

ALSO BY DONALD CRAIG MITCHELL

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The Story of Congress's Historic Settlement of  
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# WAMPUM

HOW INDIAN TRIBES, THE MAFIA, AND AN INATTENTIVE  
CONGRESS INVENTED INDIAN GAMING AND CREATED  
A \$28 BILLION GAMBLING EMPIRE

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## 15: FAKE RESERVATIONS

Just like real estate, it's all location, location, location.

BARRY BRANDON  
Former Chief of Staff  
National Indian Gaming Commission

**T**HE FOXWOODS RESORT & CASINO IS ONE OF THE MOST PROFITABLE casinos in the world because twenty-two million customers live within 150 miles of its gaming floors. The same can be said of the Mystic Lake Casino the Shakopee Mdewakanton Sioux Community opened in 1992 on its reservation at Prior Lake thirty miles southwest of Minneapolis, and of the two Hard Rock Hotels & Casinos the Seminole Tribe operates in Florida.

Most Indian reservations that were established in the nineteenth century are not so conveniently located. But there are two ways a federally recognized tribe can acquire a reservation at a location at which a casino can be profitable.

The first is that Congress can create a reservation. The story of how Congress directed the secretary of the interior to transform 255 acres of land down the street from Home Depot in Rohnert Park, California, into a reservation for the Federated Indians of Graton Rancheria is not an anomaly.

Here is another.

In 1926, the Bureau of Indian Affairs (BIA) purchased fifty acres of land at Lytton Springs near Healdsburg, a farm town north of Santa Rosa, California. The land, which became known as the Lytton Rancheria, was unoccupied until 1937 when the BIA allowed Bert Steele, a quarter-blood Indian, and his wife Mary, a half-blood, to live there. In 1938, the BIA allowed Mary Steele's brother, John Wesley Meyers, to move onto the land as well.

After Bert Steele died, at the request Mary Steele and John Wesley Myers, in 1961 the BIA terminated the Lytton Rancheria and conveyed the title to the fifty acres in fee to John Wesley Meyers's widow and thirty-two other heirs of Bert and Mary Steele and John Wesley Meyers.

A quarter of a century later, by which time the heirs had sold all fifty acres, in 1986 in the U.S. District Court in San Francisco an attorney named Stephen Quesenberry, who worked for California Indian Legal Services, filed *Scotts Valley Band of Pomo Indians of the Sugar Bowl Rancheria v. United States*, a lawsuit in which he sought to invalidate the BIA's termination of a number of rancherias. The lawsuit also sought to transform both the individuals to whom the BIA had conveyed title to the land within the boundaries of the rancherias and their heirs into federally recognized tribes.

In August 1987 Quesenberry added the "Lytton Indian Community of the Lytton Rancheria" and "Carol J. Steele, a dependent member from the Lytton Rancheria" to his list of plaintiffs. Carol Joyce Steele's connection to the Lytton Rancheria was that she was the ex-wife of Bert and Mary Steele's deceased son, Daniel Steele.

In 1991, District Judge Vaughn Walker approved a settlement agreement Quesenberry wrote and to which the attorney at the U.S. Department of Justice who represented the United States acquiesced. In that agreement, the BIA agreed that, henceforth, the heirs of Bert and Mary Steele and John Wesley Meyers and their descendants would be "eligible for all rights and benefits extended to other federally recognized Indian tribes and their members." In 1993, the BIA added the "Lytton Rancheria of California" to the list of "Indian Tribal Entities Within the Contiguous 48 States" that it publishes annually in the *Federal Register*.

Although the record is murky, the Lytton Band of Pomo Indians (as the members of the Lytton Rancheria of California renamed themselves) appears to have been invented in order to open a bingo hall. Sixteen months before Stephen Quesenberry added the Lytton Indian Community and Carol J. Steele to his list of plaintiffs, on April 1, 1986 a partnership called Lytton-Sonoma Ventures, Inc., (LSV) was organized. One of LSV's partners was Robert Ingenito, who after working at the bingo hall Seminole Management Associates managed on the Seminole Reservation in Hollywood, Florida, in 1983 had moved with his brother to California to open the bingo hall on Sonny Miller's allotment on the Morongo Reservation. On August 6, 1986, another LSV partner, William Pedraza, and George Vlassis, an attorney from Arizona who had been general counsel for the Navajo Nation, purchased three parcels of land located within the boundaries of the former Lytton Rancheria.



