

1 CHAIR JAMES: This particular area has been one of our  
2 most active, and we have had a great deal of participation. And  
3 as I said yesterday, one of our most articulate and strongest  
4 advocates and proponents on the Commission is not here as a part  
5 of the report subcommittee, and that is Commissioner Loescher.

6 We -- I want to make sure that it is perfectly clear  
7 that as we go through this process, and I said this yesterday, as  
8 it related to the casinos, in the absence of Mr. Lanni, and that  
9 is that we are only here to get some additional guidance or  
10 direction from Commissioners to give to staff as they continue  
11 the drafting process. And no decision on this will be made, or  
12 votes taken, or conclusions drawn until all Commissioners have  
13 the opportunity to review and participate.

14 And I just think it is important to review that again,  
15 and to offer those assurances.

16 With that I will turn to John just to give us an update  
17 on where we are on this.

18 DR. SHOSKY: Thank you, Madam Chair.

19 Every chapter has sort of its own unique story, and we  
20 have special expertise, as you know, with the various  
21 Commissioners. What has happened with the Indian chapter is a  
22 very detailed and enriching discussion in terms of the  
23 preparation of the chapter.

24 And that discussion has been held primarily, as you  
25 know, in the Indian subcommittee. And I think the best thing  
26 that I can say at this point is that we have collected, thanks to  
27 so many of the people in this room, not just the Commissioners,  
28 but we collected a great amount of information, and a lot of  
29 points, there has been a tremendous amount of testimony, and we

1 are integrating all of that into a chapter that is really  
2 interesting to read, in my opinion.

3 And I think the best thing for me to do would be to let  
4 Dr. Moore discuss where he thinks we are in terms of the  
5 preparation of that chapter, and how he would like to handle the  
6 issues from this moment on.

7 COMMISSIONER MOORE: As Chairman James stated, Mr.  
8 Loescher is not here with us today, for health reasons. Mr.  
9 Wilhelm is here.

10 I would like you people to bear with us a little bit.  
11 This is a very, very difficult subject, as always you hear people  
12 referring to Indian gaming. A Native American from Alaska, and a  
13 labor man from Nevada and Washington, and then another one  
14 running around from Mississippi, makes this sort of a melting  
15 pot, if you will, but that is pretty true of America.

16 So we have worked hard, each of us have different  
17 opinions, but I've been surprised, and I have come to admire the  
18 two guys that I work with. We have different opinions, but we  
19 work together, and we come out sometimes with the right decision,  
20 or the one that we agree on.

21 Right now I would have to say that the Indian gaming  
22 chapter, this whole Commission could have worked two years, this  
23 could have been the report, we could have just had a report and  
24 they would have passed a law that said give us a report on Indian  
25 gaming, and it would be almost as complete as maybe, because we  
26 could go through advertising, we could go through everything that  
27 we have talked about, Internet and all.

28 So this is a very, very important chapter. We do not  
29 have it finished right now to present to the public, or discuss  
30 too much. But I will tell you, we are almost there.

1 Right now I would like to ask the Commission, and the  
2 ones that are not here, we don't have Mr. Lanni here, he is a  
3 casino man. The Indians have always said they would like for us  
4 to be fair, they would like a level playing ground.

5 By God, if after hearing this discussion this morning  
6 about casinos, I don't know whether the Indians want to play on a  
7 level playing ground. They might just want it good enough to  
8 plant.

9 And so with that I would like for the different  
10 Commission members here to put their recommendations to the  
11 Commission, so we can take these to the subcommittee, where we  
12 can take these and study them, and by the next meeting I expect  
13 that we are going to have a finished product.

14 CHAIR JAMES: That is great. Let me just ask this,  
15 Doug if you would, just to walk us, just on the process, just so  
16 that the Commission members would understand the -- where we are  
17 in the process, how the information has come in, the various  
18 drafts, because you have done a tremendous job, as always, with  
19 working through that process.

20 I mean, it was mind boggling when you said to me, okay  
21 first we have this come in, and then we had that come in, then we  
22 got this, and --

23 MR. SEAY: Well, there is a lot of raw material, but we  
24 are very fortunate that with a number of hearings around the  
25 country that we have received testimony from approximately 100  
26 different individuals representing around 50 tribes, all over the  
27 country.

