

not have the right to participate in Maryland politics, because we are residents of other States, are still subject to the tax imposed by taxing authorities under laws of the State of Maryland, and it does not seem to me, all constitutional principles aside, that those of us who are precluded from participating in the politics of the State of Maryland—I might say, thankfully so, in my own case—are denied representation.

Mr. Speaker, this is a principle that the gentleman from Ohio (Mr. KINDNESS) ought to consider before he opposes this legislation.

Mr. KINDNESS. Mr. Speaker, I would like to say to the gentleman that I have considered it.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a response?

Mr. KINDNESS. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I will say to the gentleman from Colorado (Mr. JOHNSON) that I do not know in what jurisdiction he lives, but indeed he is doubly represented. He has his own able representation through his vote, and if he tells me where he lives, I will tell him in private whether his Maryland political representation is able or not.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I might say to the gentleman from Maryland (Mr. BAUMAN) that his argument that we use the services of the great State of Maryland in our homes in Maryland and do not pay for those services adequately through the rather immense property taxes that we pay in Maryland, and that we should pay an additional tax, tends to persuade me as a Member of this Congress that since there are Maryland residents who come into the city of Washington, D.C. and use the public highways and facilities of this city, perhaps the commuter tax makes sense after all. Perhaps we should tax those commuters who come in from Maryland so as to support the city of Washington and the District of Columbia.

Is that what the gentleman of Maryland is trying to persuade me to vote for?

Mr. BAUMAN. If the gentleman will yield, Mr. Speaker, I do not support a commuter tax but if the gentleman is willing to vote for a bigger tax on his own salary so that the District of Columbia can also tax him as a commuter from Ohio that is fine with me; but equity would require that Congressmen get no special treatment by the District of Columbia or Maryland.

Mr. BROWN of Ohio. Mr. Speaker, could I ask the gentleman from Maryland (Mr. BAUMAN) is that is what he is trying to persuade me to vote for?

Mr. BAUMAN. The gentleman from Maryland would never really try to persuade the able gentleman from Ohio because he does not possess the considerable power required to do that.

Mr. BROWN of Ohio. Mr. Speaker, if I could persuade the gentleman from Maryland, perhaps I could get him to back off from his position.

Mr. KINDNESS. Mr. Speaker, if I might reclaim my time, I believe the debate is deteriorating at this point.

Mr. Speaker, I would again urge the Members of the House to reject this concept on the same basis on which it was vetoed by the then President Ford on August 3 of 1976, because it does deal with a special classification or categorization of Members of Congress in derogation of the principle of States' rights, which, I would point out to the gentleman from Colorado, has long been a very acceptable concept to Republicans also.

Mr. Speaker, I think those of us on the minority side of the aisle have both of those considerations to take into account. Therefore, I would urge that it is more important for us to maintain a balance between the Federal Government and the States, each having its appropriate place, even though the States might exercise their judgment in a way that seems very unpleasant to those of us who are here and subject to the consequences.

Mr. Speaker, I have no further requests for time on this side.

Mr. DANIELSON. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming (Mr. RONCALIO).

(Mr. RONCALIO asked and was given permission to revise and extend his remarks.)

Mr. RONCALIO. Mr. Speaker, I thank the gentleman for yielding.

I suppose that tomorrow we will again find items in both of Washington's newspapers about the special perquisites of Members of Congress.

Mr. Speaker, I am reminded of the comment of Tom Rees, one of our former Members, last week in the Washington Star about how he misses the so-called "perks" he had up here as a Member.

Mr. Speaker, all too often we are faulted for so-called "perquisites," but we actually suffer a 7-day work burden damn rarely attributed to us by the so-called advocacy journalism of today.

Mr. Speaker, what right does Virginia have to tax my salary when I am compelled to live there in order to fulfill my constitutional duties to the people of Wyoming?

Virginia and Maryland should thank the Creator for the existence of the Federal largesse which makes for such a high quality of life for so many of America's people in the Washington metropolitan area.

Mr. Speaker, for 1 year recently I was the chairman of the Subcommittee on Public Buildings and Grounds. There was rarely a week that went by without some entity of Maryland, Baltimore, or Germantown or some place else in Maryland asking for a site for another multi-million-dollar building for another Federal payroll located some place in Maryland.

