RETURN OF THE BUFFALO

The Story Behind America’s Indian Gaming Explosion

Ambrose I. Lane, Sr.
RETURN of the BUFFALO
The willful slaughter by European immigrants of the Buffalo was intended to de­stroy the economy of America’s indigenous population. Much of the killing had little to do with the animal’s hide, meat or horns; it had a great deal to do with intentionally reducing the Native American population to a state of abject depend­ency.

One Native prophecy envisioned the return of the Buffalo. Metaphorically, the return of the Buffalo meant a return to economic independence. Many tribes today view Indian gaming, the operation of gambling casinos on formerly barren reservation lands, as their return of the Buffalo.

This is the story of the Cabazon Band of Mission Indians, the tribe whose U.S. Supreme Court victory in 1987 made Indian “Gaming” legal on reservations across the country, and whose former sand and rock reservation has bloomed in the California desert.

In little more than a dozen years this small tribe has moved from dependency to economic independence. This is also the story of their relationship with a revo­lutionary, socialist “radical” non-indian, John Philip Nichols, and his family— another “tribe” of sorts—and their successful and inspiring journey together through the minefields of bigotry, slander, yellow journalism and official sabotage, strewn by the philosophical descendants of those 19th century Buffalo killers.
Contents

Foreword by Esteban E. Torres vii
Foreword by Terry L. Pechota ix
Preface xi
Introduction by James Abourezk xvii
Chapter 1—Prologue to Rebirth 1
Chapter 2—They Met in the Desert 17
Chapter 3—The Early Successes and Struggles 31
Chapter 4—The Pain and Joys of Growth 59
Chapter 5—A Savage “Free Press” 153
Postscript—Towards a New Century 179
Selected Bibliography 183
Index 187

Photographs follow pages 58 and 152
This important book impacts us on a number of levels and is in effect "a story within a story within a story."

The first story carefully documents a phase of the struggle by the Cabazon Band of Mission Indians to achieve economic self-sufficiency. This step-by-step chronology of the process serves as a textbook for those seeking similar goals. It is a remarkable chapter in the survival story of a Native American tribe that has confronted the pattern, unfortunately characteristic of the treatment of natives by invading cultures: deliberate de-culturation, hostility, disease, neglect and destruction.

The next story is about a remarkable, some would say controversial, family of strong individuals: the Nicholses, and about what happened when they began working with the Tribe.

The third story is an admitted effort to "tell the truth . . . and set the record straight" about the Tribe's climb out of poverty. This is an effort to counter what Mr. Lane characterizes as "savage attacks . . . sleazy innuendoes . . . and hatchet jobs" done on the Tribe by the media and by opponents of the progress that was achieved over this past decade.

Finally, there is the story about how "gaming" came onto the reservation and why this activity is important to the growth, survival and self-sufficiency of the Tribe.

The stories do not end here. In no way is it a final-chapter, ride-off-into-the-sunset kind of book, for there are gathering storm clouds of opposition building against the Tribe's newly won economic and cultural independence.

I have a feeling that the Cabazon Band of Mission Indians will overcome this current wave of opposition, because I sense the swing of the pendulum of history away from the destruction, exploitation, and death that has been their most recent legacy. Ambrose Lane said it best: "The Cabazon Band of Mission Indians has
traversed the bridge that leads from nothingness to victory, from addiction to sobriety, and from hope to realization of dreams . . . the secret ingredient was unity at the core, the center, the moral center that demanded honor, and that always produced unity at the core . . . sufficient to be victorious.”

I urge you to read this remarkable, albeit unfinished, American success saga.

Representative Esteban E. Torres (D-34th District CA)
Foreword

Terry L. Pechota is an enrolled member of the Rosebud Sioux Tribe and was raised on the Rosebud Indian Reservation. He graduated Cum Laude from Black Hills State College in 1969 and from the University of Iowa Law School in 1972. After becoming an attorney, he was director of Rosebud Legal Services on the Rosebud Indian Reservation, U.S. Attorney for South Dakota, and a staff attorney for the Native American Rights Fund. Mr. Pechota currently practices Indian law with the law firm of Viken, Viken, Pechota, Leach & Dewell in Rapid City, South Dakota.