28 And that was very valuable first-hand testimony,  
29 primarily from tribal representatives, but others as well. And,  
30 of course, there is a lot of other information that was gathered.

1 A number of people have had a role in creating  
2 foundation for the chapter, as Dr. Moore pointed out, it is still  
3 in process. But Chairman, Shosky has written a preliminary draft  
4 that Commissioner Loescher had then made comments to.

5 And, in turn, Commissioner Wilhelm had taken that  
6 particular draft, after discussion I believe among the three  
7 Commissioners, and made some additional changes.

8 Dr. Moore had asked me to take that draft in order to  
9 avoid the multiplication of drafts, and the confusion that could  
10 result from that, specially having different drafts that  
11 different people had agreed to at some point in the past, but may  
12 have changed since then, to come up with one standard draft that  
13 also included his concerns, changes, suggestions.

14 That, in turn, once that was completed, will go out to  
15 the three Commissioners again for them to add, delete, suggest,  
16 whatever they would like. And, hopefully, that will be the draft  
17 chapter that with Dr. Moore's permission will go out to the  
18 Commissioners for their comments.

19 CHAIR JAMES: The only request that I would have as  
20 Chair is that as we are going through the process, that could be  
21 done as all of us could be, should be, seven days prior to our  
22 next meeting, so that all the Commissioners have an opportunity  
23 to review it, comment on it, and then that will give us, I think,  
24 a very productive conversation.

25 With that I would just ask any Commissioner that wants  
26 to give any input into this process. We are all waiting with  
27 bated breath to see the new iteration of this particular chapter.  
28 But are there any particular issues or concerns that you want to  
29 direct, or any additional information that you want to direct to  
30 the writing staff?

1 COMMISSIONER MOORE: If they could just write these  
2 down in paper and get them to us, or if they want to say it now,  
3 of course.

4 CHAIR JAMES: Either way.

5 COMMISSIONER BIBLE: Well, I assume the subcommittee is  
6 going to address what I, at least, see as the fundamental issue  
7 today in tribal gaming, that is scope issues as to what types of  
8 games tribes are allowed and authorized to operate. I think that  
9 is a fairly fundamental issue that needs to be addressed as to  
10 how that gets resolved.

11 It has been a very, very controversial issue as  
12 compacts have either been implemented, it has been a very  
13 controversial issue in states where gaming has proceeded to be  
14 operated by tribes absent compacts, California being an example,  
15 in Washington, in Texas, Florida, and those areas.

16 So that needs to be addressed appropriately. I believe  
17 there is also a concern, I think it is a justifiable concern on  
18 the part of the tribes that there is not a relief mechanism in  
19 the event that governors refuse to negotiate with them, and allow  
20 them the opportunity of offering gaming that is offered to other  
21 members, or other citizens of that particular state.

22 Tribal gaming has been a very -- or is becoming a very  
23 divisive issue in the United States in terms of gambling. I  
24 think it has achieved a number of the objectives that were  
25 intended for it in terms of economic development.

26 I assume the subcommittee has heard a lot of testimony  
27 in terms of the revenues, and the deployment of the revenues. I  
28 think it is very unfortunate that we have not had statistical  
29 information or financial information made available to us to  
30 demonstrate some of that success record, because I believe that

1 in whole it is there, unlike other forms of governmental  
2 gambling, it is fairly difficult to get information from this  
3 particular segment.

4 The lottery information was fairly comprehensive and  
5 complete, and the states readily provided that information. It  
6 has been very difficult, apparently, for the subcommittee and for  
7 the full Commission to gather that data so that you can make  
8 assessments as to the exact nature of the economic benefit that  
9 has been made available to the tribes.

10 At least I believe that your record will support that  
11 hasn't been available. I think, at least from my perspective,  
12 those are the two fundamental areas that need to be addressed,  
13 are the scope issues, and dispute resolution processes.

14 CHAIR JAMES: Anything else?

15 COMMISSIONER DOBSON: Would you ask the staff to bring  
16 us up to date on our efforts to get more information that we have  
17 been unable to achieve at this stage?