Mr. Speaker, in exasperation I would like to see the Capital moved to some place like Colorado one of these years. That would take care of the Maryland and Virginia tax problem.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Speaker, I want to say that Colorado

probably does not want the Federal Capital out there. Perhaps Wyoming does, but I do not want the gentleman from Wyoming (Mr. RONCALIO) foisting it on Colorado.

Mr. DANIELSON. Mr. Speaker, I want the gentleman from Colorado (Mr. JOHNSON) to know that we are thinking of moving social security out to Colorado.

Mr. Speaker, to prevent any misconception, this bill does not, will not, and cannot absolve any Member of Congress from paying income tax in his own State. Nobody is relieved of the obligation of paying income tax. The only thing anyone will be relieved of is the obligation of paying it in some States of which they are not a domiciliary.

The SPEAKER pro tempore (Mr. McFALL). The question is on the motion offered by the gentleman from California (Mr. DANIELSON) that the House suspend the rules and pass the bill H.R. 6893.

The question was taken.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks in addition to the comments heretofore made, and further, Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just under consideration, H.R. 6893.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TO EXTEND THE TIME FOR COMMENCING ACTIONS ON BEHALF OF AN INDIAN TRIBE, BAND, OR GROUP

Mr. DANIELSON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1377) to extend the time for commencing actions on behalf of an Indian tribe, band, or group, which is at the Speaker's desk, which is an identical bill in every respect to H.R. 5023.

The Clerk read as follows:

S. 1377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the third proviso in section 2415(a) of title 28, United States Code, is amended by deleting the words "more than eleven years after the right of action accrued" therein, and substituting the words "after December 31, 1981" in their place.

(b) The proviso in section 2415(b) to title 28, United States Code, is amended by deleting the words "within eleven years after the right of action accrues" therein, and substituting the words "on or before December 31, 1981" in their place.

The SPEAKER pro tempore. Is a second demanded?

Mr. COHEN. Mr. Speaker, I demand a second.

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The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. DANIELSON) and the gentleman from Maine (Mr. COHEN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. DANIELSON asked and given permission to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, in the course of this debate, if I should mention H.R. 5023 instead of S. 1377, I hope all of the Members will realize that I really am referring to the Senate bill, inasmuch as they are identical.

Mr. Speaker, under one provision of title 28, United States Code, back in 1966, a law was passed which provided a 6-year statute of limitations for actions brought by the United States on behalf of Indian tribes and other Indian groups with respect to money claims which they might have against various States and persons. In 1972, as that first statute of limitations was about to expire, the Congress passed an extension extending that statute of limitation for, in effect, another 5 years. Those 5 years would expire on July 18 of this year, 6 weeks from now.

Mr. Speaker, the bill before us, S. 1377, extends that period of limitation until December 31, 1981, 4 years from the end of the present calendar year. That is all that the bill does within its four corners. It is a rather tremendously important bill and I beg that my colleagues will listen carefully to the debate hereon.

Mr. Speaker, at the present time there are pending quite a large number of lawsuits in which Indian tribes and groups assert a claim or claims to money damages arising out of many aspects of our coexistence here in the United States since the founding of our Nation.

The bill before us I wish to point out, first of all, relates only to money damages. This bill does not relate to actions involving title to real estate, except incidentally, but the incidental effect is rather broad.

Among actions for money damage would be actions for money damage resulting from trespass and, in those situations in which it is deemed that trespass occur, of course the title of the person asserting the action is in issue because there can be no trespass if you do not have some type of proprietary right to the land on which trespass is being made.

It is quite important that we take action on this bill and do it immediately. The reason is simply this: With only 6 weeks remaining in the period of limitations, I am informed, and I believe and I therefore assert that there is a vast number of lawsuits which are about to be launched, and which counsel would have to file within the next 6 weeks if this period of limitation is not extended. On the other hand, if there is an extension of the period of limitations, there will be adequate time for the persons concerned

to negotiate, debate, and work out their respective claims and, hopefully, to resolve these claims without the need for expensive, protracted, and sometimes unnecessary lawsuits.

I should like to point out in addition that the previous administration of President Ford was cognizant of this problem, and the present administration of President Carter is also very well aware of it. President Carter has appointed a Judge Gunther of Georgia to act as a sort of mediator, to try to negotiate these claims and to prevent them from becoming items of protracted, bitter, expensive, and unpredictable litigation. He cannot possibly complete his work and his report to the President and have some type of action taken on it before July 18, 1977. Therefore, it is critical that this period of limitations be extended.

