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THE DOUBLE BIND OF AMERICAN INDIAN NEED-BASED SOVEREIGNTY

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Tribal gaming has changed the life fortunes of many but not all American Indians and realigned legal, cultural, and economic relations between indigenous and nonindigenous peoples. Much is new in this story, but much is not. At first glance, the wealthy “gaming tribe” fits Michael Fischer’s concept of an “emergent form of life,” insofar as it involves a sociality of action that cannot be understood within existing analytical concepts and political orderings, it presents vexing comparative and historical questions, and it poses ethical dilemmas for indigenous and settler publics (Fischer 2003:37). Rather than taking for granted that new forms of indigeneity are emergent in the gaming era, however, I ask a related set of questions that can reveal patterns in how indigenous economy, political status, and cultural difference are organized by settler societies: Why does indigenous wealth so often appear to be emergent in the United States relative to indigenous poverty? With what effects and antecedents? And what might this tell us about structures of expectation—especially economic ones—that face indigenous peoples in settler states?

Tribal gaming calls attention to the economic organization of indigeneity and, more generally, to the cultural politics of settler states. In this essay, I examine a double bind that faces indigenous peoples in the Anglophone settler states and that goes some way toward explaining why American Indian wealth often seems to be emergent. This is the double bind of need-based sovereignty. In the most general terms, this double bind works as follows: American Indian tribal nations (like other polities) require economic resources to exercise sovereignty, and their

2 revenues often derive from their governmental rights; however, once they exercise
3 economic power, the legitimacy of tribal sovereignty and citizenship is challenged
4 in law, public culture, and everyday interactions within settler society. This is a
5 double bind for indigenous peoples in the classic sense that competing possible paths
6 to overcoming the dilemma negate one another, posing a contradiction and leading
7 to no possible resolution. (The concept of the double bind reaches back to Gregory
8 Bateson's theory of schizophrenia [1972].)¹ Need-based sovereignty for indigenous
9 peoples tellingly diverges from U.S. expectations that other sovereigns (e.g.,
10 European nations) will display—and be measured by—economic power. This
11 double bind makes economy more central than often is realized to the practice,
12 claims, and constraints of two forms of political status for indigenous peoples:
13 sovereignty and citizenship. Still, “economy” alone cannot explain the phenomenon
14 because economy-linked limits to indigenous sovereignty and citizenship, in turn,
15 rest on debates over culture: on estimations of what it is that renders American
16 Indians distinctive as individuals and as collectives and on culturally defined ideas
17 of need that attach to individuals and collectives alike.

18 This essay addresses the double bind in two seemingly different but tellingly
19 similar historical moments for the Seminole Tribe of Florida.² First was the threat-
20 ened “termination” of the Seminole Tribe of Florida as a governing body by the
21 notorious 1953 federal termination policy that severed government-to-government
22 relations between the United States and selected American Indian polities. One
23 of the many criteria by which the federal government selected tribal nations for
24 termination was economic capacity, and Seminoles struggled to assert a vision
25 of economic well-being as consistent with collective governance. Second was the
26 fragile assertion of Seminoles' gaming-linked economic and political power at the
27 2007 fiftieth anniversary of tribal reorganization. Since 1979, Florida Seminoles—
28 who number approximately 3,500 tribal citizens, most of whom live on or near
29 six discontinuous reservations in South Florida—have undertaken dramatic eco-
30 nomic expansion and a single-generation shift from endemic poverty to economic
31 comfort. This is the direct result of their historic foray into casino gaming. Im-
32 ages of Seminoles in local media have shifted from families dressed in distinctive
33 bright patchwork clothing and men wrestling alligators for a scant living to luxury
34 cars and the glitzy Hard Rock casino—resorts on the Tribe's urban Hollywood
35 and Tampa reservations. As I have discussed in a book on Seminole gaming and
36 sovereignty (Cattelino 2008), Seminoles assert that gaming wealth emerges from
37 their sovereignty and facilitates its exercise through social service provision, natural
38 resource management, economic development, direct benefits support to tribal

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2 citizens, cultural production, and an ever-growing array of governmental activities.
3 Nonetheless, they struggle against legal, political, and cultural pressures that would
4 view gaming wealth as negating sovereignty. American Indian tribes can undertake
5 gaming only because of their sovereignty, and yet gaming wealth threatens to
6 undermine that very sovereignty.

7 Anthropologists and other scholars have analyzed the ways that indigenous
8 peoples must fit themselves into preconceived expectations by settlers to achieve
9 recognition, including but not only federal recognition as tribal governments. One
10 of those expectations is a level of distinctiveness and political continuity that would
11 elude many other polities (see Blu 2001; Clifford 1988; Cramer 2005; Sider 2003).³
12 Elizabeth Povinelli further has argued that indigenous peoples consistently fail at
13 difference and indigeneity because the inspection regime of recognition requires
14 them to be radically different and yet, at the same time, cannot actually recognize
15 radical alterity: “I suggest that this inspection always already constitutes indigenous
16 persons as failures of indigeneity as such. And this is the point” (Povinelli 2002:39).⁴
17 Radical difference generates the perception of psychosis, but the lack of radical
18 difference calls indigeneity into question (because if indigenous peoples are fully
19 understandable, then they are not truly different, and therefore any rights based on
20 their difference are suspect). What interest me are the economic dimensions of such
21 double binds, where the issue is not simply the failure to be different enough but also
22 the simultaneous unrecognizability of difference. Seminoles and other American
23 Indians cannot assert economic power—which, importantly, is often gained only
24 as the direct consequence of their collective status as governments—without being
25 individualized as U.S. citizens (and, therefore, exposed to the allegation that they
26 enjoy undeserved “special rights”). This is not simply a question of state extraction
27 or protection of economic resources, nor is it a phenomenon entirely internal to
28 capitalism.⁵ Rather, need-based sovereignty hinges on the cultural dimensions of
29 economy as one way that peoples and polities mark difference. At stake are the
30 economically and culturally differentiated possibilities of collective life within the
31 political landscape of the United States.⁶

32 As Seminoles have found, indigenous wealth flies in the face of *expectation* in
33 U.S. public culture. By this use of the term, I do not mean that every non-Indian
34 holds a particular view of who and what Indians should be but, rather, that we can
35 detect a pattern or structure of expectation in historian Philip Deloria’s (2004)
36 sense. In a collection of essays about “Indians in unexpected places”—playing sports,
37 driving cars and using other technology, making music—Deloria asks his readers to
38 understand expectation in the following way: “I want you to read it as a shorthand

2 for the dense economies of meaning, representation, and act that have inflected
3 both American culture writ large and individuals, both Indian and non-Indian”
4 (Deloria 2004:11). Deloria’s focus is on popular culture, rather than economic
5 status, but I am most interested in the way that he categorizes two human responses
6 to acts and representations that fly in the face of expectation: “And I would, finally,
7 like you to distinguish between the anomalous, which reinforces expectations, and
8 the unexpected, which resists categorization and, thereby, questions expectation
9 itself (Deloria 2004:11). If American Indians are expected to be poor, should we
10 take gaming wealth to be unexpected (i.e., as affording the opportunity to alter
11 patterns of representation and action) or to be anomalous (i.e., as reinforcing need-
12 based sovereignty and the attendant cultural and policy expectation that legitimate
13 Indians are poor)?

