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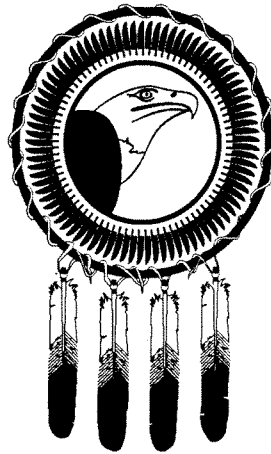
Sovereignty, Devolution, and the Future of Tribal-State Relations

by

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Sovereignty, Devolution, and the Future of Tribal-State Relations

Stephen Cornell and Jonathan Taylor

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We are grateful for the invitation from the National Congress of American Indians to attend the mid-year session in Juneau and offer some observations and thoughts on the state of tribal-state relations. Our remarks stand back a bit from the particular circumstances of any one state-tribal relationship to examine the overall state of those relations, the changes that are reshaping them, and the implications of those changes for Indian nations.

Three Trends and the Uncertain Future of Tribal-State Relations

At the start of the 21st century, three broad political developments or trends are reshaping tribal-state relations. The future of those relations is unclear, but the interaction among these trends and the relative influence of each will do a great deal to determine not only the shape of those relations but the future of Indian nations.

The first of these political developments is devolution: the effort to shift decision-making power downward in the political structure from central to local governments. Devolution is based on the reasonable proposition that policy is best made at the smallest level of government capable of doing so. With this in mind, over the last decade and around the globe, central governments have been devolving power down to local levels. The United States has been an eager participant in this trend. The New Federalism, the *Seminole* decision, the Contract with America, and welfare reform are all facets of American devolution. Together with other court and legislative developments, they constitute a significant transfer of decision-making power from the federal government to the states. As a result, the states have more discretion, more flexibility, more authority, and more control over federal dollars—in short, more practical

sovereignty—than they used to, and they are using it to rethink public policies and tailor them to local circumstances. It is too soon to know how far this trend will go—a great deal hinges on how well the states perform as they assume greater authority and launch new programs of their own—but the basic trend is clear. Relative to federal power, state sovereignty is growing and will continue to grow.

Of course devolution has a history in Indian Country as well. For the last twenty-five years, federal policy toward tribes, formally at least, has been devolutionary. Self-determination—which is a devolutionary policy—ideally places power in tribal hands, reducing federal controls over tribal affairs, resources, and decisions. Indeed, one might see the self-determination policy toward Indian nations as a precursor of the more general devolutionary tendency in the United States.

Combined with vigorous tribal political assertions over that same period, this has produced *the second political development that is reshaping tribal-state relations as we start the new century: the resurgence of tribal power.* Across the country, albeit to varying degrees, Indian nations have been taking greater control of their own affairs, implementing practical self-rule. The evidence is everywhere, from 638 contracting to 472 compacting, from the gaming industry to wildlife management and land use, from foster care to TANF programs. Tribal control is nowhere absolute, but as a practical matter it has grown enormously since the 1960s as more and more Indian nations have moved aggressively to exercise substantive decision-making power across a wide range of issues critical to tribal futures.

Yet this resurgent tribal power is anything but secure. And this brings us to *the third political development reshaping tribal-state relations: through the 1990s and continuing today, tribal sovereignty has been under assault* in the courts, in Congress, in the states, and now, possibly, in the presidential campaign. We need not revisit here the potential or actual effects on tribes of the *Venetie* or *Seminole* decisions by the Supreme Court, the 638 moratorium, the Istook Amendment, means-testing for TPA, or the revenue-sharing compact proposals in the gaming industry. Tribal leaders feel those impacts in their daily work. But we should note that there is a growing body of research showing that the assault on tribal sovereignty holds grave risks not only for the political future of Indian nations but for their economic future as well. Sovereignty, it turns out, is a critical economic asset for Indian nations.¹ The effort to reduce tribal sovereignty is perhaps the most risky and misconceived public policy trend affecting tribes since allotment.

The critical question for the future of tribal-state relations and for the future of Indian nations themselves has to do with which of these trends—or which combination of them—prevails. There is little doubt about devolution. It has broad political support and seems unlikely to be reversed any time soon. The question is: will this shift in power away from the federal government work to tribes' advantage or not?

