true leader of the Mohegan Tribe. At first he persuaded Eleanor Fortin of his claim, and promised great help in the struggle for her people’s acknowledgment. She soon came to have misgivings, but it was too late: documents had been signed giving Moigu Standing Bear control of the corporate entity called Mohegan Tribe and Nation, Inc.

Losing the name was simply a legal, procedural matter, on one hand — and yet the name, which was adopted under Hamilton’s leadership back in the 60s, was the clearest and strongest description of how this group of people saw themselves. Now, claiming that Moigu Standing Bear was a fraud, they adopted a new corporate name: Native American Mohegans.

Randy Johnson legally changed his name to Moigu Standing Bear in 1995 — although he claims to have known since 1971 that he was John Hamilton’s son. Standing Bear, for his part, asserts Native sovereignty regardless of whether any white people recognize it. For the last two years or so he has been refusing to pay some \$19,000 in city fines levied against him for unregistered vehicles (they bear homemade MTN license plates) and piles of rubbish, used for “sacred bonfires”. (When I visited,

the trash piles were gone, but I did see the rather tastefully-designed license plates.) In this battle, Standing Bear has no legal leg to stand on. Enforcement is slow, probably, because of the general harmlessness of his offenses, and the community's reluctance to confront his invocation of primal rights. His "reservation" is right next to the spectacular "Indian Leap Falls", the spot where legendary Mohegan Sachem Uncas leapt across the falls in pursuit of his Narraganset enemies in an ancient battle.

It is a lovely spot, awe-inspiring in a local-valley sort of way. In an interview, Standing Bear speaks of being lulled by the music of the falls, just as Uncas said he did. There is some irony in that: having acquired legal control over the corporate entity called "Mohegan Tribe and Nation", Standing Bear also took control of the corporation's property: the house at 232 Yantic Street. Had it not been for Standing Bear, a.k.a. Randy Johnson, that is where I would have met with Eleanor Fortin — not the shabby office on Franklin Street.

Clearly there is something not quite right about Standing Bear's claims. He purports to have full genealogical documentation of his heritage, yet his website identifies as his grandmother a woman (Princess Weonah Bright Star) who is actually John Hamilton's grandmother, and hence John Hamilton's son's *great*-grandmother. Yet there is a righteous fervor about "Grand Sachem Chief Moigu Standing Bear" that does command some respect, and I am not prepared to call it dishonest. What he truly believes is between him and the Spirit World, and may he be blessed. In the meantime, however, he happens to be a more flamboyant character than Eleanor Fortin, and does tend to get his name in the press — which is a public relations godsend for the Montville group. They can disregard the rather cartoonish Standing Bear as representing the "Norwich faction" — followers of John Hamilton, who Standing Bear claims as his father.

Despite the trouble he has caused them, Fortin and Currier seem to bear no ill will toward Standing Bear. "He's no Indian," declared Currier — "but his wife and children are Mohegans." Our interview was winding down, and Darlene Currier was eager to be off to get her grandson to his little league game. I suddenly understood why, in this twisting, convoluted tale (and for what it's worth), I was inclined to believe the Native American Mohegans. It's because, unlike just about everyone else involved, they are grownups. They're not betting it all on the big wheel. Although they retain some hope that, someday, the US Government will amend its Acknowledgment to include them as it

should, they're not waiting up nights for that. They're doing the little league game, organizing the Pow-wow, hanging with the grandchildren. They maintain the Native American Mohegan organization because it is an inherently worthwhile thing to do — which is, after all, why those files, proving their tribal continuity, were there for investigators to find. “Look,” said Darlene Currier, “We're not interested in opening a casino in Connecticut. Our main objective is for our children and grandchildren to keep our heritage alive.” Regarding the Montville group, there is some anger, and some sadness. “They are financially rich, but culturally bankrupt,” said Frank Cook, another Tribal Council member with whom I spoke. “They are our blood relatives,” added Eleanor Fortin.