14 The answer depends not on the presence of wealth but on the ways that
15 indigenous and nonindigenous people interpret and mobilize economic action.⁷
16 Tribal gaming has the potential to unsettle powerful and politically constraining
17 expectations of indigenous poverty insofar as it strengthens tribal nations’ control
18 over their own representation, political power, and, most importantly, ability
19 to self-govern on their own terms. This potential, not indigenous wealth per
20 se, is emergent and is illustrated by Seminoles’ allocations of gaming revenues
21 and reflections on political organization. At the same time, with the sounds of
22 termination echoing in gaming debates, it is possible to identify the reemergence
23 of need-based sovereignty as a key modality of settler colonialism in the United
24 States.⁸

27 TERMINATION

28 In 1953, the U.S. Congress passed House Concurrent Resolution 108, com-
29 monly known as the termination bill, which sought cessation of the government-
30 to-government relationship between the United States and tribal polities.⁹ The
31 government-to-government relation had been grounded in treaties, the U.S. Con-
32 stitution, and a history of political relations between the various indigenous nations
33 and the United States (Deloria and Lytle 1984). Termination would obliterate tribal
34 sovereignty in the name of individualized U.S. citizenship for American Indian peo-
35 ple. Termination—which is widely understood to have been a postwar rejection
36 of the Indian New Deal policies of John Collier, the Left-leaning Commissioner of
37 Indian Affairs—went hand in hand with an urban relocation program that would
38 integrate American Indians as industrial laborers.¹⁰

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2 A major (but by no means exclusive) criterion by which policymakers identified
3 tribes as good candidates for termination was a thriving economy. Termination pol-
4 icy specified that “advanced” tribes with “economic capacity” should no longer have
5 a collective relationship with the United States (Philp 1999:71, 158).¹¹ Economic
6 power undermined tribal sovereignty and collective governance, even though it
7 often derived from them. Although in the end only a handful of tribal nations were
8 “terminated,” with ensuing land loss and social fragmentation, the episode marks
9 an important moment in American Indian history when indigenous political and
10 economic difference were reckoned on cultural terms.
11

12 **Terminating Governance**

13 A few words on sovereignty are in order, because termination aimed to
14 eliminate American Indian polities. For the purposes of this essay, I take indigenous
15 sovereignty (called “tribal sovereignty” in the United States) to be the authority and
16 obligation of people within an indigenous polity to determine the extent and nature
17 of their governing authority with regard to their territories and one another. Tribal
18 sovereignty, as asserted by indigenous groups and often but not always recognized
19 by the United States, forms the basis for government-to-government relations
20 among the tribes and between each of them and the U.S. federal government
21 (Wilkins and Lomawaima 2001; see also Barker 2005; Biolsi 2005; Deloria 1979;
22 Deloria and Lytle 1984). American Indian governments hold authority over a range
23 of governmental activities in areas that include the determination of citizenship,
24 the regulation of on-reservation commercial activities (such as gaming), varying
25 levels of criminal jurisdiction, natural resource management, child welfare and
26 social service provision, and more. Sovereignty, which has been limited but not
27 extinguished by the United States, has become a catchword of American Indian
28 rights movements since the 1960s (Wilkinson 2005), and today it is the legal
29 framework for most American Indian rights claims. Sovereignty is material, not only
30 insofar as it is based in land and control over resources but also because sovereigns
31 require revenue for their operations and because those operations generally include
32 resource allocation and regulation. That economic capacity was a criterion for
33 termination is a paradox insofar as a commonly recognized marker of sovereignty
34 in international contexts led to its cessation for indigenous polities.

35 Florida Seminoles often understand their sovereignty to emerge from three
36 sources. The first is their precolonial and ongoing governmental authority, whether
37 they locate that authority in the democratically elected and reservation-based Tribal
38 Council or in ongoing matrilineal clan authority or in the legal and political power

2 of the widely attended annual Green Corn Dance ceremony. Second is their victory
3 over the United States military during the long and bloody 19th-century Seminole
4 wars and subsequent hard-fought independent life in the Florida Everglades. That
5 victory is celebrated in tribal school curricula, battle reenactments, child naming
6 practices, traditional medicine, and Seminoles' self-designation as "the uncon-
7 quered."¹² Third, and more diffuse, is the ability to live a distinctive kind of life on
8 their own terms, whether that means listening to the quiet of the swamps on the Big
9 Cypress Reservation, cattle ranching on the prairies of the Brighton Reservation,
10 heeding advice from maternal uncles, practicing Southern Baptist Christianity or
11 "traditional" religion, attending countless tribal social and health-related activities,
12 or simply living life as a Seminole with kith and kin.¹³ "Sovereignty" is an increas-
13 ingly common word in Seminole discourse, and it often arises as the foundation
14 for—and endpoint of—gaming.

15 To widespread surprise, Florida Seminoles were slated for termination in
16 1953 (Kersey 1996). No previous list of groups likely to be terminated had in-
17 cluded Seminoles, and in fact they had been listed in the category of tribes that
18 most needed federal assistance and therefore were least appropriate for termina-
19 tion (Kersey 1996).¹⁴ Only during the 1930s had Seminoles, with an estimated
20 population of 1,000, begun to move in significant numbers from scattered swamp
21 and prairie settlements to three new federal reservations, where some entered
22 federal employment. Seminoles comprised two language groups (Mikasuki and
23 Muskogee), lived in matrilineal clan-based camps of thatched-roof chickees, re-
24 sisted centralized government in favor of decentralized clan-based legal authority,
25 participated in tourism and some forms of wage labor but more often than not
26 withheld youth from "white" schools, and were increasingly divided over matters
27 including a 1940s federal land claim and Christian conversion.¹⁵ By the 1950s,
28 Seminoles had become poor, they received little in government funds (\$137,000
29 annually, mostly for road building [Kersey 1996:28]), and they lived with little
30 federal oversight by comparison to most of Indian Country. These factors made
31 Seminoles an unlikely target of termination, although lawmakers and executive
32 branch officials lauded Seminoles for being "very independent" and having "taken
33 care of themselves until rather recently" (U.S. Congress 1954:1054), and they
34 praised Seminole families for being self-sufficient, rather than depending on federal
35 funds (U.S. Congress 1954:1030, 1032). Termination, these lawmakers hoped,
36 would prevent dependency.

37 Almost all Seminoles opposed termination, despite raging internal political
38 conflicts about whether and how to engage with the federal government, and

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2 historian Harry Kersey Jr. (1996) has documented their efforts to fight it.¹⁶ To
3 this day, in speeches at tribal events and in interviews, Seminoles recall holding
4 the first all-Indian rodeos (now rodeos are part of the fabric of reservation life) as
5 fundraisers for a road trip to testify against termination in 1954 joint congressional
6 hearings in Washington, D.C. A 2009 exhibit about cattle ranching at the Tribe's
7 Ah-Tah-Thi-Ki Museum highlighted the role of rodeo in this political battle. A year
8 later, they hosted visiting members of U.S. Congress at two South Florida hearings.
9 Then, as now, Seminoles opposed unwelcome federal involvement by embracing
10 the legacy of their ancestors' resistance to federal incursion and recounting the
11 19th-century Seminole wars.
12

13 **Economic Citizenship in the Settler State**

14 If collective economic power undermined indigenous governance in the termi-
15 nation era, it also was unrecognizable in many termination advocates' eyes because
16 they understood wealth to be the foundation of, and evidence for, individual-
17 ized economic and political assimilation that would reorient individuals' relation
18 to the settler state. Termination shifted the terrain from sovereignty-polity to
19 citizenship-individual, with citizenship figured not in relation to the indigenous
20 nation but, rather, to the settler state. With passage of the Indian Citizenship Act of
21 1924, all American Indians were granted nonexclusive U.S. citizenship, whether
22 or not they wanted it, and despite efforts by some to refuse it.¹⁷ The termination of
23 indigenous sovereignty via the dismantling of tribal governments was inextricably
24 intertwined with a focus on economic contribution as the measure of individual
25 (U.S.) citizenship.