On October 9, 1988, LSV signed a management agreement with Carol Joyce Steele, the “spokesperson” for the “Lytton Springs Indian Band of California.” LSV also wrote a business plan for a 2,500-seat bingo hall that LSV would build on the Lytton Rancheria. The business plan explained that the key to the hall’s profitability was the rancheria’s location, which was “more readily accessible to citizens of the San Francisco Bay Area than any Indian bingo currently operating.”

Carol Joyce Steele later said that, while she had “discussions” with Pedraza, her signature on the management agreement was a forgery. Whatever the truth, LSV’s business plan became moot when Sonoma County intervened in Quesenberry’s lawsuit. The county did not care if Judge Walker’s approval of the settlement agreement transformed the Steele and Meyers heirs and their descendants into a federally recognized tribe as long as the new tribe would agree not to open a gambling facility anywhere in the county. Stephen Quesenberry and Carol Joyce Steele accepted that condition. Which is how Sam Katz became involved.

In 1996, Margie Mejia, a great-granddaughter of Bert Steele who had replaced Carol Joyce Steele as the head of the Lytton Band of Pomo Indians, signed a management agreement with One Sky, Inc., a consulting firm Joel Frank, the Seminole Indian who had been one of the first commissioners of the National Indian Gaming Commission (NIGC), had created. One of Frank’s partners knew Sam Katz, a Philadelphia-based expert in municipal finance who had become wealthy assisting municipalities and the owners of sports teams arrange financing for convention centers and stadiums. Katz agreed to help Joel Frank raise the money One Sky, Inc., would need to purchase land and build a bingo hall for the Lytton Band.

The management agreement required One Sky, Inc., whose assets were Joel Frank’s ambition and not much else, to make a \$500,000 up-front payment to the Lytton Band. When One Sky, Inc., failed to do so, Sam Katz recruited a group of investors from Philadelphia and signed his own management agreement with Margie Mejia. He then began looking for land outside Sonoma County to turn into an Indian reservation.

Katz found sixty acres on the highway that runs through American Canyon, a bedroom community on the southern end of the Napa Valley, the wine-growing region north of San Francisco Bay. But the sententious opposition of an evangelical minister who was president of the American

Canyon chamber of commerce, as well as of other American Canyon residents, made that location a nonstarter.

Depressed about that outcome, when he was driving back to San Francisco from American Canyon, Katz passed a sign at a freeway exit north of Berkeley that advertised the “San Pablo Casino.” His curiosity piqued, Katz turned around and drove back to see what the San Pablo Casino was.

IN THE 1940S THE Second World War transformed San Pablo from the bucolic farm town on the northeastern shore of San Francisco Bay it had been into a bedroom community for thousands of blue-collar workers who moved from Oklahoma and the rural south to work in the nearby shipyards. When the shipyards closed after the war, San Pablo deteriorated into a blighted and crime-ridden urban environment whose predominate architectural characteristics are discount stores and fast-food restaurants. Having no tax base, by the early 1990s the city of San Pablo faced bankruptcy.

To ward it off, the city manager proposed that the city try to attract a poker room. When San Pablo voters approved the idea, the city bought 9.5 acres of land in downtown San Pablo on which a trailer park and a bowling alley had been located. The city then persuaded Ladbrokes, a company that owns casinos, card rooms, and horse tracks in Great Britain and the United States, to build a 70,000-square-foot building with a circular driveway that, according to Sharon Brown, a member of the city council at the time, looked like a “Moroccan warehouse.” Ladbrokes then leased the building and the adjoining parking lot to SF Casino Management, a management company that would operate the facility.

Initially, the 100-table poker room made money. But then poker rooms were required to comply with the ban on smoking in public places the California legislature had enacted, and according to Sharon Brown, business at the San Pablo Casino, as the poker room had been named, “went into the tank.” That was the situation when Sam Katz drove into the poker room’s parking lot.