In and of itself, devolution is not dangerous to tribes. Quite the reverse: devolution has the potential to significantly boost tribal self-rule. But the ultimate impact of devolution depends on what happens to the other two trends identified here. Will devolution include Indian nations and embrace the resurgence in tribal power? If so, then there are grounds for new, robust, government-to-government relationships between Indian nations and the states. Or will the assault on sovereignty, combined with a form of devolution that refuses to recognize Indian nations as sovereign, self-governing entities, lead to a dramatic realignment of governmental

¹ On this point, see in particular the research findings of the Harvard Project on American Indian Economic Development (for example, Cornell and Kalt 1992, 1998, and in press).

power, strengthening states and weakening tribes? If that turns out to be the case, then the political and economic future of Indian nations is very much in doubt.

Not coincidentally, research also suggests that in the first scenario—a scenario of sustained tribal sovereignty—the burdens on federal and state governments and taxpayers generated by reservation poverty are likely to decrease. In the second scenario—a scenario of diminished tribal power—they almost certainly will rise.

In what follows, we first review the arguments often heard *against* genuine, government-to-government, sovereignty-based relationships between tribes and the states. We then review the arguments *for* such relationships. We close with a summary of the implications for tribal-state relations and with a quick look at the tasks facing tribal governments as they attempt to shape the outcome of these trends and build productive tribal-state relationships based on mutual respect for sovereignty.

Arguments against Tribal-State Cooperation

One consequence of devolution is already apparent. We've been talking to tribal leaders around the country about the changing nature of tribal-state relations, and their general impression is summarized by one planner's view that "We never used to think about the state. We just dealt with the federal government. Now we have to think about the state all the time." States and tribes are involved in each other's business a great deal more than they used to be. Whether it is the Navajo Nation's work with Arizona on culturally appropriate definitions of "work" under welfare reform, or the contentious negotiations in many states over gasoline tax collections, states and tribes are being forced to deal with each other on numerous matters of policy. They have locked horns over hazardous and nuclear waste, wildlife management, foster care, off-reservation fishing, gaming compacts, taxation of all kinds, auto licensing, policing, and other issues—in sum, over nearly every facet of tribal life. States and tribes also have cooperated on most of these same issues. In short, tribes and states are in relationships that

are much more complex and uncertain than ever before, and their interactions have ranged from the highly contentious to the mutually respectful and beneficial.

Indeed, one of the puzzles of tribal-state relations is why in one state there is little or no cooperation in a given policy area while in a neighboring state, tribe and state are cooperating with success on the same issues. In one state, the governor and legislature may resist cooperation with tribes, relying on the courts or lobbying Congress to limit tribal sovereignty. Right next door, the state and the tribes may view each other as partners, proactively negotiating solutions to mutual challenges. Why is that?

Some of it has to do with history. Where animosity characterizes tribal-state relations, the core of the conflict may be deep-seated mutual distrust or even racism, built up over decades. Nonetheless, historical animosities cannot explain everything, and states have put forward a number of arguments against tribal sovereignty and a government-to-government relationship with tribes. Several themes often appear in these arguments:²

- i) a zero-sum view of tribal-state relationships in which one party's gain in sovereignty or economic resources is the other party's loss, and vice versa,
- ii) a view that tribal governments are not "competent" governments, and
- iii) a view that allowing tribes to have regulatory authority will lead to a "race to the bottom" in which states will have to compete with tribes by accepting ever greater risks or costs.

Each of these needs some elaboration.

² Our list of themes is hardly exhaustive; a number of arguments against tribal sovereignty have been made. These are ones we frequently encounter and to which some of our own research speaks.

Zero-Sum Tribal-State Relationships

Governments often view their conflicts with other governments as inherently zero-sum: one's gain in sovereignty or economy is the other's loss and vice-versa. Wildlife management is an example. Some states have taken the position that tribal assertions of game management authority are a direct challenge to state sovereignty. If a tribe controls game management, the state will not be able to control its herds, flocks, and fish stocks as they migrate on and off the reservation, and the tribe's actions will diminish state regulatory effectiveness. In this view, tribes are seen by states as obstacles to the exercise of newly devolved state powers.

In the economic arena, some states have taken the position that tribal economic gains are costly to the states. The costs, in this argument, generally come either in lost revenues as tribes capture dollars from non-Indian vendors, reduce state tax revenues, or otherwise move dollars into tribal hands, or in increased state burdens as reservations export pollution, social problems, or some other cost to the surrounding region. Gaming is a common example. Some states argue that tribal gaming moves dollars from the state to tribes while "exporting" problem gamblers to the states. This idea leads states to resist gaming compacts or to insist on taxing Indian gaming through revenue sharing agreements.