26 The citizenship status of indigenous individuals in liberal settler states poses
27 a fundamental dilemma: how can nation-states that commit to equality among the
28 citizenry take account of the differential political status of indigenous peoples as cit-
29 izens both of indigenous polities (e.g., the Seminole Tribe of Florida) and of settler
30 states (e.g., the United States)? Scholars have examined this dilemma with regard
31 to political rights and legal claims (Kymlicka 1995; Maaka and Fleras 2005; Paine
32 1999; Peterson and Sanders 1998; Povinelli 2002), and Thomas Biolsi (2005),
33 among others, has analyzed the "hybrid political space" of dual citizenship. Fewer
34 have explored the economic dimensions of citizenship—or what T. H. Marshall
35 (1992) famously named "social citizenship"—for indigenous people. Those who
36 have done so usually note that indigenous citizenship in settler states often is or-
37 ganized by need. Jeremy Beckett (1988) and Robert Paine (1977, 1984), among
38 others, have developed the concept of "welfare colonialism" to characterize the

2 ways in which aboriginal citizens are addressed as needing service provision and
3 thereby occupy subordinate positions in settler states.¹⁸ Taken together, American
4 Indians remain the poorest ethnic-racial group in the United States, despite recent
5 gains from gaming profits (Taylor and Kalt 2005), and the bureaucratic production,
6 assessment, and meeting of need have been occasions for many indigenous individ-
7 uals to encounter the state. This helps to explain why some termination supporters,
8 including a few Indian advocacy groups, took the governmental relationship to be
9 one not of sovereign recognition but, rather, of destructive paternalism (embodied
10 by supervisory reservation-based “Indian agents”).¹⁹ The absence of need, how-
11 ever, has the potential to render indigenous polities unrecognizable to the state.
12 One example of this double bind was the federal determination of Indian eligibility
13 for U.S. citizenship based on economic competence (often but not only coded by
14 categories like “mixed blood”) during the implementation of the General Allotment
15 Act (Dawes Act) of 1887. Tellingly, the Dawes Act stipulated that the acceptance
16 of U.S. citizenship, with allegiance sometimes ritually sworn on a plow handle,
17 required severing political allegiance to tribal governments. Teddy Roosevelt fa-
18 mously promoted allotment as “a mighty pulverizing engine, to break up the tribal
19 mass” (Wilkinson 2005:43).

20 Today, Seminoles live at civic boundaries when they decide whether or not to
21 vote in tribal and extratribal elections, when they cheer on Florida college football
22 teams, and when they honor U.S. military veterans.²⁰ Less obviously, they also do
23 so when they decide whether or not to hang “Seminole Indian” license plates on
24 their vehicles and risk them being keyed in parking lots, when Seminole women
25 decide whether to take husbands’ surnames, when non-Seminoles ask how they
26 can sign up for tribal membership on learning of gaming-generated benefits, when
27 Seminole leaders serve on regional tourism boards and other governing bodies, and
28 when all Seminoles answer for the millionth time whether they pay taxes (yes) or
29 just how much they receive in gaming-based per capita payments from the tribal
30 government (the number is rarely disclosed).²¹

31 During the termination hearings, evidence of Seminoles’ economic capacity
32 and market integration coded them as (productive) U.S. citizens, “ready” for
33 termination and equal status with non-Indians, while glaring economic need was
34 cited by termination opponents as justification for ongoing tribal governance. The
35 focus on civic egalitarianism was not unique to the Seminole hearings; indeed, the
36 termination bill’s stated goal was: “to make the Indians within the territorial limits
37 of the United States subject to the same laws and entitled to the same privileges
38 and responsibilities as are applicable to other citizens of the United States, to end

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2 their status as wards of the United States, and to grant them all of the rights
3 and prerogatives pertaining to American citizenship” ([H. Con. Res. 108] 67 Stat.
4 B122).²² Becoming full citizens (recall that American Indians already were citizens
5 under the Indian Citizenship Act of 1924) entailed no longer being *wards*, a term that
6 referred to the Marshall U.S. Supreme Court opinions of the 1830s categorizing
7 Indian tribes as “domestic dependent nations,” “in a state of pupilage” wherein “their
8 relation to the U.S. resembles that of a ward to his guardian” (*Cherokee Nation v.*
9 *Georgia* 1831, 30 U.S. [5 Pet.], 16–17).

10 Foremost among the responsibilities that Indians would assume with termi-
11 nation was to contribute as proper economic actors. American Indian individuals
12 were encouraged to take up new economic lives, and collective lands would con-
13 vert to individual property ownership; some tribes were targeted for relocation to
14 join the urban industrial labor force. There was some ambiguity about Seminole
15 individualization when lawmakers suggested that Seminoles could create a post-
16 termination private corporation to hold their lands. Officials insisted, however, that
17 Seminoles henceforth would be treated as individual citizens, not a governmental
18 entity, regardless of whether they formed a corporation, and they understood that
19 collective assets would be sold off (U.S. Congress 1954:1058).²³

20 Questions and testimony on both sides were shot through with a modernist
21 rhetoric of Indian progress that hinged economic participation to U.S. citizenship.
22 For example, a local non-Indian advocacy group, The Friends of the Seminoles
23 (whose leadership included prominent Fort Lauderdale store owners who traded
24 with Seminoles), issued the following statement endorsing Seminoles’ request to
25 delay termination for 25 years: “This time is necessary for the education and ex-
26 perience of the youth of the Seminole Nation so that they may learn the English
27 language and the white man’s ways, and be fitted to take their rightful place in our
28 American way of life and as useful citizens of Florida” (U.S. Congress 1955:12).
29 Here, citizenship entailed assimilation to the “white man’s ways,” implicitly through
30 economic contributions (“useful citizens”), but this required interim federal sup-
31 port. A local Congressman, who supported Seminole resistance to termination,
32 took the position that full U.S. citizenship would have to be put on hold: “I know
33 that the Seminoles themselves do not want the responsibilities of citizenship thrust
34 upon them at this time” (U.S. Congress 1954:1132). He worried that Seminoles
35 were not ready to manage property because of “ignorance of ownership of real
36 estate” and taxes, because they were not equipped to take jobs in the “white econ-
37 omy,” and because they were not literate or educated. To be a fully progressed
38 U.S. citizen, agreed many termination advocates and opponents alike, required

2 entering the “white economy.” Indigenous economic success was a mode and sign
3 of whitening. One corollary was that citizenship in an indigenous polity was to be
4 surpassed; another was that “real” Indians remained poor.²⁴

5 Some Seminoles adopted the language of economic progress and requested
6 ongoing federal supervision. Yet, witnesses did not envision an economic telos
7 that ended with assimilation. Laura Mae Osceola, a translator who later became a
8 member of the Seminole Constitutional Committee and founded the Miss Seminole
9 pageant, argued against termination within its economic logics, casting her reason-
10 ing in need-based terms by stating that Seminoles were not yet ready for
11 termination. Yet her confidence in—and commitment to—Seminoles’ future eco-
12 nomic power and ongoing cultural cohesion became clear when she promised a
13 Congressman that “in 25 years more they won’t need your help. We will be giving
14 you help” (U.S. Congress 1954:1122). Mike Osceola, a businessman whose
15 commercial acumen drew praise from federal officials, was a rare and controversial
16 Seminole termination supporter. After his remarks, which emphasized ending
17 federal paternalism, one enthusiastic senator interpreted Osceola’s termination
18 advocacy to mean that he would favor Seminoles’ assimilating with the white people
19 of Florida. But Osceola replied: “I don’t know just what particular reference
20 you have, ‘assimilating.’ Not necessarily. They [Seminoles] can live on their own
21 camps or where ever they want to live” (U.S. Congress 1954:1067). For Osceola,
22 unlike for many of his non-Indian protermination allies, the full exercise of U.S.
23 citizenship was compatible with cultural distinctiveness.