When Katz soon thereafter bought the building and parking lot from Ladbrokes, he gave Margie Mejia two pieces of advice: “Do a deal with



the unions. Do a deal with the city." Mejia did both: she agreed to honor the labor contract SF Casino Management had signed with HERE, the union that represented the poker room's employees, and she agreed to give the city of San Pablo 7.5 percent of the San Pablo Casino's gross gaming revenue. Doing both was the key to obtaining the support of George Miller, the pro-labor Democrat who represented San Pablo in the U.S. House of Representatives, and who, as Katz and Mejia's luck would have it, also was the senior Democrat on the House Committee on Resources.

Section 5 of the Indian Reorganization Act (IRA), which Congress passed in 1934, authorizes the secretary of the interior to take into trust the title to any land he wishes for members of a "recognized Indian tribe now under Federal jurisdiction." In 2009, the U.S. Supreme Court would hold that Congress intended the word "now" to mean "in 1934." But in 2000, the BIA and its attorneys assumed that section 5 authorized the secretary to take title to land into trust for the Lytton Band, which had not purportedly become a federally recognized tribe until 1991, when Judge Walker approved the settlement agreement in Stephen Quesenberry's lawsuit.

To explore whether Secretary of the Interior Bruce Babbitt could be persuaded to take into trust as a reservation for the Lytton Band a poker room and parking lot in downtown San Pablo, in July 2000 Sam Katz and Margie Mejia met with Assistant Secretary of the Interior for Indian Affairs Kevin Gover. Marie Howard, the member of his staff who handled Indian-related bills for George Miller, also attended the meeting.

After listening to Katz and Mejia make their pitch, Gover said he might be able to persuade Babbitt to take title to the land under the San Pablo Casino into trust. "But it wouldn't happen until the very last few days of this administration. And even then, I'm not sure I can do it. So my suggestion is that you get an act of Congress." According to Katz: "I'm sitting in this very warm room, not doing a lot of talking, but occasionally throwing in my two cents, and I suddenly feel faint. Did he say 'act of Congress'? We're not getting an act of Congress. That just doesn't happen."

But it did happen.

In October, George Miller and Marie Howard arranged to include in the Indian omnibus bill into which Miller (and Howard) also added the Graton Rancheria Restoration Act a paragraph that directed the secretary

of the interior to take the title to the land under the San Pablo Casino and the adjoining parking lot into trust for the Lytton Band.

When the Indian omnibus bill was brought to the floor, Miller told the House that "most" of the bills that had been rolled into the omnibus bill "have passed out of the House or the Senate." And most had, except for the paragraph for the Lytton Band, which had never been introduced as a bill, about which no hearing had been held, and about which in his explanation of the omnibus bill Miller made no mention.

Congress passed the Indian omnibus bill after only a cursory explanation of the bill's content on the House and Senate floors and with no recorded votes. In October 2003, Gale Norton, Bruce Babbitt's successor as secretary of the interior, took the title to the land under the San Pablo Casino into trust.

In August 2005 the Lytton Band removed most of the poker tables and installed 500 video gaming machines whose software had been programmed to play bingo, which by that date the NIGC had reclassified as a Class II form of gambling that a tribe could offer without having to negotiate a compact. By September 2006, more poker tables had been removed to make room for another 548 machines. By 2008, the Lytton Band was paying the city of San Pablo \$12 million a year as its 7.5 percent share of the gross gaming revenue, which meant that the "San Pablo Lytton Casino," as the former poker room had been rebranded, was earning \$160 million annually.

In 1990, Stephen Quesenberry said the Lytton Band of Pomo Indians had 20 members. In 2005 Margie Mejia said the band had 275 members. Today, how many individuals are members of the band? Who are they, where do they live, and what is their connection to the Lytton Rancheria? And what have they done with the hundreds of millions of dollars the San Pablo Lytton Casino has earned? According to the BIA, the answers to those questions are no one's business but the band's.

THE SECOND WAY a federally recognized tribe can acquire a reservation at a location at which a casino can be profitable is the way Sam Katz and Margie Mejia originally contemplated: the secretary of the interior can take title to a tract of land into trust pursuant to section 5 of the IRA.

In 1979 and 1981, Secretary of the Interior Cecil Andrus took into trust the title to the land in Florida on which the Seminole Tribe today oper-