The Competence of Tribal Governments

A second public policy argument that seems to carry force when tribes and states are tussling over sovereignty is that tribal governments are not "competent" in the exercise of governing powers. If states concede any authority to tribes or if they try to negotiate with them, the argument goes, tribes will bungle the job and the states not only will bear the brunt of repairing the damage but will end up standing in for the tribes anyway. The argument often is reinforced by resort to anecdotal evidence of tribal mismanagement, corruption, and the like.

This argument is implicit in much of the Congressional backlash against Indian self-determination as well as in state resistance to the tribal exercise of sovereignty. As misin-

formed as it may be, it often prevents fruitful tribal-state cooperation.

Races to the Bottom

Some of the critics of devolution argue that it pits government against government in a "race to the bottom" to make regulations less and less stringent in order to attract business. For example, the critics of the New Federalism argue that as states compete with each other for business, they will move toward the least common denominator in environmental or workplace regulation, welfare benefits, taxation, and the like, trying to capture business from or shift costs to other states.

Similarly, critics of tribal sovereignty argue that less developed tribes will be more willing to accept hazardous wastes, relax worker safety regulation, or be otherwise overeager to attract businesses by lowering standards. Tribal sovereignty, in this argument, means lax regulation that will either (a) force the state to compete with the tribe by loosening its own standards, eventually harming the public good, or (b) put the state economy, state workers, or the state environment at risk as the effects of lax tribal standards spill off the reservations into non-Indian communities and the state as a whole.

Adherents of these various views use them to argue against recognizing the inherent sovereignty of tribes and as justifications for asserting state jurisdiction rather than establishing government-to-government partnerships with Indian nations. They promote a devolutionary pattern in which state power grows relative to tribal power, and tribal self-determination becomes increasingly hostage to state actions.

Arguments for Sovereignty-Based, Tribal-State Cooperation

While these arguments clearly are dangerous to tribes, there also is ample evidence that they are simply wrong. Furthermore, we believe they also are potentially costly to the states. Tribes and states around the country are demonstrating that there are good reasons for tribal-state cooperation on a government-to-government basis that respects the sovereignty of each.

Positive-Sum Tribal-State Relationships

The zero-sum view of tribal-state relationships holds that each party in that relationship gains primarily at the other's loss. There are grounds for this view in certain situations. For example, a single dollar of gasoline-tax revenue cannot be split without one party's gain being the other party's loss. But this zero-sum phenomenon is by no means always present in tribal-state relations.

The fact is that capable and sovereign tribal governments advance state goals as well as tribal goals. No state has an incentive to allow the kind of poverty and economic underdevelopment that has characterized Indian reservations for so long to continue to fester within its borders. That said, twelve years of research at the Udall Center and Harvard Project emphasizes that tribal control over tribal affairs is the *only* policy that works for economic development. We have been unable to find a single reservation where major decisions are controlled by outsiders—the states, the federal government, or special interests—where successful economic development has taken root. In short, if states want Indian poverty and its off-reservation consequences to be adequately addressed, they have to stop insisting that their rules apply to the exclusion of tribes' rules. The evidence is compelling that where tribes have taken advantage of the federal self-determination policy to gain control of their own resources and of economic and other activity within their borders, and have backed up that control with good governance, they have invigorated their economies and produced positive economic spillovers to states.

Gaming is the easiest example to point to. In 1998 we carried out the most comprehensive study yet undertaken of the economic and social impacts—on and off reservations—of Indian gaming. It showed significant contributions to off-reservation economies.³ Some quick examples:

First: casino expenditures. In 1997 the Ho-Chunk nation's casino operations in the state of Wisconsin spent \$31.6 million in vendor outlays.

³ Cornell et al. (1998).

An estimated 70% of those expenditures were in-state, the vast majority off the reservation in support of non-Indian businesses. The Oneidas, also in Wisconsin, spent \$28 million in vendor outlays, 88% of it in-state. In North Dakota, the Standing Rock Sioux's gaming operations—not one of your bigger such operations—spent more than \$7 million in vendor outlays. Seventy-four percent of that was spent in-state, almost none of it on the reservation.

Second: tax payments. In 1997 Ho-Chunk gaming operations were responsible for nearly \$16 million in gaming-related payroll tax deductions or withholdings; Oneida was responsible for more than \$27 million; Standing Rock for nearly \$2 million in North Dakota and more than a third of a million in South Dakota.