24 Other Seminoles shared termination proponents’ critique of governmental
25 paternalism and testified that they wanted the federal government to leave them
26 alone, but even these individuals did not equate autonomy from governmental
27 oversight with individualism and the cessation of indigenous governance. Buffalo
28 Tiger, for example, testified that his off-reservation group, who resisted residing
29 on federal reservations and who subsequently organized as the Miccosukee Tribe,
30 sought neither money nor supervision from the United States but instead simply
31 hoped to hold onto their Everglades homelands, where they could live and hunt.
32 He was asked whether, in that case, each person would want an individual plot
33 of land. Tiger replied: “No; they don’t want it that way. They don’t want it.
34 They want the tribal council should have the land so that all of us can live on
35 it and all hunt on it. They don’t want chopped up” (U.S. Congress 1955:49).
36 Tiger, who would go on to serve as Miccosukee tribal chairman, was not alone in
37 upholding collective governance. As Kenneth Philp has shown, during the 1940s
38 and 1950s many American Indians and their allies insisted that Native people could

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2 simultaneously achieve individual first-class U.S. citizenship and also maintain the
3 institutions and powers of tribal governments (Philp 1999).

4 Only Henry Cypress went so far as to advance the view that the federal
5 government should provide for Seminoles not as a welfare-based entitlement but,
6 rather, as an obligation that results from indigenous dispossession. He said: “As far
7 as we know, when we look back in the history, your forefathers fighting for the
8 country, and you got it now, and we got a little piece of land on the reservation.
9 Therefore, the Government supervision to help us should continue” (U.S. Congress
10 1954:1147).

11 12 **Sovereignty as Wardship**

13 The role of economy in termination reveals a fundamental tension in federal
14 Indian policy during the midcentury, one revisited in the gaming era. This is over
15 the question of whether the federal government’s relationship with indigenous
16 polities is based on need, wardship, and supervision, on the one hand, or sovereign
17 recognition and a trust relationship, on the other hand. This tension was reflected in
18 lawmakers’ arguments over the goals of their own policy: at one telling moment in
19 the Seminole hearings, lawmakers sparred over whether the status quo resembled
20 the Marshall Plan for Europe (Kersey 1996:30). Was “federal supervision” compa-
21 rable to the dole, or was it more akin to the support provided by one government
22 for another government as it (re)built and (re)established independence?

23 As with many other tribes (Wilkinson 2005:86), Seminoles responded to
24 the threat of termination by asserting their self-governance. They were removed
25 from the termination list, and, in 1957, groups living on reservations and their
26 allies reorganized their tribal government into two elected bodies, a tribal council
27 to handle governmental affairs and a federally chartered corporation to manage
28 businesses. This reorganization secured their formal recognition as a government
29 by the Bureau of Indian Affairs, and recognition afforded Seminoles both legal pro-
30 tections and federal services. The costs were high, however. Seminoles disagreed
31 about the wisdom of solidifying ties with the federal government, and the political
32 rift led to the separate organization of Miccosukees (who were federally recog-
33 nized in 1962) and Independent Seminoles (who refuse federal recognition to this
34 day). Reorganization introduced new bureaucratic governing forms, diminished
35 the power of clan councils (although clan remains salient in political practice), and
36 led to a period of heavy federal presence on Seminole reservations (Cattellino 2006;
37 Kersey 1996). Poverty grew with Everglades drainage, high unemployment rates,
38 increased consumer needs, and growing health concerns. Various federal programs

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2 and individual entrepreneurial efforts—from cattle ranching to light manufactur-
3 ing, craft sales to land leases—yielded paltry income. Seminoles' reservation lands
4 were secure, unlike lands lost by terminated groups, but because reservation land
5 is inalienable, Seminoles had little collateral and few opportunities to build equity.
6 Moreover, for reasons of racism and business alike, few lenders other than the
7 federal government would invest on the reservations. For a time, it appeared that
8 by avoiding termination Seminoles had secured limited rights to self-government,
9 but with the cost of deepening poverty.

11 GAMING AND CONSTITUTION

12 Expectation

13 Approximately 25 five years after successfully fending off termination, and
14 therefore right on time by Laura Mae Osceola's prediction, the Seminole Tribe
15 of Florida in 1979 exploited their governmental freedom from state regulation by
16 opening the first tribally operated high stakes bingo hall in Native North America.²⁵
17 In federal court Seminoles successfully defended the position that states have little
18 authority to regulate on-reservation business activity by tribal governments, and
19 because gaming is such a highly taxed and regulated industry this affords tribal
20 governments a significant competitive advantage.²⁶ Seminoles pursued gaming as
21 an act of self-government; as such, the "gaming tribe" emerged at the intersection of
22 indigenous sovereignty claims with economy, well before federal policy regulated
23 gaming with the 1988 passage of the Indian Gaming Regulatory Act (IGRA). Thus
24 began the tribal gaming era, as other American Indian governments followed suit
25 and American individuals, states, local municipalities, businesses, and the federal
26 government grappled anew with the cultural and political implications of indigenous
27 wealth. Still, echoes of termination sound loudly in gaming debates, suggesting
28 that gaming is not a progressive tale that culminates in tribal self-determination.²⁷
29 Rather, gaming wealth has prompted many observers to question the validity of
30 indigenous "special rights" and cultural distinctiveness.

31 Florida Seminole casino revenues, currently approaching \$1 billion annually,
32 have dramatically affected tribal citizens' lives. As discussed elsewhere (Cattellino
33 2008), gaming revenues have been allocated to build a robust social safety net,
34 from universal health care to a charter school on the Brighton Reservation; gaming
35 money funds cultural programs, from language education to a tribal museum
36 on the swampy Big Cypress Reservation; and economic diversification initiatives
37 (e.g., cattle ranching and citrus growing, convenience stores, venture capitalism,
38 and ecotourism) and the tribal bureaucracy have grown, as have monthly per capita

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2 distributions of gaming revenues to each tribal citizen. In the gaming era, Seminoles
3 debate Tribal Council and individual spending, worry about how to raise children
4 who will value hard work, and scramble to assure that financial literacy and political
5 process keep pace with growing revenues.

6 The economic power of gaming, at first glance, makes the threat of ter-
7 mination seem to be but a distant memory. After all, Seminoles now exercise
8 unprecedented political power in the hallways of state and national capitals, where
9 they hire lobbyists and build personal relationships with legislators. They have built
10 a formidable legal team to defend their sovereignty-based rights, they have few
11 of the disputes over tribal membership that have divided other American Indian
12 communities, they maintain valued social and cultural practices that distinguish
13 them from non-Seminole Floridians, and their economic reach has extended to all
14 corners of the earth with the purchase of Hard Rock International and its global
15 network of cafés. But, just as indigenous economic “success”—often measured by
16 assets and market integration—was for many termination-era observers a mark of
17 assimilation, so too do casino capitalism and resulting wealth threaten American
18 Indians’ present-day claims to political and cultural distinctiveness. They do so in
19 at least three ways.

20 First, there has been a dramatic increase in non-Indian public criticism of
21 tribal gaming as an example of unjust “special rights.” Joanne Barker (2005–
22 06), Katherine Spilde (2004:75–81), and Eve Darian-Smith (2003) have begun the
23 important work of documenting the growth of antisovereignty movements that have
24 arisen in response to gaming.²⁸ Notably, tactics by such groups and by individuals
25 include allegations of indigenous greed and disproportionate wealth. As political
26 scientist Kevin Bruyneel suggests, public criticism of gaming positions economic
27 power as temporally associated with the future, whereas tribal sovereignty is
28 relegated to the past: “By succeeding economically the tribes temporally outpaced
29 their claim to sovereignty, while still being seen as somewhat alien to American
30 political life” (Bruyneel 2007:190).²⁹ Seminoles’ economic power has sparked less
31 organized antisovereignty activism than elsewhere, but with gaming wealth has
32 come increased public skepticism of whether Seminoles “need” so-called “special
33 rights” in law enforcement, gaming, and other arenas (see Cattelino 2008).