Anyone with a general knowledge of the history of Indian tribes in the United States understands the adversity and struggles they have experienced since the arrival of the White man upon this continent long ago. The effort of Indian tribes to avoid the extinction and demise of their members has been stymied by a long history of fluctuating governmental policy, most notably that which envisioned the termination of tribes and the assimilation of their members, the destruction of culture and land base, and most recently the curtailment and erosion of tribal sovereignty in the courts and by legislation. The struggle for tribes continues. In this historical and captivating book by Ambrose Lane, we find the true story of a small tribe that has hurdled the often insurmountable obstacles placed in its way to become a showcase of economic development.

The Cabazon Band of Mission Indians, about which Lane writes, is a remarkable tribe that, as a result of various negotiations and treaties by the White man, was left with only a small fraction of land that it had originally owned. Lane tells the history of the Tribe from the 1960s and especially how it has, sometimes alone and always at the vanguard, taken the steps and fought the battles brilliantly in court and the halls of Congress to build on the opportunity that gaming offered to a desert tribe for economic development and the cultural betterment of its members.
A not insignificant part of the success of the Cabazon Tribe was due to the initiative, foresight and perseverance of John Philip Nichols and his family. Lane tells the story well. A long time ago in Albuquerque, New Mexico, I had the good fortune to strike an acquaintance that has lasted many years with John Philip Nichols and his late wife, Joann. To say that Nichols and his wife were activists is an understatement. To say they were a team would not be emphatic enough. They had dedicated their lives to betterment of the common man, those who too often are forgotten, and were at that time beginning their efforts with the Cabazon Tribe that has ultimately resulted in the Tribe becoming one of the most prosperous in the United States. With the guidance, advice, and service of the Nichols family, now including his able sons, the Tribe capitalized on the opportunity offered by gaming and built a team that has made the Tribe a leader in Indian gaming development in this country. As Lane points out, this successful effort has not been without heartaches both to the Tribe and the Nichols family. But as anyone knowing the mettle of John Philip Nichols would expect, all has ultimately resulted in good for the Tribe and for his family.

Any tribe or individual who has any interest in the development of Indian gaming or the economic development of Indian tribes should make this book a must reading. More tribes should record their history, not only in the past but also in these later years. Lane’s book is a good one to emulate.

Terry L. Pechota
The American Indians' fight for the right to live their own way of life amid laws serving White European values has been waged from the beginning against the worst of human weaknesses: greed and self-serving misperception.

Indigenous to the land where oppressed Europeans sought to govern themselves according to man's "inalienable rights" to religious freedom, equality and the pursuit of happiness, Native Americans first welcomed the Europeans to their land. But the Indians soon found, as would other men of color later on, that they were not to be part of this new government. The inalienable rights so cherished by these Europeans would not be accorded the Indians in peaceful co-habitation, simply because to the Europeans, Indians could not be looked upon as men.

In the 18th century, certain influential European men of letters took it upon themselves to recount in vivid detail their incredible observations concerning the native people in "discovered America." In 1768 and 69 one such man, the Abbé Corneille de Pauw—an early favorite of none other than Frederick the Great—wrote two volumes titled Philosophical Investigations of the Americans, and a subsequent third volume in which he described his horror at the Pope's acceptance of the Indians as men. The Indians' "constitution is weak," he said. "Their stature is smaller than that of Europeans. At first they were taken not for men, but for orangutans, or big monkeys, that could be destroyed without remorse or reproach. Then, to add ridicule to calamity, a Pope issued a Papal Bull in which he declared that, as he wished to establish Bishoprics in the richest countries of America it pleased him and the Holy Spirit to recognize Americans as 'true men...'. Without this decision... the inhabitants of the New World would still today be, in the eyes of the faithful, a race of dubious animals."