Third: employment. During the major recession that hit California in the early 1990s, the three gaming tribes in San Diego County—Sycuan, Barona, and Viejas—were among the few bright spots in the county employment picture, employing hundreds of non-Indians and taking people on as other businesses were laying people off. In Arizona, the small Mazatzal Casino operated by the Tonto Apaches provided 280 jobs in 1998, the vast majority of which were filled by non-tribal members. Mazatzal replaced the largest employer in town at the very time it was shut down because of falling lumber prices, and many non-Indians credit the casino with maintaining stability in the local economy through this transition.

Fourth: revenue sharing. Many gaming tribes make significant contributions to state coffers from gaming revenues under the terms of tribal-state compacts. The Michigan tribes, for example, contribute 2% of revenues to local government and 8% to the State of Michigan.

Finally, there are the investments that Indian nations make with gaming profits. These tend to be diverse and substantial, turning some Indian nations into new sources of investment capital. Some of these investments are pretty interesting, too. In Michigan, to offer just one example, the Grand Traverse Band of Ottawa and Chippewa Indians used some of its gaming profits to buy up a condemned building in the off-reservation town of Traverse City. It cleaned

up the building and turned it into a productive economic asset. An editorial in the local newspaper thanked the tribe for helping to solve a city problem and investing in the future of the town.

In a second study, commissioned by the Gila River Indian Community, we examined the economic and social impacts of Indian gaming on the state of Arizona. Among the study's conclusions: "The net economic impact of Indian gaming on Arizona is positive and substantial. Specifically, Indian gaming does not cause the State to lose tax revenues, and a conservative estimate of the contribution of Indian gaming to the Arizona economy is roughly \$128 million annually." In addition, "the one-time construction benefit of Indian casinos to the state of Arizona [has been] nearly \$700 million."⁴

Another recent study of ours comparing gaming and non-gaming U.S. communities over a 16-year period shows that in rural areas, Indian gaming not only improves on-reservation economic conditions; it boosts *off-reservation* incomes, increases *off-reservation* employment; reduces *off-reservation* welfare dependence; and is associated with reductions in certain types of crime.⁵ In short, in these cases an often-repeated state goal—rural economic development—is vigorously advanced by tribal economic development.

Of course some of the gaming impacts are dramatic, but what about reservation economic activity that does not include gaming? Since 1979, the Mississippi Choctaws near Philadelphia, Mississippi have created more than 6,000 jobs on their reservation in an array of industries, including but not limited to gaming. On the Choctaw reservation today, there are far more jobs than there are Choctaws to fill them. The result is that the Choctaws import labor: thousands of Black and white workers who drive onto the reservation every day to take jobs in Choctaw manufacturing and service industries. The tribe is the largest employer in east central Mississippi and one of the ten largest in the state, bringing to one of the poorest regions of the country a dynamic economy and a host of

⁴ Taylor et al. (1999).

⁵ Taylor, Krepps, and Wang (forthcoming).

jobs.⁶ And being successful hasn't stopped them from being Choctaw: the tribe has one of the highest rates of language retention in all of Indian Country.

In Arizona, the Sunrise ski operation run by the White Mountain Apache Tribe has become a major factor in the winter economy of the White Mountains, filling motels in Show Low and Pinetop, pulling in dollars and further stimulating the local recreational and tourism economy. When a federal agency threatened to close down Sunrise under the Endangered Species Act, a busload of off-reservation business and community leaders showed up at public hearings to underscore the economic dependence of the regional economy on the tribe's resort—and this was before the tribe built its casino.

In Washington State, Veronica Tiller and George Chase found in 1998 that 27 federally recognized tribes contribute \$1 billion annually to the economy, paid \$56.6 million in federal and state employment and payroll-related taxes; and employed 14,000 Washington citizens full-time. Gaming played a significant role in this, but it was not the whole story.⁷

There are numerous other examples: the Citizen Potawatomi Nation in Oklahoma, the Confederated Tribes of the Warm Springs Reservation in Oregon, the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana—these and many others are making significant economic contributions not only to their own societies but to non-Indian communities as well. They illustrate the crucial point: as Indian nations move from welfare-based, transfer economies to productive economies, they reduce the burden on taxpayers, are able to invest in their own infrastructures, contribute to regional economies, and, in many cases, bolster state programs through their own provision of services. In short, state economies and populations benefit from tribal economic success.

