

Milestone Election For California Tribal Gaming Celebrates 20th Anniversary

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On Saturday, it will be 20 years since California voters went to the polls and passed Proposition 5, a genuinely historic ballot measure which gave gaming tribes a decisive victory over Nevada's casinos and ensured the future of the \$32.4bn juggernaut known as Indian gaming.

It may not be an overstatement to say the significance of Proposition 5 is comparable to the [Indian Gaming Regulatory Act](#) (IGRA) of 1988, which celebrated its 30th anniversary on October 17.

Proposition 5 amended California law to allow slot machines and banked card games at tribal casinos.

The Nevada casino industry and other opponents of Proposition 5 spent \$25m to defeat the ballot measure in hopes of crushing the fledgling business of Indian gaming.

As impressive as that amount was, notoriously fractious California tribes joined forces in a rare display of unity and spent \$68m to pass Proposition 5.

In the end, the tribes prevailed as California approved Proposition 5 with 62.4 percent of the vote.

"It was the most expensive state-wide ballot measure campaign in American political history at the time as all major Nevada casino companies except for Harrah's (now Caesars Entertainment) poured massive amounts of money into the effort to defeat the tribes," said Scott Crowell, an Indian gaming attorney in Sedona, Arizona.

The alliance of California tribes, almost unheard of before and since Proposition 5, was motivated not only by resentment of interference by Nevada casinos but hatred of then-Republican Governor Pete Wilson and his "trampling of tribal rights," Crowell said.

Proposition 5 helped tribes "create a gaming industry that rivals and will soon surpass commercial gaming in the United States," said Stephen Hart, an Indian gaming attorney with the Lewis Roca Rothgerber Christie firm in Phoenix, Arizona.

"Today, because of the efforts of those [California] tribes, you cannot talk about gaming — a major national industry — without talking about the impact made by Indian tribes," Hart said.

The American Gaming Association (AGA), which was in its third year of operations in 1998, steered clear of the battle over Proposition 5.

Mike Sloan, senior vice president of government relations at Fertitta Entertainment, which owns Station Casinos, helped lead the Nevada opposition in 1998.

"I think it is also fair to say that other states didn't want Indian gaming as well, at least to begin with," Sloan told Gambling Compliance in an email.

The California Lottery and card clubs in the Golden State also opposed Proposition 5, Sloan said.

"But ... the prospect of revenue from tribal gaming resulting from compacts mandated by federal law (IGRA) encouraged the spread of gaming, with both the tribes and the states benefitting from the revenue," Sloan said.

In the last 20 years, Nevada casinos have abandoned efforts to demolish the Indian gaming industry and instead sought partnerships with tribal casinos.

But in the immediate aftermath of the election, Nevada casinos fought back with a successful court challenge which resulted in Proposition 5 being overturned except for one sentence.

The sentence waived California's immunity from any lawsuit filed by a California tribe under IGRA.

"That one sentence has held California accountable in its dealing with Indian tribes, which is why you now see California tribes thriving, diversifying, maturing and strengthening as tribal governments," Crowell said.

However, other states are still exploiting their immunity under the 11th Amendment of the U.S. Constitution "to overreach and extort tribes at the compact negotiation table," Crowell said.

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Joe Valandra, an Indian gaming consultant and a former staff director of the National Indian Gaming Commission, said the legacy of Proposition 5 is “massive and ongoing.”

“The economic power of many California tribes, for better or worse, is undisputed,” Valandra said.

“This factor alone has changed California in every way — politics, economically and socially. Tribes are visible throughout the state and are now considered one of the groups that must be consulted on every decision made at every level.”

See also:

[U.S. Overview of Tribal Government Gaming](#)

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