In their book Was America A Mistake? historians Henry Steele Commager and Elmo Giordanetti cite these passages as well as others from European scholars during the same period, including the Abbé Guillaume Thomas François Raynal,
whom they refer to as "one of the most prominent figures of his century." According to these historians, Raynal wrote "one of the great books of the age," *A Philosophical and Political History of the Settlements and Trade of Europeans in the Two Indies*, from which they cite these quotations:

The men [Native Americans] had less strength and less courage, no beard and no hair; they have less appearances of manhood, and are but little susceptible of the lively and powerful sentiment of love. . . . Men who have little more hair than eunuchs cannot abound in generating principles. The blood of these people is watery and cold. The males have sometimes milk in their breasts.

Regarding this latter phenomenon [men with milk in their breasts], fellow scholar de Pauw agreed and had the answer to this anomaly:

I am persuaded that humidity of temperament in the inhabitants of the New World caused this defect . . . [making men] more like women, more cowardly, more timid, and more afraid of the dark . . . [milk in their breasts] must be brought about by the humidity in which the embryo is enveloped in the uterus, which prevents the bile from turning sour and from extravasating enough to render the chyle sanguineous.

If some of the more "learned" and "scholarly" Europeans held such beliefs, can it be surprising that America, when first inhabited by Europeans, became a *Killing Field*? That the invading "discoverers" of America wreaked mass slaughter on the people they found here is no longer in question, only the extent of the near-complete genocide. And the slaughter was opposed by few of the European invaders who called themselves Christians and claimed a noble mission of Christianizing the Native American "heathens" and "savages."

In his book *Land Grab*, John Tipton Terrell describes how in the fall of 1874, less than 100 years after de Pauw and Raynal published their works, former Christian minister Colonel John M. Chivington led a large force of Colorado Volunteers in the slaughter of peaceful sleeping Cheyenne and Arapahos. Terrell reported that his soldiers:

1. Murdered at least two hundred men, women and children. The number may have been much greater, for reports were conflicting. Investigators sent to the scene expressed the opinion that as many as four hundred had been slain.
2. Raped wounded squaws before killing them, then amputated their fingers, arms and ears to obtain rings, necklaces and other souvenirs.
3. Knocked out the brains of little children.
4. Cut out the private parts of both men and women and took them to Denver to be exhibited to the public.
5. Under an order from Chivington, scalped nearly all victims.
6. The colonel boasted that no prisoners had been taken. He was fully aware of the
identity of the Indians, knew that they had signed a treaty of peace and that they had been promised protection by military authorities.

A leading Denver newspaper of the day toasted Chivington and his troopers as heroes, stating "Among the brilliant feats of arms in Indian warfare, the recent campaign of our Colorado Volunteers will stand in history with few rivals, and none to exceed it in final results. . . . All acquitted themselves well, and Colorado soldiers have again covered themselves with glory."

This book is about one tribe of Native Americans, the Cabazon Band of Mission Indians. They were a part of the larger Cahuilla Tribe in Southern California, who, although located within the mission area established by Spanish invaders in the 1770s, were always free. They were never among the de facto slaves forced to build the 21 Spanish missions the length of California, many of which are still standing.

The Cabazons are brothers, however, to those who during 65 years of Spanish rule endured the suffering and almost total destruction of their native way of life. Records show only 29,000 births to 62,000 deaths among the Cahuillas during those years. The conditions perpetrated upon the Mission Indians by their captors, as related in one report by the Bureau of Indian Affairs, were without redemption:

Disease ran rampant in the compounds. In their hopelessness and suffering, Indian mothers were known to have smothered their babies at birth rather than condemn them to live such an existence. More insidious was the mass psychological depression that overtook the Mission Indians. They lost, as a race, the will to survive.

With the decline of the native population and its effect upon the labor supply, the Missions became, economically, a liability and were considered to have failed. They were abandoned in 1834, and the survivors of many Mission bands [now dependent upon their captors] soon perished. Bereft by mission training of inherited skills, with few vestiges of their old social structure to sustain them, they were the victims of starvation, disease and the Anglo-American massacres which were soon to follow.

Records show that when the United States took over California in 1848, an estimated 110,000 Native Americans lived there. By the end of the century only an estimated 17,000 remained alive, and a report of the Commissioner of Indian Affairs showed only 15,283 by 1890.