After I left the NAM office I went back to the casino, had lunch in the Longhouse Restaurant (with its hundreds and hundreds of antlers) and went over my notes. I was pleased to learn that employees there had quite decent benefits, including 501Ks and health plans — and that they were strictly prohibited from gambling after-shift. This was a mid-afternoon in early May. There were lots of shiny new cars here and there; casino's feature for the month was a car-a-day giveaway. Although the more exotic games, the roulette and baccarat or whatever, were a bit slow, the slots were chiming ethereally away. The patrons at this hour were frumpy, middle aged, slow-moving, wowed by the glamor, living as large, perhaps, as they were capable of. Suddenly, in a flash, I understood the reason for the native decor.

All along I'd been thinking it was outrageous, blasphemous, over-the-top decadent. And perhaps it is all those things, but it is also brilliant marketing. Why is the Mohegan Sun casino suffused with native-ness? Why does it not let you forget for one instant that you are in Indian Country, in an Indian world? Why, to put you in a win-win position, of course. You win money, that's great! But if you lose money — which you almost certainly will — you're helping the Native Americans. You're helping the Native Americans raise money to educate their children; you're helping the Native Americans keep their heritage alive. That goes a long way toward explaining the billion-dollar-a-year revenues: White Americans have a whole lot of atoning to do. If only it were real.

Which is not to say it can't be real — or at least somewhat more real than this. The Choctaw Nation in Mississippi operates a casino that is highly profitable — and welcomed by both the surrounding community and all the members of the tribe. The casino, notably, features no native decor. Chief Philip Martin was quoted as saying, “This is our business, not our culture.”

Unquestionably something went seriously awry with the Federal Recognition process as it applied to the Mohegan Tribe. That's not to say the process itself is irremediably corrupt. Recently the BIA, in an unprecedented step, recognized two distinct factions of another Connecticut tribe, the Western Pequots, as a single Indian nation. That is probably what should have happened with the Mohegans; perhaps the BIA is capable of learning from its mistakes. When this kind of money is at stake, though, the process will certainly be corrupt, if — as in the Mohegan case — nobody is minding the store. And — unfortunately — US Indian Law is notoriously ambiguous about who is actually responsible for that.

But, of course, the national schizophrenia that leads to absurd tales such as this will never be remedied by any conceivable policy on the issue of Indian gaming, for the problems go deep. It's clear, for example, that Eastern Connecticut is an economic basket case. Despite its ample infrastructure, industrial history and well-educated population, folks in Eastern Connecticut simply can't make a living without a *deus ex machina* such as defense contractors, or casinos. The same dismal prognosis holds for most of the rest of the United States. The casino, in fact, serves as the most apt metaphor for our national economy. It's not about producing wealth, any more — it's about finding ever-more interesting ways to divvy up what has already been produced. Labor, in fact, has been almost completely decoupled from its reward in our minds. We work, because we have to make a living, but that's not how we get ahead. We get ahead — if ever — by winning the Lotto.

Casinos exist on Indian Reservations because white people have prohibited them in their law — and yet, casinos make big bucks, because many, many Americans want to gamble — and their “illicit” nature only serves to heighten their appeal. The doctrine of Native sovereignty, as applied to Native casinos in Connecticut, has been a cynical, opportunistic scheme — but that by no means denies its moral force. By what principle should Indian nations, having been denied everything else, now lose their sovereignty? The United States of America stole every inch of its land from its Native inhabitants, and proceeded to base both its legal tradition and its economic system upon precisely that theft. That's something Americans have to live with. The casinos have simply come home to roost. Given all these facts, it would surely behoove us to make sure that people like Darlene Currier's grandson get their rightful share of the take.

Sources

Press articles on Indian Gaming

http://www.boston.com/globe/nation/packages/gaming/part1_bar.htm - Boston Globe series

<http://www.simonpure.com/aswetell.htm> - transcript of 1994 TV documentary on Connecticut Indians

[Http://www.insideout.org/documentaries/casinoreservations/everybody.asp](http://www.insideout.org/documentaries/casinoreservations/everybody.asp) - article on the Choctaw gaming operations in Mississippi, characterized as an authentic win-win benefit.

