

1 CHAIRPERSON JAMES: You are welcome.

2 Deborah Doxtator, is it? And Ernie

3 Stevens.

4 Are you Mr. Johnson?

5 MR. JOHNSON: I'm Alexis Johnson

6 CHAIRPERSON JAMES: You're Alexis Johnson.

7 Okay. I apologize.

8 MR. JOHNSON: It's confusing.

9 CHAIRPERSON JAMES: That's all right.

10 MR. JOHNSON: Madame Chairman, my name is

11 Alexis Johnson. I'm a lawyer licensed in New Mexico.

12 I've represented citizens and legislators against the

13 Governor of New Mexico on compacts three times.

14 The issue in those cases has been

15 substantially does the Governor of New Mexico have the

16 power to sign compacts that are out of the scope of

17 the constitution of New Mexico. The answer has been

18 a resounding no. That answer is now incorporated with

19 the U.S. government's litigation. It is moving

20 through the district courts, where it has proceeded

21 beyond the 10th Circuit. It is now on a petition for

22 cert. in the U.S. Supreme Court to answer a very

1 simple question: can a New Mexico Supreme Court
2 decision decide the power of its own state governor?

3 People think this is about gambling. It
4 is not. This is about a crisis in constitutional
5 government.

6 To make that clear to you, let me make a
7 couple of points. Whenever one talks about tribal
8 interests in gambling, one is in an area of great
9 sensitivity and for darn good reason. Tribes have
10 reasons for taking the position that something ought
11 to be done and something ought to be done now.

12 The problem with that is that that
13 interest collides with constitution head on when you
14 get to a state like New Mexico where the IGRA, however
15 perfect or imperfect it is, does not enable a governor
16 to sign a compact without the authority of the
17 constitution or the legislature.

18 What this means in fundamental terms is
19 that the governor can't do what the people don't
20 enable, and that includes citizens who are tribal who
21 are state citizens.

22 We have in the nation today, I think, one

1 of the greatest crises ever. The way you know that is
2 that the cases that have been decided in New Mexico
3 and elsewhere have not touched the ground. We have
4 cases that decide that gambling in New Mexico is
5 against public policy and a crime, but we have 11
6 casinos.

7 The only person in New Mexico who is not
8 allowed inside those casinos is the only person who
9 has the authority to do anything about them
10 definitively, and that's U.S. Attorney John Kelly. We
11 have a situation in New Mexico that I would describe
12 as the diminishing of the state, its structures, and
13 its systems. If it continues, I think what we will
14 see is New Mexico will be the first state to say
15 proudly or otherwise, "We have gone from being a
16 territory to being a state and back to being a
17 territory." I suspect that's a suboptimal proposition
18 for most people. I would hope that most states and
19 their people would learn from that suboptimal
20 experience.

21 We've also seen that the question is not
22 is government for sale. It's how fast is the sale

1 going to be conducted. We've seen the executive power
2 submit to this. We've seen legislative power submit
3 to this, and we've seen judicial power. The last is
4 the most concerning. Gambling is now attacking the
5 drafters of the decisions we have written. "We" means
6 them, but I mean for the state and I mean for those
7 who are seeking to advance the interests of
8 constitutional law in the State of New Mexico.

9 I appreciate the opportunity. I knew I'd
10 be cut off. I gave you much more lengthy comments.
11 Take care and good luck.

12 CHAIRPERSON JAMES: Thank you.

13 Mr. Stevens.

14 MR. STEVENS: Yes, ma'am. Good afternoon.

15 Madame Chairman and members of the
16 National Gambling Impact Study Commission, my name is
17 Ernie Stevens, Jr. I'm elected council member of the
18 Oneida Tribe of Indians in Wisconsin. I represent our
19 chairwoman today, Deborah Doxtator. She could not be
20 present.

21 The Oneida Nation is located in
22 northeastern Wisconsin near Green Bay. We are