The Cabazons, to whom this book is dedicated, were among the victims of these massacres. When the United States acquired California through the signing of the Treaty of Guadalupe Hidalgo with Mexico, it had agreed to preserve recognition of the rights of Native Americans to their inherited lands. But when California became a state, two years after the 1848 discovery of gold at Sutter's Mill, more than 200,000 fortune-seekers flooded the state. These newcomers and their elected officials opposed ownership or even possession by Indians of any of their inherited lands thought to have any mineral value. To try to bring peace, President
Millard Fillmore sent three commissioners to negotiate a “just and equitable settlement with the Indians of California.” Within a year, the commissioners met with 402 Indian leaders and executed 18 treaties as well as one supplemental treaty, which together became known as the Barbour Treaties, named after Commissioner G. S. Barbour.

Wanting nothing more than to be left to their own way of life, the Indians settled for guaranteed rights of perpetual use and occupancy of reservations totaling 8,815,900 acres, in return for their relinquishment of all rights and title to California land they already occupied. In addition to acreage, the chiefs were promised other specified goods and supplies, tools, livestock, clothing, services and educational support, and were assured Washington would honor these treaties. So the Mission Indians left their homes and moved onto the reservations promised. But on July 8, 1852, the U.S. Senate refused to ratify the treaties, leaving the bands stuck on “strange” land now coveted by land-hungry Europeans.

With the California legislature pushing Congress to “remove the Indians” from all of California, and the Senate refusing ratification of the treaties, the message to the gold-seekers was clear. It became “open season” on killing Indians. In fact, when killing at random wasn’t enough, there were those who actually organized “Indian hunts.”

The treaties now forgotten, legislation was passed in 1853 granting preemption rights to lands, including Indian-occupied lands, to new European settlers. In an attempt to soften the blow, a law was passed almost 25 years later in 1875 allowing Indians to homestead public lands if, but only if, they gave up their native way of life, a condition that applied to no one else.

In the 1890s, a new commission named after Commissioner Albert K. Smiley surveyed Indian lands and conditions. As was done for tribes across the country, the Smiley Commission “set aside parcels of generally poor land for the remnant Indian bands” under the Mission Relief Act of 1891. In an attempt to document the current state of Indian affairs, the Indian Appropriation Act of 1905 authorized an investigation of Indian conditions, and C. E. Kelsey was made a special agent to conduct the investigation. He surveyed every Indian settlement between the Oregon line and Mexico, and reported that of a 17,800 population only 5,200 were living on reservations, the remainder being scattered; only 3,000 of the 11,800 non-reservation Indians owned any land, and 75 percent of that was worthless.

With much of their land unusable for agriculture the Mission Indians, including the Cabazons, had to scatter to survive. They faced many obstacles: to try to make it in a racist country, in a state that was especially harsh, cruel and inhuman to its Native American population, and (according to one native non-Indian resident of California’s Riverside County where the Cabazon reservation is) in “one of the most racist counties in the United States—here where the history of no treaty with the Indian or Native American has been kept.”

This is the Cabazons’ story as they have lived it from the 1960s. It is a story of courage and tenacity and achievement in the face of frontal assaults and sabotage by several levels of government and yellow journalism. It is also the story of
their relationship with an avowed radical and revolutionary non-Indian named John Philip Nichols and his family—another tribe of sorts—and how a small desert town and tribes across the nation have been changed by their joint vision and brains, forever.
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When it became apparent to the Nevada and New Jersey gaming interests that Indian gaming might continue to expand, billionaire Donald Trump immediately went public to demand the Congress do something to stop its growth. With an obvious eye for the well-turned phrase, the lawyer for the Connecticut Indian Tribe targeted by Trump’s wrath instantly labeled the legislation the “Donald Trump Welfare Act.” But the humor was short lived. It has now become apparent that the Trump assault on Indian tribes who have built up gaming on their reservations is just a beginning.

As of this writing, two Nevada Senators, Harry Reid and Richard H. Bryan, joined by New Jersey Congressman Robert Torricelli, the instant patriot, are pushing legislation that will fulfill Mr. Trump’s wishes, at least as it concerns Indians.

Torricelli, the good Congressman who labors overtime for his masters in Atlantic City and elsewhere, has had the temerity to offer as his rationale for tightening the screws on Indian tribes his fear that organized crime might infiltrate Indian gaming. This is the same cry one hears from the Nevada gang.

