

The assumption is that a Russian oligarch who is trying to hide money will tell the truth when he fills his form out, and I find that hard to believe. But in the meantime, 30 million small businesses have to go through a form, and within weeks, probably 23 million of those will be in violation of the law, and they will face penalties of \$10,000 or 2 years in jail. And most of those small business owners who run that restaurant down the street don't even know this rule exists.

It is the kind of stuff that drives Americans crazy, that they woke up one day and found out they may go to jail tomorrow because they didn't fill out a form that someone wanted.

That is what we are trying to pause. The problem is real. I just don't think this is the right solution for it in the way it is being implemented. Let's see if we can solve the problem without actually causing, literally, tens of millions of small business owners to be under the sword of Damocles that they could be rounded up and go to jail at any moment because they didn't get a form filled out.

That is what we are trying to solve in the days ahead, and I wish we could at least put a pause on this and think it through more before those small business owners find out.

With that, I yield the floor.

The PRESIDING OFFICER. The junior Senator from Oklahoma.

UNANIMOUS CONSENT REQUEST—S. 2796

Mr. MULLIN. Madam President, for 8 years, beginning with my time in the House, I have worked on the Miami-Illinois Land Claim Settlement Act, which is now S. 2796.

I want to thank Chief Lankford of the Miami Tribe for his assistance to move this bill forward and to help lay out a solid, factual background before the Indian Affairs Committee, which is why it uniquely came out of the committee.

This is a unique piece of legislation. The Miami Tribe is not seeking a settlement for their treaty claim or an appropriation from Congress. This is zero cost to Congress. The Miami Tribe—or “My-am-uh” Tribe—is not seeking a settlement. The Tribe is simply asking Congress to do what only Congress can: to extinguish the Tribe's treaty title claim to the land in Illinois.

First, this bill will remove a cloud on the title for non-Indian landowners in eastern and central Illinois, benefiting the Tribe and non-Tribal members alike. Second, the bill will allow the Tribe the opportunity to plead their case before the U.S. Court of Federal Claims.

This is a straightforward bill, cosponsored by both of my colleagues from Illinois, Senator DURBIN and Senator DUCKWORTH. The Miami Tribe has waited long enough to get this done, and it is time to act.

Madam President, as if in legislative session and notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to the immediate consider-

ation of Calendar No. 489, S. 2796; that the bill be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

The senior Senator from Utah.

Mr. LEE. Madam President, reserving the right to object, I have great respect and admiration for my friend and distinguished colleague, the Senator from Oklahoma.

When I listen to the arguments being presented, I am reminded of a couple of things.

No. 1, these claims arise out of and relate to a treaty—a treaty going back to 1805. Those claims had the opportunity, more recently, to have been litigated in front of the previously existing Indian Claims Commission. Congress, in recognizing the need at the time to open up what might have been a confusing set of legal circumstances or an inadequate availability for relief, opened up a 5-year window for claims related to this treaty that was entered into with the Miami Tribe in 1805. They opened that up for a period between 1946 and 1951.

Jurisdiction over what was previously the Indian Claims Commission has since been transferred over to the U.S. Court of Federal Claims. Interestingly, the Court of Federal Claims still maintains jurisdiction over such things, but it lacks the ability to enter orders, and the statute of limitations has long since passed. There was this 5-year window under which they were able to bring up claims like this.

Now, during that time period between 1946 and 1951, the Miami Tribe did pursue and litigate on a number of claims related to that treaty, enough for them to have received a remedy—a remedy of about \$11 million at the time. I am told that, in 2024 dollars, that is about \$200 million.

There are reasons why we have statutes of limitations. Those reasons have to do with the fact that, at some point, a stone rolling down the mountain has to come to rest. When you are dealing with litigation, especially litigation on claims dating back a couple hundred years, it is especially important to have finality.