A Second Look at the Competence of Tribal Governments

The assumption of tribal government incompetence has very high costs. Not only is it offensive to Indian nations, but it leads states to approach tribal-state partnerships—if they consider them at all—with hesitation and a demand for extra assurances or performance guarantees. These in turn make it harder for tribes and states to come to agreement and handicap tribal development efforts. In some cases, states refuse to partner with tribes at all.

It goes without saying that some tribal governments are incompetent, but this hardly distinguishes Indian nations from other societies. Across the universe of tribes—as across the universe of countries—we find both good and bad examples of governance. Unfortunately, however, the bad examples often get the publicity, but there is ample evidence on the good government side as well.

For example, a number of studies indicate that, on average, when tribes take over services under PL-638, they outperform federal agencies. They create more value, operate more efficiently, introduce more services, and build more public infrastructure than outside operators do.⁸ The reasons are simple and predictable. When tribes take over responsibility for a reservation program, two things happen. First, program administration begins to reflect their agendas instead of outsiders' agendas. Second, decisions and their consequences are linked more closely to each other. Tribes begin to pay the price of bad decisions and reap the benefits of good decisions; as a result, over time, the quality of the decisions improves.

Perhaps more striking, tribes are increasingly administering complex and innovative programs in ways that make them best-in-class not just in Indian Country but across governing units in the United States. Some quick examples: the Jicarilla Apache wildlife management program in New Mexico is arguably the premier program in the West, with striking achievements to its credit in the restoration of trophy-

⁶ Ferrara 1998; National Congress of American Indians 1998, p. 8.

⁷ Tiller and Chase (1998).

⁸ See, for example, Jorgensen (2000), Krepps and Caves (1994), Dixon *et al.* (1998).

quality game herds and fisheries. The State of Minnesota has drawn attention to the Fond du Lac tribe's foster care program not because it is an outstanding *Indian* program but because it is an outstanding *foster care* program. The tribal college run by the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana is getting applications from non-Indian students because it provides superior quality education.

Not only is the assumption of tribal government incompetence out of step with a growing body of contrary evidence, but its implied conclusion—that the state response should be to resist partnerships with tribes—is logically flawed. Even in cases where tribal program operation is problematic, the solution is not for the states to walk away from these potentially beneficial partnerships, but for the tribes and the states to jointly work out capacity-building arrangements that can improve tribal governance. This is the clear implication of the Harvard Project research finding, noted above, that tribal control is essential to tribal development. It is in the interest of *both* states *and* tribes to build the capacity of Indian nations to govern effectively. Our evidence indicates that, in doing so, states will be lining up for eventual spillover benefits.

Rethinking Races to the Bottom

Finally, the fear that tribes are economically desperate and, therefore, will cut regulatory corners in order to attract economic development or foist costs onto the states has motivated states to assert jurisdiction over tribes in some cases or walk away from productive partnerships in others. Of course there's a paternalistic edge to this argument, which suggests that states are best able to determine appropriate policy for reservations. But it also assumes that tribes will be willing to turn their homelands into toxic cesspools or their factories into sweatshops.

The evidence suggests otherwise. Economic development on most reservations has meant significant improvements in quality of life, not deterioration. Economically successful tribes tend to provide more services, maintain newer schools, shorten fire and rescue response times, impose higher environmental standards, and in

other ways exceed the levels of federal and state service provision that prevailed before development took off. The Jicarilla Apaches have improved wildlife management in the northern part of New Mexico; Sandia Pueblo has imposed the toughest water quality standards along a major stretch of the Rio Grande; the Grand Traverse Band of Ottawa and Chippewa Indians has improved the health of its own people by taking over management of health care; the Cabazon Band has strengthened *regional* fire and police operations with high quality training and links to non-Indian community services.

Once again, the critical issue is tribal capability. As Indian nations improve their own governing capacities, they typically take the kinds of actions that would logically reduce state risks and concerns—and they become better partners in the effort to mitigate those risks that remain.

Implications

Devolution has enormous potential benefits to Indian nations. They already have benefited from devolution in federal Indian policy. It is easy to demonstrate that the devolutionary federal policy of self-determination for Indian tribes, formally adopted in the mid-1970s, is the *only* federal Indian policy ever to produce sustainable, positive, economic results on Indian reservations. No other policy has worked to reduce reservation poverty.