I think it a fascinating commentary on America and American society that Mr. Trump, who has most likely never missed a meal in his life, is asking for government intervention to further impoverish Indian people, many of whom still have trouble securing a minimum of one meal a day—on good days.

Heaven knows that those of us out here in America may not be swayed by such sophistry, but one should not bet much of one’s life’s savings on whether or not this argument will convince members of Congress during the current legislative session.

Greater scams have been sold to the folks in Washington who, when they decide to vote against their own constituents’ interests and in favor of the money men, are looking for a semi-plausible reason to offer when asked how they could possibly vote as they did.
The story of John Nichols and the Cabazon Tribe is, it seems, being told over and over again, as it has for the last several hundred years. The narrative started when White Europeans landed on the shores of America and decided this land was their land, and no one, especially the Indians who lived here, would stand in their way. If a deceptive treaty did not strip the Red Man of his land, then money and trickery of other sorts were tried. The final solution, when all else failed, was a technique still used today by macho occupants of the White House: send in the Army.

In current times, the military (Army, Navy, and Air Force) is a solution reserved strictly for misbehaving third-world villains, the likes of Col. Khaddafi and Saddam Hussein. As a television comic recently pointed out in a parody on President Bush talking to an unnamed questioner:

“Noriega is a crook, a drug dealer and a thug.”
“How do you know?”
“He used to work for me.”

What our government reserves for the Indians today is a much subtler method of control (the Army is no longer needed, except perhaps at events like Wounded Knee): First, establish a condition of poverty unequaled in this country, then offer food, contingent of course on Indian submission to authority and proper Indian behavior. How wonderful it is for small, otherwise powerless bureaucrats to be able to exercise the power of a necessary commodity like money or food over someone who needs or wants it. How uplifting it must be when people who otherwise might never wish to speak to you come begging at your door. And how disappointing it must be when those miserable supplicants ultimately find a way to make a living on their own, no longer needing your money or help.

The industry of Indian gaming creeped up on the White establishment so slowly and quietly that it went unnoticed until it had taken hold around the country. Never mind that it was a form of economic development the Indians only saw as a last resort, something to prevent starvation and degradation. Never mind that on several reservations, gaming began bringing in money needed for projects and jobs the government could not or would not provide. Never mind that the welfare rolls decreased after these people were offered the dignity of work for pay, and that alcoholism and divorce and suicide rates also dropped. These are things, when you’re White and rich, as we presume Trump is, that have no meaning. What is important, if you’re White and rich and in the gambling business, is that you chop off the hand of any competition wherever you can.

The yardstick by which the Congress should measure gambling legislation, but most likely won’t, is the final destination of the money made by a gambling casino. The Indian tribes use it for jobs on the reservation, for alcoholic treatment centers for their tribal members, for other projects that benefit all tribal members. Let’s see now. Where do the profits go that are made in Donald Trump’s casinos?
After the bankers are paid, whatever is left goes directly to Donald Trump’s favorite charity: Donald Trump. Will this be taken into account by Congress? I, for one, will not hold my breath to see if such reason will ever be acknowledged by our elected officials.

The Cabazon Tribe was on the cutting edge of this whole business. The marriage of the Tribe with Dr. John Philip Nichols and his family was one of the great moments in history, not only for the Cabazons, but for Indian tribes around the United States. Desperate to find some kind of revenue way back when, the small band of Cabazons took a chance on their own idea and a development plan offered by Nichols. Slogging their way through court, through political thicket, the obstacles were enough to chill the ardor of most human beings. But the tenacity of the Tribe and the Nichols family finally saw success.

Nichols actually believed in the tenet of Indian self-determination, as expressed by the Indian Self-Determination Act passed in the 93rd Congress in 1975. It was a piece of legislation that has come to dominate activities by tribes around the country. In my own law practice, which is partly focused on Indian issues, I run across the Self-Determination Act in a great deal of my work. I remember a year after the law was signed I held hearings to see how it was working. The Bureau of Indian Affairs sent a middle-level bureaucrat to give testimony at the hearings of the Senate Select Committee on Indian Affairs, and after a few minutes of his testimony I understood why it was having difficulty. He was instructed, it soon became clear, not to answer my questions, and not to answer them in a way that I would not notice. I was persistent, however, so the upshot of a hearing that lasted several hours was that I learned the Bureau had actually hired additional people to administer a law designed to reduce the personnel in the Bureau. I suppose I was lucky to learn that much from him.