34 Second, federal law and policy increasingly treat gaming success as justifi-
35 cation for undermining the very foundations of tribal sovereignty. Spilde gives
36 the example of Minnesota fishermen who in a U.S. Supreme Court case opposed
37 Mille Lacs Band of Ojibwe treaty rights on the ground that tribal members now
38 held casino jobs (Spilde 2004:78). A 1998 Supreme Court ruling cited gaming

2 and cigarette sales when suggesting that indigenous commercial success might be
3 cause to abrogate tribal sovereign immunity in the future (Wilkins and Lomawaima
4 2001:230–231).³⁰ Proposals occasionally pop up in U.S. Congress to assess the
5 federal obligation to individual tribes not on the basis of treaty rights or sovereign
6 recognition but, rather, by “means-testing,” whereby federal allocations would be
7 measured by an indigenous group’s financial “need.” Legal theorist T. Alexander
8 Aleinikoff observed that gaming wealth threatens sovereignty because some law-
9 makers hold that “the increasing wealth and sophistication of the tribes argue for
10 their assimilation and the ending of special Indian programs. To adopt the language
11 of the late nineteenth century, Indians no longer need the guardianship of the federal
12 government” (Aleinikoff 2002:123). Gaming has revived need-based sovereignty.

13 Third, need-based sovereignty in the casino era also and always is about culture
14 and about the surprise value of indigenous wealth. I am frequently asked by non-
15 Indians whether gaming wealth leads to indigenous cultural loss. In part, gaming
16 debates take a cultural turn because, as anthropologists have widely documented,
17 economic activities are often understood by social actors to be markers of cultural
18 difference (Sahlins 1993). But this is particularly potent for indigenous peoples. At
19 least since Lewis Henry Morgan based his evolutionary theory of economic stages
20 on research with the Iroquois (1974), American Indians have been positioned in
21 scholarly and public discourse as being outside of—and, more precisely, as prior
22 to—“advanced” economic life in general, and capitalism and the use of money
23 in particular (see also Dombrowski 2001).³¹ The end result, as legal scholar Sam
24 Deloria notes briefly in a larger critique of the concept of cultural sovereignty, is a
25 unique standard of poverty and cultural difference by which indigenous sovereigns
26 are measured: “Nobody visits Liechtenstein periodically to make sure they are
27 sufficiently poor and sufficiently culturally distinct from their neighbors to merit
28 continued political existence. They’re just around” (Deloria 2002:59). In the
29 casino era, American Indians once again encounter the economic politics of settler
30 colonialism, in which it is only a short step from wondering whether Indians with
31 gaming are losing their culture to skepticism over whether indigenous people with
32 economic power can and should remain legitimately indigenous and sovereign.

33 34 **Refusal**

35 On August 21, 2007, Seminoles celebrated the fiftieth anniversary of their
36 governmental reorganization with a daylong celebration on the Hollywood Reser-
37 vation. Events for the 1,000-plus mostly Seminole attendees took place in three
38 parts, after months of planning by a committee of tribal staff and volunteers. The

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2 day began with a morning press conference under the historic Council Oak, the
3 majestic tree—now surrounded by a casino parking lot and smoke shop—under
4 which the original constitution signing had taken place. Although the press was in-
5 vited, the tenor of the event more closely resembled the many community-focused
6 celebrations and political events that I had attended since first undertaking research
7 on Seminole gaming in 2000. In fact, most elected officials delivered at least some of
8 their remarks in Mikasuki or Muscogee, often without translation for the press and
9 the many attendees (Seminole and non-Seminole alike) who could not understand
10 one or both of the indigenous languages. Next, the invited participants—tribal citi-
11 zens and their personal guests, VIPs including visiting leaders of American Indian
12 nations and the president of Florida State University—gathered in a massive tent
13 erected on the Hollywood Hard Rock casino parking lot to eat a noontime dinner
14 and watch a fashion show of Seminoles' signature patchwork clothing. Finally, we
15 settled into stadium seats at the Hard Rock Live! auditorium and enjoyed com-
16 plimentary snacks while viewing a tribally produced documentary film screening
17 followed by a live theatrical production with Seminole actors. Throughout the day,
18 morality tales of survival despite economic hardship intertwined with a critique of
19 termination policies to situate the present-day tribal government at the triumphant
20 convergence of political and economic power. The events, which had a distinctly
21 pedagogical tone, crystallized Seminoles' often more quotidian refusals of the eco-
22 nomic logics of termination by staking a public claim for collective governance
23 through, not despite, wealth and market integration.

24 After a prayer and children's Muskogee-language recitation of the pledge to
25 the Seminole flag, press conference emcee Moses Jumper Jr. declared the day to be
26 the anniversary of when the United States government "officially, through the U.S.
27 eyes, designated us as a tribe." He and others positioned the 1957 reorganization
28 not as the founding Seminole political moment, which is how it was covered by
29 local media, but, rather, as a time when Seminoles achieved outside recognition of
30 their already-existing governmental authority. Or as Board of Directors President
31 Richard Bowers reminded the assembled: "we have long since been here, long
32 before fifty years." This was a curious event, in which the speakers disavowed
33 the significance of the very documents they commemorated and in which they
34 celebrated but also refused the terms of recognition.

35 Tribal Council representative Max Osceola Jr. (Laura Mae's son) began by
36 thanking the "Seminole warriors from the 1800s who told the federal government
37 during forced removal that 'we're not going to Oklahoma.'" Osceola traced this
38 thread of refusal forward in time to termination, explaining that "they were going to

2 legislate us out of existence.” He recalled telling a reporter that the Seminole Con-
3 stitution resembled the U.S. Constitution, because both established independence
4 from another power. Yet, he asserted, “Seminole didn’t have to have a constitution
5 to have a government,” and he listed off the signs of prior self-governance, from
6 a functioning traditional medical system to political organization. (At one point
7 Osceola referred to a time “BC,” then paused to explain with a chuckle that he
8 meant “before Columbus.” A subsequent speaker, O. B. Osceola Jr., drew laughs
9 when he referred to “BC . . . before casinos.” Neither defined BC as “before the
10 constitution.”) In the end, Max Osceola said, the constitution “does not define
11 Seminoles.” Seminole governance, for Osceola and others, existed prior to and
12 outside of the terms of U.S. federal recognition. The constitutional moment was
13 less one of founding than one of refusal, the refusal of termination. Thus, the
14 constitutional tribal government and corporate charter, not to mention the gaming
15 revenues that they enabled, are punctuation marks in a long chapter of ongoing
16 refusal and indigenous reemergence.

17 Speakers in the pageant (who were scripted) and the film (who were not, and
18 who included many nonpoliticians) similarly cast political recognition and consti-
19 tutionalism less as originary than as a plucky response to the threat of termination.
20 This pluck had been materialized, viewers learned, in the rodeo they held to fund
21 the delegation’s travel to testify in Washington, in the baloney sandwiches they
22 packed for the road, in the borrowed car they drove. Pluck also characterized
23 the subsequent bold move to pursue gaming. Such boldness made leaders. Thus,
24 another effect of the event was to reinforce the political incumbency by connecting
25 this narrative of leadership and refusal directly to the present regime. As Tina
26 Osceola, Museum Director, said during the press conference: “Honor those who
27 dared to stare in the face of termination and said ‘no more.’ Honor today’s leaders
28 who stare in the face of federal policy and say ‘no more.’” But to what did she refer?