18 MR. SEAY: We sent a follow-up letter to NIGC detailing  
19 the specific data elements that we requested as opposed to asking  
20 to look at the audits, per se. We boiled that down to some  
21 specific set of data elements. The request went out about ten  
22 days ago, I believe, and we have not gotten it back.

23 That is where we are, we are waiting on their response.

24 COMMISSIONER MCCARTHY: And I would also add, Madam  
25 Chair, regarding another source of information was the  
26 questionnaire sent out to all casinos, tribal and non-tribal, I  
27 asked Mr. Seay about the response to that just a couple of days  
28 ago.

29 The response from the non-tribal side has actually been  
30 pretty good. I think we have heard back from about 130. The

1 response from the tribal side, unfortunately, has been extremely  
2 weak.

3 My efforts to phone NIGA and ask for their help in this  
4 regard, my phone call was not answered, and I asked Mr. Loescher  
5 for help. I think he has been trying to do something about it.

6 At least from the major generators we have no response.  
7 So I think the task of the Indian Gambling Subcommittee is,  
8 perhaps, a little more difficult now, because I thought it  
9 extremely important to go to the primary sources for some of this  
10 information, just as we did for non-tribal casinos, I wanted to  
11 give them the opportunity to respond to a number of specific  
12 questions that we --

13 CHAIR JAMES: How many were actually sent out, and how  
14 many --

15 COMMISSIONER MCCARTHY: 140 to 140 tribal governments,  
16 I believe, and I think the response, the completed responses are  
17 about 18, is that correct, Mr. Seay, is there an update?

18 MR. SEAY: I should have checked them before I came  
19 over. It was more than 140 sent out.

20 COMMISSIONER MCCARTHY: To tribal governments that had  
21 casino operations?

22 MR. SEAY: We sent it to every casino in the United  
23 States that we could identify, which is approximately 600. And  
24 of that tribal casinos were in excess of 140.

25 As Mr. McCarthy indicated, we have gotten back 530 of  
26 the non-Indian casinos, which is about a 25 percent --

27 COMMISSIONER MCCARTHY: And including all of the major,  
28 or just about all the major generators of revenue?

29 MR. SEAY: All the top ones without exception. On the  
30 tribal casinos I -- this is -- right now this is a rough

1 estimate, I would be happy to go back and check the figures. We  
2 have gotten about 12 tribal casinos, and we have about 10 letters  
3 from the tribal governments saying that they do not believe that  
4 this is a questionnaire that they should respond to.

5 CHAIR JAMES: For a total of 22 responses?

6 MR. SEAY: Approximately.

7 DR. SHOSKY: So we have only completed questionnaires  
8 from 12? I thought it was about 17.

9 MR. SEAY: We have gotten responses from other tribes,  
10 but their response has been that --

11 COMMISSIONER MCCARTHY: Well, the refusals I knew  
12 about, 10 or 12 refusals, but I thought we had 17 completed. We  
13 don't?

14 MR. SEAY: Let me go back and check.

15 COMMISSIONER MCCARTHY: I'm relying on you.

16 CHAIR JAMES: Thank you. Any additional input for this  
17 particular subcommittee as they are drafting and working on this  
18 --

19 COMMISSIONER MCCARTHY: Well, the subcommittee's work  
20 is made more difficult because it is going to have to rely upon  
21 other sources of information, public testimony, correspondence,  
22 and so on.

23 CHAIR JAMES: John?

24 COMMISSIONER WILHELM: I would agree with Leo's last  
25 comment. At the Virginia Beach meeting I expressed, in the  
26 strongest terms I could think of, the hope that the American  
27 Gaming Association would ensure that commercial casinos respond  
28 to the questionnaire, and that the National Indian Gaming  
29 Association do likewise with respect to tribal casinos.

1 I recognize that neither of those organizations has  
2 control over their respective constituencies. But while I  
3 recognize that from many points of view a 25 percent response to  
4 a mail survey, as Doug indicates we have from the commercial  
5 casinos would be considered okay, it seems to me that in this  
6 circumstance it is not okay.