Mr. Speaker, I reserve the remainder of my time.

Mr. COHEN. Mr. Speaker, I yield myself such time as I may consume.

(Mr. COHEN asked and was given permission to revise and extend his remarks.)

Mr. COHEN. Mr. Speaker, I rise in support of S. 1377, which would extend the statute of limitations on actions for money damages brought by the United States, in its capacity as trustee, on behalf of Indian tribes, bands, or other Indian groups (28 U.S.C. 2415(a); (b)). These claims may be based either upon contract or tort liability, and must have accrued prior to July 18, 1966.

This legislation is of particular importance to my constituents, and indeed all the citizens of the State of Maine. This is so because, included among the eligible claims affected by this statute are those currently being asserted by the Passamaquoddy and Penobscot Tribes against Maine and its residents. The scope of the original claims made by these two tribes is staggering—some 12.5 million acres of land in the central and northern portions of the State, covering some 60 percent of Maine's total land area. They charge that their ancestors transferred the disputed land under 1794 treaties that were never actually ratified by the Congress. Thus, they say, those transactions are void and valid title still rests with the Indian tribes.

Over 350,000 citizens of Maine reside within the area originally claimed by the Passamaquoddy and Penobscots, with its estimated value exceeding \$20 billion. While it now appears certain that the extent of these claims will be reduced somewhat, estimates are that even the revised claims will cover some 5 to 8 million acres and directly affect some 75,000 to 90,000 residents of Maine.

What is the significance of H.R. 5023, in the context of all this? When this general statute of limitations was first enacted in 1966, it had long been presupposed that the trust relationship it reflects—between the United States and certain Indian tribes—did not apply to Indians located within the Original Thirteen States. Then, in 1975, the U.S. District Court for the District of Maine decided that the Indian Nonintercourse Act of 1970 gave rise to the same "special

trust relationship" with respect to the Passamaquoddy, and other similarly situated eastern tribes. *Joint Tribal Council of the Passamaquoddy Tribe, et al. v. Morton*, 388 F. Supp. 619, 663 (1975).

Pursuant to the exercise of that trust responsibility, the Solicitor of the Interior Department has since recommended that the Justice Department file suit on behalf of the two Indian tribes under 28 U.S.C. section 2415. So, unless the statute of limitations is extended, the Justice Department would be required to file such a suit against the State of Maine by July 18, 1977. While such an action is legally logical in the face of an evaporating statute of limitations, it would be "premature" in the context of the informal, private negotiations now going on.

Due to the unique nature of this problem and in response to requests from some of the affected parties, President Carter appointed a former Georgia Supreme Court justice, William Gunter, as his special representative to study the problem and make recommendations with regard to a settlement. Most of the affected parties feel that it would be unfortunate if the suit was filed by the United States against Maine. Prior to the completion of these negotiations, Judge Gunter has indicated that he expects to have a proposal ready later this month or, at the latest, early July. His ability to bring about a settlement acceptable to all the parties should not be wittingly, or unwittingly, undercut.

So, the passage of H.R. 5023 would have a direct and important impact on the Maine situation. By removing a July 18, 1977, deadline, it would allow time for a fair and equitable resolution of these claims to be worked out, through uninterrupted private negotiation. Furthermore, if H.R. 5023 is passed, the United States might well avoid long, tedious, and expensive litigation: litigation which faces the possible prospect of a congressional reversal following its completion. In short, H.R. 5023 would eliminate the necessity of the Justice Department filing a suit before the President's special representative has had an opportunity to propose a possible settlement.

If the statute of limitations is not extended, on the other hand, then the Justice Department will have no choice but to file a suit on behalf of these Indians against the State of Maine. In fact, if the statute is not extended and the Justice Department failed to sue, then the United States would be the most likely to be subject to liability for breach of trust.

The mere filing of such a suit could have a disastrous impact on the economic and social fabric of the State of Maine. The deep uncertainty already raised by these Indian claims could easily be translated into total chaos, if the United States takes such a formal action. Both the State and local units of government will have extreme difficulties in selling bonds and otherwise raising revenue for needed capital improvements and carrying on the everyday business of government. Banks, would no longer be willing to finance home loans or mortgages. Investment and commercial development,

already arrested, will virtually come to a halt. Title to all the property in the claimed area would become indefinitely clouded, thereby preventing the orderly sale or transfer of property by individuals whose sole major investment is their own home. New homebuilding and the entire construction industry will be adversely affected, with all the usual recurring impact on unemployment levels.