29 To answer, we must return to economic hardship and need. As planning com-
30 mittee member Sally Tommie had repeated during anniversary planning meetings
31 and again during the dinner and fashion show, most Seminole children today “never
32 knew a life before luxury.” Tribal citizens contrasted present-day pleasures with
33 past suffering. For example, several people joked about how yesterday’s dugout
34 canoes or rusty cattle trucks were today’s SUVs and BMWs; elected representa-
35 tive Roger Smith cracked a joke about today’s steakhouses being yesterday’s
36 government surplus commodity food supply. Guests’ anniversary gift bags were
37 filled with standard corporate fare—a commemorative mug, medal, and glossy
38 book; a poster; a T shirt and other items featuring patchwork motifs—but they

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2 also contained a curious object: a small burlap sack with accompanying text that
3 recounted Seminoles' past economic hardship, thrift, and ingenuity. The event's
4 commingling of corporate opulence with homespun aesthetics and a strong sense of
5 history reinforced speakers' insistence on joining wealth with tradition, and tying
6 each to governance.

7 Throughout the day, references to political refusal structured the otherwise
8 progressive narrative of overcoming economic hardship through gaming. That is,
9 the constitution and charter, on the one hand, and tribal gaming, on the other hand,
10 are not simply political and economic narratives of triumph. Rather, they operate
11 together for Seminoles to position wealth as the outcome of political refusal, and
12 wealth as fostering not individualized assimilation but collective self-governance.
13 It is in the ongoing assertion of collective self-governance that we can identify Tina
14 Osceola's call to honor today's leaders for saying "no more." In an email exchange
15 long after the event, I asked Osceola what she had meant, and she replied: "I
16 was referring to federal policies on gaming, sovereignty, the environment, health
17 care, you name it—Most importantly it was about taking control of our destiny
18 by defending and defining sovereignty our way!" (personal communication January
19 26, 2009). This celebration was less about recognition than about carving out an
20 economically viable space for the practical exercise of sovereignty in Seminole
21 Country.

22 These events, like everyday Seminole practices that range from military partici-
23 pation to sports fandom, also rejected the termination-era logic whereby U.S.
24 citizenship for American Indians required assimilation and severance from collec-
25 tive indigenous belonging. Throughout the day, flags flew high that represented
26 the Seminole Council, the Seminole Board, the United States, the State of Florida,
27 and the POW–MIA. Seminoles laid claim to multiple polities, rather than equat-
28 ing full U.S. citizenship with severance of tribal citizenship. The commemorative
29 anniversary book honored Seminole entrepreneurs, folding individual economic
30 initiative into a collective past, present, and future; it connected tribal government
31 wealth from gaming with individual economic participation instead of opposing
32 governmental to individual economic life. All of this could not be further from the
33 civic logics of termination and need-based sovereignty. What's more, in frequent
34 references to the Seminole Tribe of Florida's 2007 acquisition of Hard Rock Inter-
35 national, the largest-ever purchase of a multinational corporation by an indigenous
36 nation, attendees were reminded that Seminoles' collective economic and politi-
37 cal projects are expansive, now stretching beyond U.S. borders across the globe.
38 Throughout the day, several speakers had encouraged children to think big and plan

2 for what they would celebrate at the 100-year anniversary. Max Osceola looked
3 out from the stage over rows of seated schoolchildren, smiled impishly, and said:
4 “Maybe next time we’re up here you’ll buy Disney World . . . put some patchwork
5 on it.”

7 CONCLUSION

8 There is no easy escape from a double bind. At their anniversary celebration,
9 Seminole speakers undertook one attempt by offering a triumphant narrative that
10 conjoined indigenous sovereignty with wealth and cultural continuity. This is a
11 necessary but also risky move. Risks become apparent when, for example, local
12 newspapers in Florida and elsewhere interpret indigenous cultural claims as mere
13 smokescreens for gaming-based, interest-group activity and, in turn, cast suspicion
14 on a wider range of indigenous claims and groups. Another risk is that celebrating
15 the triumph of casino capitalism drowns out indigenous critiques of gambling and
16 of consultants’ boilerplate recipes for “economic development.” The double bind
17 of economy and sovereignty for indigenous peoples cannot be outrun by throwing
18 money at it, even though governmental revenues have the potential to strengthen
19 communities and defend attacks on sovereignty. Instead, the double bind must be
20 refused by reorganizing the cultural expectations on which it rests and by attending
21 to the lived practices by which indigenous people enact sovereignty.

22 How can we distinguish the unexpected from the anomaly—or the disruptive
23 opening to change from the outlier that reinforces the order of things—in
24 contemporary settler society? It may be impossible to fully untangle the structure
25 of expectation except with a retrospective view. That said, Gregory Bateson’s
26 original discussion of the double bind—despite its topical and theoretical distance
27 from my own analysis—offers two clues as to when the double bind might un-
28 ravel. One is his claim that individuals caught in double binds cannot comment
29 on the impossibility of the contradictory demands placed on them: they cannot
30 make metacommunicative statements (Bateson 1972:208). Another way to think
31 about the communicative dimensions of double binds is that people caught in
32 them cannot control the terms of their own representation. In such a context,
33 refusal and rearticulation become critical. In the gaming era, most Seminoles insist
34 on not only the compatibility but, even more, the interdependency of collective
35 governance with (group and individual) economic power. This insistence is ampli-
36 fied by the Seminole Tribe’s new gaming-based power to self-represent through
37 tribal media, hired talking heads, press releases, and gatherings like the anniversary
38 celebration. In the gaming era, despite growing non-Indian resentment and the

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2 potential for need-based legal curtailments of sovereignty, Seminoles comment on
3 contradictions (Bateson 1972:209), and they do so in ways that buttress internal
4 self-governance and ways of living. To be clear: it is not simply that with money
5 comes voice, because the double bind of need-based sovereignty offers evidence
6 that the opposite can occur. Rather, reorganized social and cultural relations in
7 the gaming era have opened new spaces of analysis and refusal. Indigenous peo-
8 ples' refusals of contradictory claims take many forms, and gaming is by no means
9 their sole context. Other examples include historical rejections of termination or
10 citizenship conferral; everyday refusals of state authority in acts such as Mohawk
11 border crossing, as analyzed by Audra Simpson (Simpson 2003); methodological
12 and ethical refusal to "write in" what others claim they "need to know" (Simpson
13 2007); or the refusal of "help" offered by settler governments (Cowlishaw 2003).³²
14 The achievement of refusal and its embodiment in everyday life are not to be taken
15 for granted. Whether refusal of need-based sovereignty in the gaming context
16 will be recognized in settler society is another question, and Povinelli's analy-
17 sis offers a sobering account of recognition's perils; on that question, the jury is
18 still out.

19 A second clue from Bateson concerns creativity. Double binds can and do
20 produce severe pain, he argues, but if this can be "warded off or resisted, the
21 total experience may promote *creativity*" (Bateson 1972:278). This point goes to
22 Philip Deloria's distinction between the unexpected and the anomaly, where the
23 unexpected leaves room for creative recategorization but the anomaly reinforces the
24 order of things.³³ My citation of creativity should not be mistaken for an apologist's
25 stance: I wish to keep the analytical lens trained on understanding the double bind
26 and its costs, rather than on its creative potential. Nonetheless, because need-
27 based sovereignty relies on cultural markers of the relationship between economic
28 and political difference, it is important to mark creative realignments of those
29 markers as opening the possibility for different futures. Cultural politics are not
30 merely produced by the political economy of need-based sovereignty or by the
31 political structure of democratic states that seek to manage differences among
32 citizens and polities. Rather, they are resources and methods by which political
33 and economic relations come into being and perdure, and, in the context of need-
34 based sovereignty, they are mechanisms by which settler societies legitimate their
35 self-consciously modern economies and states. The contradictions of need-based
36 sovereignty have variously shaped Seminoles' forays into gaming as a nationalized
37 industry, their locally oriented determinations of how to allocate gaming revenues,
38 and a host of other decisions. Insofar as these decisions open up space for indigenous

2 creativity, they may unsettle anomaly in settler states and occupy the space of the
3 unexpected.