As a matter of public policy, I firmly believe that officially sanctioned gambling is not a good thing for society. That includes not only casinos in Las Vegas and Atlantic City, but also video lottery machines that are euphemisms for “slots” in any other setting. In South Dakota, the State itself, in its never-ending search for ways to pump money into its treasury, controls and shares in the profits of video lottery machines on virtually every street corner in the state. It is one thing to allow gambling in Deadwood and on Indian reservations where addicts are required to drive great distances to satisfy their urge, but it is another to seduce those of our citizens who live with visions of sugar plums and who will plunk their entire paycheck into a State-run slot machine, principally because in most cases the machines are conveniently situated in the same room where they buy their beer.

But if individuals such as Donald Trump and the variety of other private casino owners are to be allowed to pocket gambling money, then by God so should the Indian tribes if they choose to do so.

Here we are at the end of the 20th century, in a society so technologically advanced it’s frightening, and we still haven’t learned the lesson of our racist past. Is it possible that we haven’t shed our desire to first gauge the color of someone’s
skin and, finding it not white enough, start tromping on them to take away whatever it is of theirs we want? I’m afraid, to answer my own question, that the answer is yes.

I’ve seen how remarkable the change is on the Cabazon Reservation, and I’ve seen the dramatic change on those reservations in South Dakota where the tribes have made money on gaming. It should make one’s heart feel good to see people working at dignified jobs, to see them straighten their lives around, lives that were contorted by poverty. Why would anyone want to change that? One of the greater benefits of those tribes that are making money is the change in White attitudes toward them. I marvel at how, on the Yankton Reservation in South Dakota, the local business community and especially the bankers are considerably more respectful of the Tribe because of the millions of dollars the Tribe is bringing into the White community as a result of a well-run casino operation.

Whether they are White or Indian, every reservation needs someone as tenacious as were the Nichols family and the members of the Cabazon Tribe. The obstacles in the way of the advancement of the Indian people are greater than for anyone else, so tenacity is a prime commodity, an essential requirement. Reading this book is a lesson for all of us in the way in which people with good intentions and the required tenacity can actually make a difference. It has already made a great deal of difference, not just for the Cabazons, but for Indian people everywhere. What must be done now is to maintain, to persevere, to make certain that the small gains already made are not washed away by the hypocrisy of the barons of Atlantic City and Las Vegas.

Senator James Abourezk (D-SD)
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Prologue to Rebirth

In a speech on May 22, 1964, at the University of Michigan, President Lyndon B. Johnson challenged his listeners to “help build a society where the demands of morality and the needs of the spirit can be realized in the life of the nation.” He called it the Great Society.

The Great Society, said the President, “is not a safe harbor, a resting place. . . . It is a challenge constantly renewed, beckoning us toward a destiny where the meaning of our lives matches the marvelous products of our labor. . . . It rests on abundance and liberty for all. It demands an end to poverty and racial injustice of which we are totally committed in our time.” He urged the students and their parents and teachers to join his efforts to begin the creation of such a society, “to prove that our material progress is only the foundation on which we will build a richer life of mind and spirit.”

Three months later, on August 20, 1964, the cornerstone of his plan was laid in the enactment of the Economic Opportunity Act—a movement that became popularly known as the War on Poverty. In the Findings and Declaration of Purpose section of that Act there appeared these words:

It is, therefore, the policy of the United States to eliminate the paradox of poverty in the midst of plenty in this Nation by opening to everyone the opportunity for education and training, the opportunity to work and the opportunity to live in decency and dignity. (Emphasis added.)

That Act was the most unique law ever passed by a parliamentary body in any industrialized nation in the world, and among its claims to uniqueness were:

1. No other nation in the recorded history of humanity ever declared an