Now, my friend and colleague refers to the need to reopen this window today to remove what he describes as a cloud to the chain of title. The problem with that argument is that it overlooks the fact that the United States is an indispensable party for any and all such claims as might arise so as to underlie the punitive cloud to any chain of title on these lands. As an indispensable party, the United States must be added, or the court can't handle anything like that. The court, under existing law, can't address them in the absence of the indispensable party, and because the United States is and has been deemed an indispensable party pursuant to rule 19 of the Federal Rules of Civil Procedure, no such claim

exists. Therefore, any and all claims that could create the asserted cloud to the chain of title are, in fact, illusory—entirely illusory—as the U.S. Department of Justice articulated well when delivering testimony in July of 2019 on behalf of the U.S. Department of Justice—Environment and Natural Resources Division of DOJ—before the Subcommittee for Indigenous Peoples of the U.S. House of Representatives Committee on Natural Resources.

These claims are especially important here. In other words, the existence of a statute of limitations is especially important here.

Here is what they say:

Statutes of limitations serve valuable purposes. They are designed—

In supporting Supreme Court precedent here—

to promote justice by preventing surprises through the revival of claims that have been allowed to slumber until the evidence has been lost, memories have faded, and witnesses have disappeared. Those concerns are particularly acute here, where the United States will be required to litigate claims based on events that occurred more than 150 years ago. Such litigation can be complex and expensive, and it typically requires hiring expert historians and other professionals. There is no valid basis to expend Federal resources to undertake this effort here.

I concur with that assessment and would add that this would add a layer of complexity, create a massive slippery-slope problem, and open up settled expectations and understandings regarding Federal land ownership that had been settled long ago and as to which statutes of limitations have now run.

On that basis, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MULLIN. Madam President, I appreciate my colleague from Utah in his fine arguments. Obviously, you can tell he is a great attorney.

What frustrates me is that I am literally down the hall. My colleague could have, at any time, picked up the phone and called me. The Senator could have simply talked to me. He could have even called me back today when I called him on the phone, and we could have discussed this. At any given time, we could have had this discussion not here on the floor, but we could have actually taken the time and walked through this.

I do understand his concerns, but his argument is that, since the statute of limitations has been looked at, we should not deal with any Indian issues—which I live in and always have lived in Indian Country, which I know my colleague from Utah has not and may not always understand the complexity which we live with consistently. But, under the Senator's argument, the court should never look at anything inside the treaty because it has been done; it is over with. So why should we even look at it? Yet the court always looks into it, and that is why we have the court. We also have the separation of powers. We are the

legislative branch, and the Senator is quoting the judicial branch.

In this case, the only people who can solve this issue is Congress. The court can't. This is unique. Only Congress can do this—no one else. And there is a dispute because my colleague is from Utah. He is not from Illinois, and he doesn't understand the title issues that there is a dispute on, which is why Congress has looked at this over and over and over again. That is why we have had hearings in the House and in the Senate in the committees that have jurisdiction over this. And both committees have spoken and said, yes, this is something that needs to move forward and that Congress does need to act on.

I would have loved to have had this debate not in public but in private, and we could have discussed this. But the Senator didn't give me that opportunity; so now, we are here.

So, if Congress isn't going to solve this issue, that means we just throw our hands up and leave the Tribes in limbo? I think we have walked away from the Tribes enough, and I take it personal because, when the Tribes do need assistance, where else are they supposed to go? They can't go back and litigate this in the courts until Congress acts, which is why this legislation is in front of us. And then the Congress—once we act, it can be referred to the court, and then the court can decide if the statute of limitations has already run out on it or not or if they have the right to go back and look at it.

Just recently, there was what is called the McGirt decision that went back in and completely changed what was going on in Indian Country inside Oklahoma and uprooted something that was settled a long time ago, we thought, especially considering that the ruling came out and said that they believed the reservation lines still exist inside Oklahoma, under the McGirt decision.

Now, the statute of limitations had run out on that before because, actually, Congress had acted and ended it in 1906 by giving title to the landowners, who in this case would be Indian Country, which would be my relatives, and we still own the land that was given to us at that time before we achieved statehood in 1906, because Congress said, before we can actually become a State, we have got to settle this issue with the Tribes. So we did it. Yet the court still picked up that decision and went back and looked at it and made changes.

So, under my colleague's argument, that can't happen because it is done. And I will say this again: I would have loved to have had this conversation in private, but the Senator didn't give me that opportunity. So here we are.

I would ask the Presiding Officer: If we don't work this out and Congress is the only entity that can handle this, then where is the Tribe supposed to go?

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Utah.