4 As for the role of scholarly analysis in unsettling the double bind, one place to
5 start is by challenging the perceived newness of the “gaming tribe” as an emergent
6 form of indigeneity by acknowledging that surprise at indigenous wealth has a long
7 and troubling history.³⁴ The double bind of need-based sovereignty for indigenous
8 peoples is not universal across space or through time, but it is a modality of settler
9 colonialism that has a variety of patterned effects. Among them are the unique
10 barriers that face American Indians who attempt to gain economic power while
11 insisting on their political and cultural Indianness. Corollaries include the weak-
12 ening of indigenous sovereignty by its association with need, the consolidation of
13 indigenous citizenship as failure because “successful” economic citizenship is coded
14 as assimilation, and the recategorization of economic transfers based on treaty rights
15 and federal–tribal trust relations as welfare benefits (and of indigenous citizenship
16 as wardship). Taken together, these effects undermine indigenous economic and
17 political power alike. Gaming wealth may be unexpected, but we should not take
18 it to be anomalous, lest such an assessment turn into a self-fulfilling prophecy.
19 Unsettling expectation by accounting for its history, force, and effects can go some
20 small way toward untangling the double bind of need-based sovereignty.

21 22 **ABSTRACT**

23 *This essay examines a double bind that faces indigenous peoples in the Anglophone settler*
24 *states, the double bind of need-based sovereignty. This double bind works as follows:*
25 *indigenous sovereigns, such as American Indian tribal nations, require economic resources*
26 *to exercise sovereignty, and their revenues often derive from their governmental rights;*
27 *however, once they exercise economic power, the legitimacy of indigenous sovereignty and*
28 *citizenship is challenged within settler society. Through analysis of Florida Seminole*
29 *gaming and the threatened severance of Seminoles’ governmental status by mid-1900s*
30 *federal “termination” policy, I show how economy-linked limits to indigenous sovereignty*
31 *and citizenship rest on debates over culture, over what it is that renders American Indians*
32 *distinctive as individuals and as collectives. Today, as during termination debates,*
33 *Seminoles and other American Indian peoples struggle to position their economic well-*
34 *being not as an anomaly or an abandonment of indigenous ways but, rather, as the*
35 *result of an ongoing commitment to collective self-governance. With the sounds of*
36 *termination echoing in gaming debates, it is possible to identify the reemergence of*
37 *need-based sovereignty as a key modality of settler colonialism in the United States.*

38 **Keywords:** settler colonialism, indigeneity, tribal gaming, American Indian
termination, economy, sovereignty, citizenship

NOTES

1. Unlike Bateson, I am less concerned in this essay with psychological aspects of the double bind (much less with family relations) than with some of the formal characteristics of collective dilemmas that are posed by a double bind on a larger scale.
2. This discussion is based on ongoing research with the Seminole Tribe of Florida that began with yearlong fieldwork in 2000–01.
3. Other anthropologists (e.g., Sider 1987), following Morton Fried (1975), have analyzed the ways that colonizers and states create (through fantasy and coercive practice) the cultural groups that they then recognize as culturally distinctive. Gerald Sider emphasizes the contradiction between the state's incorporation and cultural distancing of the other.
4. Povinelli's research is based in Australia. Although Australia and the United States differ in many ways, they share the distinctive dilemmas of those democratic settler states with Anglophone legal traditions that struggle to reconcile ideals of equal citizenship with those of claims to political distinctiveness and different forms of citizenship by indigenous peoples. Of course, there are major differences among the Anglophone settler states. For example, Australia does not recognize Aboriginal sovereignty (although court rulings over Aboriginal land title have raised related questions and tensions). See Beckett 1988, Maaka and Fleras 2005, and Peterson and Sanders 1998.
5. Wealth can render a polity a tempting target for outside takeover, and the United States has a long history of appropriating the best of indigenous-held lands. Gaming is different because its economic value becomes worthless without the unique legal status of tribal sovereignty. As such, gaming shows need-based sovereignty to be distinguishable from resource extraction as explanations for why indigenous wealth might trigger curtailments of tribal sovereignty.
6. Jeremy Beckett's discussion of welfare colonialism shows how characterizations of Aboriginal Australians as poor compels state action to "solve" a "problem"; this, in turn, draws the state closer in a contradiction by which "the state is an integral part of the problem it is supposed to be solving" (Beckett 1988:4). See also Audra Simpson's discussion of Mohawk cigarette "smuggling," the regulation of indigenous economic practice, and settler characterizations of Iroquois "savagery" as lawlessness (Simpson 2008).
7. Here, it might be helpful to address one reviewer's suggestion that the double bind is less about economy than about autonomy and dependence. It is tempting to agree that the dynamic is one wherein if Indians can be autonomous and take care of themselves they cannot be sovereigns. This kind of analysis would fit well with dependency theories of tribal–state relations. However, elsewhere in my analysis of tribal gaming (Cattellino 2008), I have argued against understanding sovereignty as being based on autonomy, because I found sovereignty often to be forged in relations of interdependency. Moreover, gaming wealth can hardly be described as autonomous, because in Florida it relies for a consumer base almost entirely on non-Indians and because it more accurately would be described as market integration.
8. I am not making an ahistorical claim that need-based sovereignty is the one and only modality of settler colonialism in the United States, much less beyond. Although I offer examples from the late-19th century as well as termination and gaming, interim policies coupled the goal of achieving economic power with sovereign recognition. Counterexamples, each with complicating subtleties, include the Indian New Deal and Nixon's self-determination policy.
9. For histories of termination policy see Fixico 1986 and Philp 1999; for case studies, see Rosier 2001 on Blackfeet and Kersey 1996 on Florida Seminoles.
10. Collier's Indian Reorganization Act of 1934 sought to standardize tribal governments and reinforce cultural preservation by promoting constitutionalism, voting-based democracy, and economic development. That said, the IRA also was a standardizing initiative that brushed aside local variations in political form and process (Biolsi 1992).
11. For more on economy and termination policy, see Philp 1999 and Cattellino in press.
12. The Seminole wars were the costliest of the 19th-century Indian wars. Seminoles were part of Indian "removal" policy, by which they were sometimes convinced and sometimes forced to leave Florida for Indian Territory. Since removal, the Seminole Nation of Oklahoma and the Seminole Tribe of Florida have been separate polities, and this essay does not address