7 And I would reiterate to the American Gaming  
8 Association representatives that are here, that in my view there  
9 is no excuse for a much more substantial response than that.  
10 And, likewise, the response from the tribal casinos is even  
11 worse, substantially worse.

12 I, likewise, am of the view that there is no excuse for  
13 that either. So I wanted to, Madam Chair, register my  
14 disappointment, as well as -- even though we are getting late  
15 here, urge the -- those two respective organizations, both of  
16 which are represented here today, to see if their constituencies  
17 can't do a great deal better. I think that is extremely  
18 disappointing.

19 COMMISSIONER DOBSON: It implies, being satisfied with  
20 that response implies that it was optional in the first place,  
21 and that bothers me. It is not optional, this is something we  
22 have a right to request, is it not?

23 CHAIR JAMES: Who implied that it --

24 COMMISSIONER DOBSON: Well, if we settle for a 25  
25 percent response, or much less in terms of the tribal  
26 organizations, that implies that those who did so are fine, and  
27 that those who didn't and decided not to cooperate.

28 COMMISSIONER MCCARTHY: Well, I would like to just  
29 insert this perspective. I suspect that a number of the, what we  
30 label as casinos in both the tribal and the non-tribal

1 categories, are relatively small with somewhat limited staff, and  
2 while they could fill out many of the questions, they are not  
3 sophisticated enough, or organized enough, or staffed enough to  
4 do so, probably.

5 On the other hand, the casinos that are generating a  
6 lot of revenues are quite capable of doing it, and it appears  
7 that there has been, I guess, been a -- I don't know if it is an  
8 organized effort or what, not to -- I hate to think that that  
9 occurred, but at least from the non-tribal side.

10 Now, there is a separate question as to the quality of  
11 all of the responses, and we will know more about that soon when  
12 NORC gives us a response, and we have a chance to analyze a  
13 couple of other questions that we are looking at.

14 But at least the response has been fairly good among  
15 the bigger generators, very good, on the non-tribal side, without  
16 phone calls being made to have to really nag anybody about this.

17 What I had hoped for was that, at least among the 20  
18 largest generators of revenue of the tribal casinos, we got  
19 three, three completed forms from the 20 biggest generators, as I  
20 recall; three out of 20.

21 It is those we were trying to aim at, because they  
22 would have the sophistication, and the staff, and the experience  
23 to fill out these questionnaires, and it would be helpful to us  
24 so that we would be accurate in what representations we make.

25 We don't want to include any statements in the final  
26 report that are not accurate. That is what is disappointing  
27 about this. But, you know, obviously we have to state in the  
28 final report that we sought this information, and it was refused.

29 CHAIR JAMES: And we may want to include a  
30 recommendation or two about the gathering of information for the

1 future, so that any future Commission, or government entity, that  
2 is trying to wrestle with these important issues can do it on the  
3 basis of fact and information.

4 Commissioner Wilhelm?

5 COMMISSIONER WILHELM: I certainly agree with the  
6 principal point that the chairman of the research subcommittee is  
7 making. I would differ, however, a little bit with respect to  
8 detail.

9 According to the letter that the Commission received  
10 from the National Indian Gaming Commission, the 20 largest  
11 revenue generators in Indian gaming account for 50.5 percent of  
12 the total revenue, and the next 41.2 percent of the total revenue  
13 is subcommittee for, and I understand it by 85 establishments.

14 If that is right then 105 of these establishments  
15 generate more than 90 percent of the revenue. So while I agree  
16 with Leo's point about the difficulty, or the unreality perhaps  
17 of some of the smaller operations being able effectively to  
18 comply with the rather detailed questionnaire, I don't know of  
19 any reason, with respect to Indian gambling that we shouldn't  
20 expect compliance from most, if not all, of those 105  
21 establishments that generate over 90 percent of the revenue.

22 And I don't know what the comparable numbers are,  
23 although we have it somewhere in our record, with respect to  
24 commercial casinos, but I feel the same way. I agree with you  
25 about the tiny places, that may not be realistic from a staff or  
26 data point of view.

27 But I see no reason why we cannot get this information,  
28 for the purposes of this Commission, from the great majority of  
29 both the commercial and tribal casinos. And I think it is  
30 disappointing in the extreme.