General sources on Indian Gaming

<http://www.nigc.gov/nigc/index.jsp> - National Indian gaming commission (includes IGRA text)

<http://www.tribal-institute.org/lists/gaming.htm> - Indian gaming resources — genral clearing-house

<http://www.legis.state.ia.us/Central/LSB/Guides/indgam.htm> - Legislative guide to the IGRA

<http://www.indiangaming.org/> - industry newsletter, overtly partisan

[Http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=480&invol=202](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=480&invol=202) - 1987 Cabazon Supreme Court decision — precursor to IGRA

The Mohegans

<http://www.dickshovel.com/moh.html> - Mohegan history; not partial, part of large database of tribal histories

<http://www.mohegannation.com/> - Mohegan nation (MTN) site — Standing Bear's work (c) 1996 (moheganwarrior.htm — article on Standing Bear (statement.htm — Standing Bear's take on the MTIC)

http://www.artcamp.com.mx/pages/Artcamp_supporters.html - Standing Bear allegedly swindles artisans co-op in Mexico, many are indignant

<http://www.sachem-uncas.com/history.shtml> - Mohegan History from another local source

http://tuscaroras.com/IDLA/guestbook/guestbook_001.html - post from Standing Bear on his lineage

<http://www.nativeamericanmohegans.com> - Eleanor Fortin faction (NAM) - much better organized than MTN; includes timeline of recent Mohegan history

<http://www.mohegan.nsn.us/tribe/home.html> - the slick Mohegan (MTIC) homepage

<http://www.usps.com/judicial/1996deci/md96-185.htm> - mail dispute between Fortin and Standing Bear

Legal information

[Http://www.ctd.uscourts.gov/Opinions/021202.JBA.Mohegans.pdf](http://www.ctd.uscourts.gov/Opinions/021202.JBA.Mohegans.pdf) - opinion in the dismissal of the NAM suit against the MTIC

http://www.press-on.net/articles/3-7indian_law.htm - The theoretical foundations of U.S. Federal Indian Law

<http://www.casino-gambling-reports.com/GamblingStudy/Tribal%20Gambling/page3.htm> - law and sovereignty as it relates to gaming

<http://caselaw.lp.findlaw.com/cascode/uscodes/25/chapters/19/subchapters/ix/toc.html> - federal legislation of recognition of the Mohegan tribe and settlement of land claims

<http://supreme.lp.findlaw.com/constitution/article01/35.html> - further discussion of indian sovereignty in law

<http://www.ptla.org/ptlasite/quinnehtukqut/ct9tribalbriefs.htm> - more on the Mohegan legal conflict

<http://www.law.uconn.edu/faculty/nnewton> - Univ of CT law professor, expert on Indian Law ((860) 570-5127, nell.newton@uconn.edu)

<http://www.jud.state.ct.us/external/supapp/Cases/AROCr/cr130.pdf> - judgement on MTIC vs MT&N trademark case

<http://www.ptla.org/ptlasite/quinnehtukqut/ct11tribalbriefs.htm> - notes on the legal dispute between the two Mohegan factions

Mohegan Sun

<http://nativenet.uthscsa.edu/archive/nl/9412/0236.html> - back in 1994 — article on Sol Kerzner being cleared of wrongdoing in Mohegan Sun deal

www.mohegansun.com - if you're that desperate

<http://archrecord.construction.com/projects/interiors/archives/0203Mohegan.asp> - architectural credits — who actually built the thing

Federal Recognition

[Http://www.accessgenealogy.com/native/fedreg2.htm](http://www.accessgenealogy.com/native/fedreg2.htm) - description of the recognition process

(202) 208-3592 BAR: Bureau of Acknowledgement Research of the BIA

http://reform.house.gov/reg/hearings/Hearings_2002/020702Tribes/Simmons.htm - hearings in CT on fed recognition reform

and then there are the Paugasset in Bridgeport, and the 2 Eastern Pequot tribes that have been recognized as one (why couldn't they do that with the Mohegans?)