- 2 the Seminole Nation of Oklahoma. Florida Seminoles refer to themselves as “unconquered”
3 because they survived the Seminole wars and never signed a peace treaty with the United
4 States.
- 5 13. For a more ethnographic discussion of Seminole sovereignty, see Cattellino 2008.
- 6 14. Kersey (1996) has analyzed the reasons why Seminole were moved from the list of tribes who
7 would be inappropriate for termination to the inaugural slate of terminated tribes. A major
8 factor, he concludes, was the Florida delegation’s eagerness to show support for termination
9 because one of its own, Rep. James Haley, served as chairman of the House Subcommittee on
10 Indian Affairs.
- 11 15. For general history, see Sturtevant and Cattellino 2004 and Covington 1993; for political
12 history, see Kersey 1989, 1996.
- 13 16. A majority of Seminoles had met and passed the following resolution: “We, the Seminole
14 Indians of Florida, request that no action be taken on the termination of Federal supervision
15 over the property of the Seminole Indians for a period of 25 years” (U.S. Congress 1954:
16 1038).
- 17 17. See Bruyneel (2005:ch. 4) on Haudenosaunee efforts to refuse U.S. citizenship.
- 18 18. Paine, who brought a systems theory approach to thinking about Fourth World peoples,
19 writes of how extending ordinary citizenship to them is not sufficient, and furthermore how
20 “welfare programs . . . are a contemporary version of this historically familiar process whereby
21 the anomalous status of ‘native person’ is transformed into one of client under tutelage”
22 (Paine 1984:215). When the state tries to fit indigenous peoples into conventional citizenship
23 regimes, they “fail” as state citizens, “and the state rationalizes this failure rate in terms of the
24 ideology of welfarism” (Paine 1984:221). Such concerns over the relationship of citizenship
25 to economic participation are not limited to settler–indigenous relations. For example, in
26 conflicts over welfare reform and immigration, Americans debate whether work is necessary
27 or sufficient, respectively, to enjoy the full benefits of citizenship.
- 28 19. Paul Rosier’s study of Blackfeet efforts to forge beneficial relations with the federal government
29 during this period shows that some Indian people supported termination on the basis of “Indian
30 notions of ‘self-support’” because it would liberate them from federal control over tribal
31 governance (Rosier 2001:1–2; see also Castile 1998).
- 32 20. Elsewhere (Cattellino 2004:ch. 7), I have distinguished “overlapping citizenship” in indigenous
33 and settler polities from dual citizenship in two nation states, for example Brazil and Canada.
34 In 2009, the Seminole Tribal Council began to hold its meetings on the Brighton Reservation
35 (the meetings rotate among reservations) in the new veterans’ building, which is shaped like
36 a star.
- 37 21. See Cattellino 2009 for an analysis of Seminole per capita payments and the politics of money’s
38 fungibility.
22. Donald Fixico notes that advocates generally saw termination as promoting civic egalitarianism,
whereas many indigenous people viewed it as anti-Indian (Fixico 1986).
23. Indigenous economic organization, and more specifically the corporation, is the subject of
an article-in-progress on Seminoles’ acquisition of Hard Rock International. That article also
addresses the role of corporations in the IRA and the Alaska Native Claims Settlement Act
(ANCSA; Cattellino n.d.).
24. Compare to Beckett’s discussion of how in Australia, after the 1960s partial dismantling of
colonial structures of legal exclusion, Aboriginal “wellbeing would in practice depend on a
special, collective relationship with the state,” one in which “ironically, although no one may
have intended it, the new dispensation provided a charter for Aborigines to live at a lower
material level than other Australians: their poverty had been rendered exotic and so no longer
comparable to other forms of poverty.” Beckett calls this exoticization of poverty a “cultural
screen” (Beckett 1988:12), which I take to be akin to Philip Deloria’s “expectation.”
25. This followed on the heels of a mid-1970s foray into on-reservation cigarette sales that could
be sold at a lower price because they were not taxed by the state. See Kersey 1996 and
Cattellino 2008.
26. One reviewer suggested that gaming was enabled by Public Law 280, which extended state
criminal and civil jurisdiction (but not, courts held, taxation and regulation powers) into

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Indian Country within specified states (Goldberg-Ambrose 1975). It is true that several (but not all) early gaming tribes were located within Public Law 280 states, but this was not because of the law: arguably, it was a geographical circumstance driven by the fact that these tribal nations were located near major population centers. Gaming plausibly can be linked to P.L. 280 jurisprudence because the latter tested theories of tribal regulatory authority (Washburn 2008), but not directly to P.L. 280 incursions by the states. In an article about an important court case that clarified the limits of P.L. 280 state authority, legal scholar Kevin Washburn identified poverty as key to the court's reasoning in favor of tribal sovereignty: "The victory in *Bryan* may thus indirectly support the hypothesis that it is the moral high ground of poverty, not aggressive assertions of sovereignty, that has tended to account for past tribal victories in the Supreme Court" (Washburn 2008:966). I thank P.L. 280 expert Carole Goldberg for discussing this with me.

27. Self-determination was facilitated by Nixon-era federal policies that promoted tribal self-governance and economic development (Wilkins and Lomawaima 2005, Wilkinson 2005). Nixon was an important exception to need-based sovereignty because his rhetoric and policies made clear that sovereignty was not a function of poverty. Reagan, however, deployed similar language of sovereignty and local control to justify cutting federal funds for American Indian programs (Castile 2006).
28. Also see Jeffrey Dudas's (2005) discussion of the politics of resentment in struggles over American Indian hunting and fishing rights.
29. Bruyneel's focus here is time, whereas mine is economic difference. What brings the two together in termination and gaming alike is the modernist notion of progress.
30. See the discussion in Wilkins and Lomawaima (2001:230) of Justice Anthony Kennedy's skepticism in *Kiowa Tribe of Oklahoma v. Manufacturing Technologies, Inc.* (118 S.Ct. 1700 [1998]) about maintaining tribal sovereignty immunity when tribes "take part in the Nation's commerce." This was by no means the first time that Indian rights have been measured by need or means. Historian Alexandra Harmon generously pointed me to a U.S. Supreme Court case that imposed a "moderate living" limit on Indian treaty rights. In a fishing rights case, the Court held that a treaty secures "so much as, but no more than, is necessary to provide the Indians with a livelihood—that is to say, a moderate living" (*Washington v. Washington State Commercial Passenger Fishing Vessel Association*, 443 U.S. 658 [1979]). Harmon discusses this holding in chapter 6 of her manuscript on the history of American Indian wealth (Harmon n.d.).
31. Kirk Dombrowski (2001) has examined the relationships among political economy, cultural claims, and marginalization in Southeast Alaskan Native communities. He shows that industrial timber interests have supported Alaskan Native political recognition in the name of resource development, and he rightly argues that forces of state and capital have aligned to support indigenous recognition (I would only emphasize that this "works" because the discourse of indigenous poverty so effectively paves the way for development [see also Ferguson 1994]). Moreover, he helpfully calls attention to the costs for poor Native people of state demands that indigenous peoples stake claims in cultural terms. Still, the ways that indigeneity and poverty interlink suggest that there is another twist to his argument that "where people are both poor and native, collective struggles have centered more on claims attributable to nativeness than on those that come from being poor" (Dombrowski 2001:67). Fred Myers' study of the "scandals of commodification" (2002) in Australian Aboriginal fine art markets offers one way to think about the distinctive dilemmas of economic form and cultural production that are characteristic of settler societies.
32. In "Disappointing Indigenous People: Violence and the Refusal of Help," Gillian Cowlishaw (2003:111) has written about the unsettling effects of Aboriginal refusals to accept settler offers of financial or other forms of assistance: "Rejecting our proffered solutions to their problems could be seen as a way in which Indigenous people assert their autonomy from the state's suffocating solicitude."
33. Perhaps it is no coincidence that Philip Deloria's (2004) chapters about "Indians in Unexpected Places" tend to focus on sites of creativity, including music, acting, sports, and Indians' mobility behind the wheel of vehicles.

- 2 34. Alexandra Harmon (n.d.) is writing a welcome and necessary book about the history of
3 indigenous wealth and its perception in the United States.

4 *Editors Note: Cultural Anthropology* has published a number of essays that examine how in-
5 digenous groups have been positioned in the United States. See Pauline Turner Strong and
6 Barrik Van Winkle's "Indian Blood" (1996); Theresa D. O'Neil's "Telling about Whites,
7 Talking about Indians" (1994); and Sara Ciborski and Gail Landsman's "Representation and
8 Politics: Contesting Histories of the Iroquois" (1992). *Cultural Anthropology* has also published
9 a wide range of essays that examine indigeneity more generally. See, for example, Andrea
10 Muehlebach's "'Making Place' at the United Nations" (2001); Hane Veber's "The Salt of
11 the Montaña: Interpreting Indigenous Activism in the Rain Forest" (1998); Faye Ginsburg's
12 "Embedded Aesthetics: Creating a Discursive Space for Indigenous Media" (1994) and Liisa
13 Malkki's "National Geographic: The Rooting of Peoples and the Territorialization of National
14 Identity among Scholars and Refugees" (1992).

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