1 COMMISSIONER MCCARTHY: I just want to finally add  
2 Madam Chair is that maybe what is most disappointing is that Mr.  
3 Seay received a call from a representative of Foxwoods soon after  
4 the questionnaire was sent out, or several weeks after, and asked  
5 if there could be an extension of the time in which they have to  
6 complete the report. And Mr. Seay said, of course, a week or  
7 whatever the time was.

8 And after that date passed Mr. Seay placed several  
9 calls to Foxwoods, which of course has revenue of, what is it,  
10 about a billion dollars a year, a rather significant number. And  
11 they would not return any of the calls.

12 CHAIR JAMES: Have we heard from that specific casino?

13 MR. SEAY: No, we haven't.

14 COMMISSIONER MCCARTHY: So they are refusing, obviously  
15 the most experienced, the wealthiest, it would be comparable to,  
16 you could name any of the several non-tribal casinos refusing to  
17 answer, which I also think should be highlighted, if that were  
18 the case --

19 CHAIR JAMES: Can we do this? It would be very helpful  
20 to me, at least, to see a list of who has responded, who has not  
21 responded, send that to all the Commissioners so that we can take  
22 a look at it, in one final attempt to get the information that we  
23 so desperately need for our final report.

24 Perhaps we can do one final phone bank, or calling, or  
25 sending a fax, or a letter. We can get the staff to figure out  
26 what needs to be done.

27 COMMISSIONER MCCARTHY: I might add, Madam Chair, that  
28 at no point, and Mr. Seay you should say if you ever heard this,  
29 were questions of proprietary information or of answering any of  
30 the questions asked in the casino questionnaire would be a

1 competitive disadvantage, other than the issues raised about Mr.  
2 Lanni recusing himself, and perhaps Mr. Wilhelm, which they both  
3 did, from any of this information.

4 That was never -- that was never raised, not with me.  
5 Was it ever raised with you, Doug? The responses to any of the  
6 questions could hurt them, could hurt their operation with the  
7 competition, or they didn't have to under federal law?

8 I mean, this wasn't the getting the audit information  
9 kind of thing.

10 MR. SEAY: Not once the questionnaire went out. You  
11 may recall that in the preparation of the questionnaire we had a  
12 number of casinos voice that concern, and the --

13 COMMISSIONER MCCARTHY: Non-tribal casinos?

14 MR. SEAY: Non-tribal casinos.

15 COMMISSIONER MCCARTHY: Correct. But my question is  
16 now pointed to the tribal casinos where the response has been so  
17 weak.

18 I would also finally point out, Madam Chair, that one  
19 of the casino management people we consulted with, and we went  
20 out of our way to try to find four or five people who were in  
21 casino management, at least one, was formerly with commercial  
22 casinos, but had for a number of years been hired by tribal  
23 casinos, to advise their management. And that person gave me a  
24 number of issues that he hoped would be, out of showing  
25 sensitivity and respect for tribal casino operations, would be  
26 included in the casino questionnaire, and I included them in the  
27 questionnaire.

28 So we have done everything we can to try to be fair and  
29 respectful, and so on, in getting this information.

1 MR. SEAY: If I could just correct what I just said?  
2 In the letters from the tribal casinos, which declined to fill  
3 out the questionnaire, they list a number of reasons why they  
4 have declined. One of them is that they consider it to be  
5 proprietary information. But other than that --

6 COMMISSIONER MCCARTHY: So that was something made  
7 after the fact. I think it may all stem from the last  
8 Commission, was it the one at Regent, or the prior one, where we  
9 had the altercation? I can't remember.

10 CHAIR JAMES: I don't remember any such thing.

11 COMMISSIONER BIBLE: We had a candid exchange of views  
12 at Regent.

13 CHAIR JAMES: We had a candid exchange of views. Yes,  
14 you can. First I would like to recognize Dr. Dobson.

15 COMMISSIONER DOBSON: The descriptions you all have  
16 given, Doug and Leo, sound to me almost like being stiff-armed as  
17 a Commission. That bothers me.