But devolution will benefit Indian nations only if tribal sovereignty remains robust. The danger today, and the greatest threat to reservation prosperity, lies not in devolution but in courts and legislatures that believe in devolution but do not believe in sovereign Indian nations. It will be a remarkable irony—and another tragedy in a long line of Indian policy failures—if the United States were now to turn its back on the only policy that has shown any promise of lifting reservation populations out of poverty and despair. Such a rejection of tribal sovereignty will have costs not only to tribes but to states, the federal government, and taxpayers generally as Indian nations continue to languish in poverty. In backing away from meaningful self-determination, everybody loses.

What can tribes do to insure that the trend toward devolution is accompanied not by an assault on sovereignty but by renewed faith in tribal self-governance? Three points should be made. First, the facts need to be made known. It is not difficult to show that, in the aggregate, what's good for tribes is good for the states. Because tribes cannot satisfy much of their own demand for goods and services, virtually all on-reservation economic activity is accompanied by a substantial off-reservation (and often in-state) purchasing multiplier. Furthermore, when tribes get sustainable development going, they tend to accomplish state goals by maintaining roads better, contributing to off-reservation schools, decreasing the burdens associated with poverty, employing non-Indians, contributing to greater state income tax withholdings, and in other ways. And because self-determination—that is, respect for tribal sovereignty—is the only policy that has led to sustained tribal economic development in the past century, states have a stake in it. Tribal sovereignty is a win-win proposition. The more decisions tribes make for themselves, the more likely states are to benefit from the long-overdue invigoration of Indian reservation economies—economies that have been to date the most stubbornly resistant pockets of poverty in America.

Second, the single greatest power tribes have to deploy on their own behalf is their capacity for self-government. Time and time again, around Indian Country, we see that the demonstrated sophistication of tribal policy implementation commands respect off-reservation and wins tribes sovereignty-in-fact where sovereignty-in-law has been only a paper promise.

A story from Alaska explains this point well—particularly since the legal position of tribal sovereignty has been so contentious in this state over the past decade. The village of Quinhagak in southwest Alaska experienced repeated visitation by non-Native sport fishermen and hunters who camped in the riverbed that was the main water supply for the village. Then, through the off-season, as the river rose or changed course within its gravel bed, it would pick up the human waste left by the visitors and deliver contaminated water downstream to the village.

After repeated outbreaks of gastrointestinal disease and repeated ineffective protests to state government, the village took matters into its own hands and passed ordinances regulating camping practices on the river—even though the land was technically outside their jurisdiction. Not surprisingly, the campers and outfitting companies initially objected, arguing that the Native government had no power to police non-Indian activities outside village lands. In response, the village government demonstrated the state's inability to effectively patrol the river and the dire consequences to the health of the community. Eventually, the campers and outfitters relented and allowed the village, in essence, to take over the ranger function for the riverbed area.⁹ On paper, the village had very little "sovereignty" over an "off-reservation" problem of acute importance to village health, yet it won authority by instituting more effective policy implementation than the state could provide.

As happens more and more frequently from Cabazon to Jicarilla and from Fond du Lac to Nez Perce, outsiders are being made aware that tribes may be the best-suited party to a necessary task of governing—on reservation *or off*. In sum, tribes that outperform US agencies, state agencies, and local governments are a powerful argument for tribal sovereignty. They command respect at the negotiating table and provide confidence to the other side that when the tribe makes a deal, the tribal government will execute it effectively.

The Alaska story makes our third point as well. The best defense of sovereignty is its effective exercise. This means that Indian nations, if they wish to retain control over their own affairs, if they wish to develop sustainable, productive economies, if they wish to build productive, mutually respectful relationships with the states, have to back up their sovereign rights and powers with good governance. They have to put in place governing institutions that are capable of exercising sovereignty effectively. This means providing more governmental stability, de-politicizing court systems and business management, building efficient governmental bureaucracies, and generally thickening the ca-

⁹ Kizzia (1997).

capacity of tribes to act effectively in their own interest.¹⁰

Across Indian Country, tribes are doing just that: demonstrating their ability to govern effectively. In doing so they are laying the foundation for new, productive, mutually respectful relationships with the states and are giving the lie to arguments against tribal self-government. Both Indian nations and the states with which they increasingly have to interact stand to benefit from the results.

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¹⁰ See the discussion of these institutional imperatives in Cornell and Kalt (1992) and other Harvard Project research publications.

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