

and this is the key language, and this is the Wisconsin case, which Senator Hohenstein relies upon, that is not prohibited expressly by the Wisconsin Constitution or state law. The amendment that we adopted before today on this issue specifically states that gambling is...that we do not permit a specifically prohibited...that we are, as a body, after all of this history has been accumulated and all these other cases and the passage of the federal law, we came together a few weeks ago and passed a specific prohibition of types of gambling that were not permitted under Nebraska law. That is consistent with the Wisconsin case, in my opinion, even though there is a lot of verbiage in the Wisconsin case that talks around the issue, the actual holding says that. The actual holding in the South Dakota case, which is the only Eighth Circuit...actual Eighth Circuit cases as deals with this subject also talks in terms of states being able to prohibit forms of gambling that are not permitted under state law. So let's go back just briefly to where we are now. Unfortunately, the federal government, when they enacted the federal law in this area, tried to do too much. They took away, as Senator Hohenstein talks about, the issue of the sovereign nationhood of Indian tribes, which is a concept I agree with, but they interjected the states into the middle of it. In 1987, the states were interjected into the middle of the gambling debate with Indian tribes. And by so doing, what they did is they allowed the states to negotiate tribal compacts for type Class III gambling, which is what we are doing right now. When they initiated that process, obviously, it seems to me obvious from reading the debate on this issue, that if what Congress was saying is that all the states can do is negotiate...is, in this case the Governor would sit down, the Indian tribes would come in and say, we want to have all types of Class III gambling in Nebraska, and under Senator Hohenstein's interpretation, it would be bad faith bargaining if we said, no, we cannot...we cannot bargain those specific types of gambling prohibited under Nebraska law. That's much, much too narrow an interpretation, in my opinion, and it seems to me is contrary to the legislative intent of the Congress, which was to bring the...which was to bring the states into a meaningful negotiation process. Now, we adopted an amendment that was specifically reacting to prior case law and the legislative debate on the federal act by making a specific prohibition. That specific prohibition in state law was not in the Wisconsin case, nor was it in the South Dakota case. When we adopted that amendment, we also pulled out of the tribal compact bill the right for the Legislature to oversee the process. We no longer