18 What are our options, other than to make a statement in  
19 the final report? We have the legal right to that information.  
20 Are we simply going to say some people didn't choose to  
21 cooperate?

22 And, Leo, as far as the smaller organizations are  
23 concerned, they may have very different practices than the larger  
24 ones. That information may be very important for a different  
25 reason. And to kind of excuse the lack of cooperation there, I  
26 think is a mistake.

27 I don't know what options we have, but I would like to  
28 know what they are.

29 COMMISSIONER BIBLE: At this point you have a practical  
30 matter of time, and I don't know exactly what transpired, but at

1 least in terms of the information from the NIGC, apparently we  
2 have chosen not to go ahead and try to obtain it by subpoena.

3 CHAIR JAMES: Well, we are continuing to try to get  
4 that information from them, they asked for it to be more  
5 specific, we made it more specific, and I think the instructions  
6 that I heard from the Commission was to make sure that we follow  
7 that process, and try to do it short of having to take legal  
8 action.

9 Jim, you know, that is always an option, to subpoena  
10 that kind of information. There are other options that I'm not  
11 sure we want to --

12 COMMISSIONER DOBSON: Well, we were given that power by  
13 Congress, and we have not even considered using it. But when it  
14 becomes blatant in this way, I think we ought to.

15 CHAIR JAMES: I think Doug had a --

16 MR. SEAY: Just to clarify the issue of the refusal to  
17 answer the questionnaire, and what should be done about it. But  
18 I should note that our consultants, NORC, who have done the  
19 analysis of the questionnaire responses believes that it has a  
20 very representative sample, at least from the commercial side,  
21 and can produce results that they have great confidence in.

22 It would be good, obviously, the more responses that  
23 you have. But I wouldn't want the Commissioners to think that  
24 the analysis will not proceed in a fair degree of confidence, in  
25 any regard.

26 And I also want to add with regard to tribal response,  
27 there is a number of difficulties, I'm not even sure that we --  
28 that is just a preliminary statement, I don't want to comment  
29 upon, we haven't finalized it yet.

1           The other thing is, I thought that 25 percent rate was  
2 a bad rate too, until I'm told it was a good rate. So I realize  
3 I didn't know what I was talking about, now it sounds like a bad  
4 rate.

5           I wanted to comment on the American Gaming Association.  
6 They were very helpful. I wouldn't want the impression to be  
7 left that they were not, specially in two regards. One in  
8 helping to get the top largest casinos, and also in getting their  
9 own membership to respond. And their offers of help were more  
10 than one, and we took them up on them.

11           And I wouldn't want them to be, the impression to be  
12 left that the lack of response was due to their unwillingness to  
13 help, they did help. They have helped enormously.

14           AUDIENCE MEMBER: Every one, every member, I want to  
15 make sure the record is clear, every single one of our members.

16           CHAIR JAMES: Every single one of your members has  
17 responded?

18           MR. SEAY: I believe that is casino.

19           COMMISSIONER MCCARTHY: Madam Chair, I forgot to  
20 mention one other item which is relevant, because the objections  
21 stated in writing by those tribal governments who responded by  
22 refusing to fill out the questionnaire, I sent NIGA a very early  
23 draft of the casino questionnaire, asking for comment. I never  
24 received any, that I can recall.

25           CHAIR JAMES: I skipped over Dr. Moore, and I do need  
26 to get back to him for --

27           COMMISSIONER MOORE: Maybe after hearing all of the  
28 Commission, maybe this would wrap it up. I would just like to  
29 state this. I think we have about whipped this horse to death.

1 I don't believe we are going to get any information, and I  
2 believe we can write our report without this information.

3 CHAIR JAMES: I don't want that on the record.

4 COMMISSIONER MOORE: Well, it may be would be better.  
5 I would rather have had, on the response from the tribal Indians,  
6 I would have liked to have had, I don't care about other than  
7 they refuse to give it, I don't care about a report from  
8 Foxwoods.

9 You know, they are up there, and the Connecticutans are  
10 going to get that 25 percent share, and they are going to divide  
11 the money up, they don't have any -- they don't have a  
12 reservation to develop, that I know of, or maybe they do.

