



Indian Land Protection Bill Triumphs Over Misinformation: Debate Advances to U.S. Senate

by Ernest L. Stevens, Jr.

Indian Country has pressed Congress for what is now known as a *Carcieri* fix for over a decade. The purpose of the bill is simple – restore the Indian Reorganization Act (IRA) of 1934 to its original intent by clarifying that the Interior Secretary can place land into trust for all federally recognized Indian tribes.

Tribal governments moved one step closer to this goal on May 15 when the U.S. House of Representatives voted overwhelmingly to advance the bill to the U.S. Senate by a 323-96 vote margin. Thanks goes out to Rep. Tom Cole and the 323 Members of Congress who voted in favor of approving H.R. 375.

Indian land is a core aspect of tribal sovereignty. An Indian tribe cannot govern, promote its culture and way of life, and achieve true self-determination without a land base for its citizens. Thus, restoring the IRA remains a paramount goal for tribal governments nationwide.

However, the message of the need to protect and restore

Indian lands too often gets mixed. The most common misperception is that the IRA authorizes or governs the conduct of Indian gaming, which instead is wholly governed by the Indian Gaming Regulatory Act and often requires an arms length negotiation between tribal and state governments.

The recent House debate on the *Carcieri* fix was briefly stalled by efforts to misinform the public and lawmakers about the purpose and intent of the bill, and a tribal-specific land protection bill that was slated for debate the same day.

President Trump perpetuated this misunderstanding when he urged Republican lawmakers to vote against the Mashpee Tribe Reservation Reaffirmation Act, wrongly claiming that the bill approved a casino project.

The President’s tweet also invoked the revered name of Pocahontas as a racial slur towards Senator Elizabeth Warren. We join our brothers and sisters from the Pamunkey Tribe in Virginia who have consistently tried to educate the President about this Indian heroine, who along with her tribe, suffered grave injustices at the hands of English settlers. Their story of survival should not be trivialized by immature name-calling.

Rep. Paul Gosar also sought to conflate Indian land protection and restoration with Indian gaming on the floor of the House as he attempted to lead the opposition to both the *Carcieri* fix and Mashpee bills. Gosar falsely claimed that the *Carcieri* fix would “result in a flood of new off-reservation casinos that harm” nearby residents.

Again, the IRA is focused solely on a tribal government’s request to transfer its fee-held lands into trust. A wholly separate determination made by the Administration under IGRA – and between the tribal and state government for purposes of Class III gaming – are required before a tribe can conduct gaming on the new trust land.

Gosar blatantly misinformed Members of Congress when he stated that “When land is taken into Trust, ... the county or city [will] be required to supply the tribe with county and city services, and non-tribal residents will pay for it.” He of course provided no facts or examples to support his false claim.

Instead, tribal governments throughout this great nation helped our neighbors endure the Great Recession, preserving public service jobs in the face of steep state budget cuts, and providing more than 300,000 direct jobs to American families annually.

Misinforming the public about the Indian Reorganization Act’s tribal land to trust process ignores the tragic history of failed federal policies that led to the enactment of and ongoing need for the IRA.

CUNINGHAM GROUP

FULL CIRCLE INDIGENOUS PLANNING, LLC.

Angel of the Winds
Sittigamish Tribe of Indians
ARLINGTON, WASHINGTON

Every Building Tells A Story®
Innovative Design and Planning Solutions

CUNINGHAM.COM FULLCIRCLEPLANNING.COM

As noted above, Indian lands are a core aspect of tribal sovereignty. The federal government realized this fact in the late 1800s when the United States enacted and implemented the Allotment and forced Assimilation policies.

One primary goal of these abhorrent policies were to decimate the Indian land base, which it did by taking more than 90 million acres of Native homelands, often without compensation. A second goal was to “kill the Indian but save the man.” The government sought to achieve this latter appalling goal by taking of Native children from their families and compelling them into government-run boarding schools to forcibly strip them of Native culture, language, and religion.

A half-century later, the American public realized the shame of these policies, and Congress enacted the IRA in 1934 to repudiate allotment and assimilation, and work to reverse course. The Act established a process for Indian tribes to restore a small portion of the more than 90 million taken and lost through the misguided policies of allotment and forced assimilation.

For nearly 75 years, tribes utilized the IRA to slowly restore a small portion of their homelands to rebuild their communities.

As Rep. Cole noted on the House floor in support of H.R. 375, “Since the enactment of the IRA, Interior has taken back approximately nine million acres of land into trust status. Tribes have used their trust lands to build community facilities such as schools, health centers, and housing that serve their tribal members.”

The Supreme Court’s 2009 *Carcieri v. Salazar* decision upended the Indian land restoration process by dividing tribal governments into haves and have nots. The decision has resulted in grinding the IRA land to trust process to a near halt, and has placed a cloud over the title existing Indian lands.

Even before the *Carcieri* decision, the IRA land into trust process was costly and time consuming for all tribal governments. The process requires notification to, consultation with, and input from all interested nearby state, local, and tribal governments. The Interior Department is required to notify state and local governments that have jurisdiction over the land at issue and requests written comments on the proposed acquisition. Further, states, local governments, nearby tribal governments and the public may provide comments on environmental assessments or environmental impact statements for those acquisitions that require such review pursuant to the National Environmental Policy Act.

These burdens existed before *Carcieri*, and they will continue to exist after we achieve our goal of enacting a *Carcieri* fix. We are one step closer to achieving a decade-long goal of restoring the IRA to its original intent, which will help tribal governments resume efforts correct the historic injustices inflicted by the policies of Allotment and forced Assimilation. A *Carcieri* fix will place all federally recognized Indian tribes on equal footing by clarifying that all tribal governments are eligible to have a homeland to call their own, to house and educate their people, and to work to achieve true self-determination.

A special thank you to Representatives Tom Cole and Betty McCollum, for introducing and championing H.R. 375, and Representatives Joe Kennedy, Raul Grijalva, Tom Cole, and Don Young for sponsoring H.R. 312. We are grateful for all of their leadership and years of hard work on these issues to build support for these pieces of legislation in the halls of Congress.

Again, while we have made significant progress thus far, our work must continue to ensure that the bill passes in the Senate. We saw our hard work and outreach prevail in the House, and while the road ahead is difficult, we need to keep up the pressure and momentum for this to become law. ♣

Ernest L. Stevens, Jr. is Chairman of the National Indian Gaming Association (NIGA). He can be reached by calling (202) 546-7711 or visit www.indiangaming.org.



GCT MISSION

After 18 years of gaming advanced analytics, I have decided to take on my boldest challenge yet – **“to become a leader in the digital transformation of the industry”**.

This *digital transformation* will bring a completely new and ultra-modern entertainment environment to our gaming world. Looking forward to sharing this with you.

Andrew Cardno
Founder & CEO
Game Changing
Technologies

The graphic features a dark background with white and light blue text. At the bottom, there are three stylized butterfly illustrations in shades of blue and white, with some appearing to have a digital or particle-like effect.