Mr. LEE. Madam President, if my colleague left me a message, I am unaware of that. I did look and see that he tried to call me today. I have had a million calls today and been in and out of a lot of meetings. If he left me a message, I haven't seen it on my phone, and I apologize for that. I had a lot going on today.

I will say this. My staff has met with my colleague's staff on a number of occasions to discuss this. The concerns here should not be a surprise either to my colleague or to my colleague's staff.

With regard to the question of whether we should just let the court decide, I understand what he said, but that is literally not what this is about. It is not about whether the court can decide whether to reopen the statute of limitations. That is not for the court. That is for Congress. That is for us to decide.

The punitive reason for reopening the statute of limitations, which has been closed since 1951 for claims going back to an 1805 treaty, the purported reason for reopening it is the alleged cloud of title on the chain of title. What I am saying is that is an entirely illusory cloud on the chain of title because there is an indispensable party under rule XIX of the Federal Rules of Civil Procedure. You cannot litigate that. Unless the United States is a party and unless the United States has abrogated its sovereign immunity sufficiently to allow the United States to be added as an indispensable party, it cannot be litigated; thus, making any claims entirely illusory.

So if there is some other argument, we can pursue those on the merits. But there is no cloud on the chain of title because there can't be because the United States has not, since 1951, recognized an abrogation of U.S. sovereign immunity to a degree sufficient to allow the existence of any type of a cloud on the chain of title.

Mr. MULLIN. Well, if there wasn't a cloud, then this wouldn't be an issue. So, obviously, there was, and there is.

You can say what you want to, but there is. That is why we are here today. That is why we are trying to solve the issue.

This is why the gentleman from Utah isn't from Indian Country; he is not from Illinois; and he doesn't understand the issue, which is why we should have had a conversation one-on-one, not just your staff—because I promise you, if there was an issue that I had with the gentleman from Utah, I would have simply just said: Hey, MIKE, let's talk.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Utah.

Mr. LEE. Madam President, it is December 20. We are on, likely, the last legislative break before we break for the Christmas holidays. The first time I personally became aware of this issue was this afternoon. So it is not as if

one could argue that there has been dilatory conduct on my part and not listening to it. I didn't even know this was an issue. I didn't know what it was until just a few hours ago.

Mr. MULLIN. That is your staff's problem.

Mr. LEE. This is a problem to bring something like this up that could have, potentially, an economic impact on the U.S. Government of tens, if not hundreds, of billions of dollars. To rush something through like this at, literally, the final hour before the end of a legislative year, before the end of a Congress, is not something that we do. And for my colleague to suggest that I have been dilatory, when he is bringing this up to rush this through by unanimous consent at the last possible minute, under an argument that is legally specious and vacuous. The alleged cloud on the chain of title does not, cannot exist. So the argument doesn't work.

If he wants to bring this up in the next Congress, let's do it. Let's talk about it. Let's have it go through regular order but not at the last hour, at the last day, at the end of the Congress.

Mr. MULLIN. That is just not right. The PRESIDING OFFICER. The junior Senator from Oklahoma.

Mr. MULLIN. Eight years. This was filed at the beginning of this Congress. Just because your staff didn't make you aware isn't my fault. That is not my fault. To say 8 years, which I opened with—maybe if you would have listened to what I said. We have been working on this for 8 years. This bill has been around for a long time. To accuse me of saying that I am waiting until the last minute, until the last day, at the last hour to do it is just absolutely wrong.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Utah.

Mr. LEE. Look, we are in fact at the last effective legislative day of the year and of the Congress. And what my colleague from Oklahoma is saying is that we should call it up and pass it tonight.

Now, whether he thinks I should have been aware of this issue long ago—fair enough. I wasn't. But the way this is supposed to work around here is, unless there is unanimity, we don't pass legislation. That is a significant issue. Nor should we pass legislation that could and would expose the United States, potentially, to tens—if not hundreds—of billions of dollars in liability for a lot of transient reasons that haven't been fully vetted on the floor of the U.S. Senate.

Mr. MULLIN. I yield the floor.

The PRESIDING OFFICER. The junior Senator from Alaska.

Mr. SULLIVAN. Madam President, I ask unanimous consent to be able to speak for 7 minutes prior to this vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAY OUR MILITARY ACT

Mr. SULLIVAN. Madam President, I was coming down here to try to pass