13 I would liked to have seen, and what would have been  
14 very important to this Commission, and to the report, I would  
15 like to have seen about 25 reports from those people that -- not  
16 the first that produce 50 percent, but some of those that produce  
17 the other.

18 My concern and my interest is, and I don't want it to  
19 be printed in the papers, you know, the committee not being very  
20 --

21 CHAIR JAMES: Then don't say it.

22 COMMISSIONER MOORE: -- fair to certain groups. But  
23 what I'm interested in, and Monty Deer says that the Indian  
24 Gaming Regulatory Act was for tribal economic development. I  
25 would like to go on the record to say that I saw some tribal  
26 economic development.

27 But I would also like to note, I don't know whether I  
28 saw enough tribal economic development. I don't know that I saw  
29 a fair share of the revenues. I would have liked to have seen

1 maybe twice as much tribal, I would have liked to have seen some  
2 plants built.

3 Gaming may not be here all the time. I would have  
4 liked to have seen some infrastructures built on those where -- I  
5 don't think it was meant, I don't think the government meant that  
6 we are going to make 1,600,000 Native Americans all gamblers.

7 I don't think it was meant that they would all get  
8 their living from gaming. I think they said that we use gaming  
9 as a springboard, and I may be wrong. And this is what concerns  
10 me that we don't get this. I would like to see instead of one  
11 John Deere tractor, I would have liked to have seen two John  
12 Deere tractors.

13 And this is what concerns me. But I think that we have  
14 to go on with the report. Now, we need to try to get it, I'm on  
15 your side there.

16 CHAIR JAMES: And we will. And we will be looking at  
17 some other options, and other remedies for what we can do, and  
18 what we can say.

19 COMMISSIONER BIBLE: I'm kind of with Jim on this  
20 issue. I'm used to working in an environment where when you  
21 request information you get information. We have been given  
22 abilities to request information. I thought we had, at least in  
23 terms of the audit reports that are in the files of the National  
24 Indian Gaming Regulatory Commission, delegated that authority to  
25 the Chair to subpoena, and apparently you have gone,  
26 procedurally, into some of those steps.

27 But I guess I share your frustration. I think in this  
28 instance I share it a little bit more because we are dealing with  
29 groups that represent, claim, or whatever that they are a  
30 sovereign government within the governmental scheme of the United

1 States, and when we have asked the states for lottery information  
2 they have made that information available, that information is  
3 public, you can take a look at the figures, you know, what the  
4 win per units, and the wins, and the salary structures, and all  
5 the financial aspects of lotteries, but we don't have that  
6 information from another governmental operational unit, the  
7 tribes.

8 I share your frustration.

9 COMMISSIONER DOBSON: Well, we have all agreed that  
10 Indian gambling is an extremely important phenomenon in this  
11 country at this time, related to what we are talking about. We  
12 are going to the final report with no insider information on that  
13 issue, other than to say we couldn't get it. That doesn't sound  
14 adequate to me.

15 COMMISSIONER MOORE: Well, it is our responsibility, I  
16 think, to come out in the recommendations out of this Commission  
17 that the next Commission would be able to get it.

18 COMMISSIONER DOBSON: It took 20 years for this one.

19 CHAIR JAMES: Well, perhaps there will be a Commission  
20 that does nothing but look at this particular issue, and that has  
21 more strengths and authority, and has the ability to do just  
22 that. Perhaps that will be one of our recommendations.

23 As a matter of fact let me say, for the record, that I  
24 would encourage the subcommittee, given the fact that this has  
25 been such a difficult struggle, that they come back to us with  
26 some sort of a recommendation along that line.

27 I think, as I have said, when I was asked by a  
28 reporter, some of these issues are so complex that they are  
29 obviously not going to be resolved by this Commission, and they

1 are really above our pay grade. We are not going to be able to  
2 resolve that.

3 I can tell you this, Jim, I really sense your  
4 frustration. It is demonstrated around the table at various  
5 points during the Commission. You have seen various  
6 Commissioners express that same frustration.

7 And, you know, I think that the spirit of cooperation  
8 could have brought us to a point where we had the information we  
9 needed, could produce the report that we needed to produce,  
10 provide the information to the American public, and to policy  
11 makers, and move on.

12 Given the roadblocks that have been thrown in our way,  
13 and our lack of ability to do this, and even with offering a  
14 subpoena at this date, to get the information, it would make us  
15 feel good, but whether or not we would have the information to be  
16 able to do anything with it, so perhaps what is needed is a  
17 Commission that would look at this issue, that has some teeth in  
18 it, that can do far more than we can accomplish with this.

19 COMMISSIONER BIBLE: This will be the Moore Commission?

20 CHAIR JAMES: The Moore Commission.

21 COMMISSIONER DOBSON: Remind me, again, of exactly how  
22 the statute is written with regard to Indian gaming?

23 COMMISSIONER BIBLE: Which statute?

24 CHAIR JAMES: You mean the actual language?

25 COMMISSIONER BIBLE: Our statute?

26 COMMISSIONER DOBSON: The statute of this Commission.

27 CHAIR JAMES: I don't have that in front of me, but  
28 maybe a member of the staff does.

29 COMMISSIONER DOBSON: The law, what were we asked to do  
30 with regard to Indian gaming?

1 COMMISSIONER MOORE: It was a list, and the things that  
2 we were to look at, and to determine the social and economic  
3 impact of that sector -- the people of the United States of  
4 America.

5 CHAIR JAMES: Is that what you --

6 COMMISSIONER DOBSON: Yes. If that is the way it is  
7 written we were required --

8 CHAIR JAMES: There is no question.

9 COMMISSIONER DOBSON: -- we were mandated to do this.

10 CHAIR JAMES: There is no question.

11 COMMISSIONER DOBSON: And given a tool to get that  
12 information if we couldn't get it any other way. And it bothers  
13 me that it is not only a significant part of the American scene  
14 today, but there appears to be less regulation and oversight with  
15 regard to those activities, than the other things that we are  
16 studying.

17 And so we are not meeting our Congressional mandate in  
18 that regard.

19 CHAIR JAMES: I don't think there is any question about  
20 that.

21 COMMISSIONER LEONE: I just would like to put this in a  
22 larger context that I hope will find its way into the report,  
23 because it reflects some of the things we talked about yesterday.

24 One thing this Commission has to include is that all  
25 sorts of governments have been negligent in looking at the  
26 consequences of the proliferation of gambling in this country.

27 One of the handicaps this Commission has had is that it  
28 was the first time in 25 years there was a national look at those  
29 consequences, in all sorts of areas. And we are very limited, we  
30 all know how much we don't know; whether it is the limitations of

1 the NORC study, or the failure to produce the ACIR, or the fact  
2 that states, to my surprise, have done so little on the negative  
3 consequences, or the fact that there are federal agencies that  
4 are supposed to look at health, and behavior, and other things,  
5 have done so little in the area of gambling.

6 And I think tribal governments are a special case here,  
7 but they fall into the same general category of the governments  
8 in this country, I don't believe they fulfill the responsibility  
9 to the people of this country to look at the impact of  
10 increasingly pervasive gambling, and could make information, I  
11 believe information really matters, to make information about all  
12 sorts of things available to the public on a regular, a timely  
13 basis, an updated basis.

14 And I return to the need I see for there to be some  
15 ongoing informational function that would cover state, local,  
16 tribal, and federally regulated gambling activities in the United  
17 States.

18 And I think that is going to be one of our principal  
19 recommendations, and I think one of the strongest argument for  
20 it. It is not just in this way, but in four or five different  
21 ways.

22 I have been surprised at how little information is  
23 available, or is being collected. And if we don't -- if that  
24 doesn't -- if there is not some reaction to that recommendation,  
25 then I don't have any reason to believe there will be more  
26 information next year, or the year after, or ten years from now.  
27 Probably less.

28 CHAIR JAMES: Having said that we will look forward to  
29 Dr. Kelly getting that information from you on compliance, who  
30 has not replied, some options for things that this Commission can

1 do, and can recommend in order to do that, and continue to work  
2 with that subcommittee and those individuals can report back to  
3 us at our next meeting.

4 That brings us to the conclusion of this particular  
5 portion. We have a lunch break, and we will reconvene at 1:15.