So, a further extension of the statute of limitations is urged by both the Justice Department and the Department of the Interior. As introduced, H.R. 5023 would have extended the limitations period an additional 10 years. However, based upon administration recommendations, the Judiciary Committee amended the bill to limit the extension period to December 31, 1981. On May 27, the Senate passed its version (S. 1377) of this measure, containing this same amendment, and thereby reducing the extension period to 4½ years.

One final point—S. 1377 is obviously not a final, long-term solution to the problems of Indian claims, whether in Maine or elsewhere. Rather, its passage will alleviate a form of procedural pressure which now overhangs the situation in my State and impedes progress toward a settlement. And definite resolution of that situation will await a final decision by Congress. Hopefully, the President's special representative will recommend a solution acceptable to all sides. But it is Congress that ultimately will have to approve the terms of any settlement.

Indian claims such as those asserted by the Passamaquoddy and Penobscot are based on "aboriginal title." Their rights to these lands are ancient but, nevertheless, are limited. They are, at best, the "beneficial owners" of lands held by the United States. There is no question but that the Congress of the United States has the right to extinguish aboriginal title, *Tee-Hit-Ton Indians v. United States*, 348 U.S. 272 (1954); *Johnson v. McIntosh*, 21 U.S. (8 Wheat.) 54 (1823). I do not suggest this as the sole means of settlement, but it should be recognized that this power might be utilized as one element of an overall settlement. As an alternative, it is also clear from caselaw, that the Congress has the power to retroactively ratify the treaties in question. See: *Seneca Nation of Indians v. United States*, 173 Ct. Cl. 912 (1965). But any equitable, fair solution of this problem should also recognize the rights of the Indians. The Maine delegation has introduced legislation (H.R. 4169) which, while extinguishing the claims of the Passamaquoddy and Penobscot Tribes to lands within the boundaries of the State of Maine, also preserves their legal rights to seek monetary compensation either in the courts or through a negotiated settlement.

I would emphasize that this is not a problem limited solely to Maine. The manner in which Congress approaches this situation should be from a national perspective. H.R. 5023 is only a beginning in the process of dealing with Indian claims, but it is a valid and needed precedent.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Speaker, I thank the gentleman from Maine for yielding.

Mr. Speaker, I associate myself with the gentleman's remarks and particularly with those relating to the procedures by which the bill comes before the House under a suspension of the rules. There had originally been expressed before the committee and the subcommittee the hope, including that of the gentleman speaking now, that there would be opportunity for an amendment on the House floor as to the date of the extension. It does seem a bit long and increases the time of exposure to additional lawsuits by, I believe, an unnecessarily long period of time.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I thank the gentleman and I think the gentleman can suggest to the House an easy procedure by which appropriate amendments can be considered to this bill as they should be. That can be done by the very simple and proper expedient of defeating the bill on suspension. Such an action would not in any way prohibit the Committee on the Judiciary from seeking a rule in the normal manner to bring the bill back to the House under a rule with opportunity for amendment. I agree with the gentleman that the bill excessively extends the statute of limitations and I hope they will help to bring about a "no" vote so that this bill can be handled in the usual manner under a rule.

Mr. DANIELSON. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. RISENHOOVER).

(Mr. RISENHOOVER asked and was given permission to revise and extend his remarks.)

Mr. RISENHOOVER. Mr. Speaker, H.R. 5023 simply extends for 4½ years the time that Indians—and the Government which holds their trust—have to file claims concerning land which Indians once owned.

In a lawful and orderly fashion, our courts have considered scores of claims by thousands of Indians. Yet, there may be more than 1,000 such cases which still deserve a day in court. This bill gives the Interior and Justice Departments more time to provide opportunity for review of these unrespected cases.

In my original bill, I sought an additional 21 years to make certain that our Government had fully considered all Indian land claims—many which date back to the 18th and 19th centuries.

However, the Committee on the Judiciary—in its timely and wise review of the situation—was told by the administration that all of the cases could be processed by the end of 1981. Therefore, the compromise deadline was struck and future Congresses can decide if more time is needed after 1981.

The need for the 4½ year extension is dramatized by the question of ownership of the Arkansas River Bed and banks in Oklahoma.

Recently, the U.S. Supreme Court held that the Arkansas River from Muskogee, Okla. to the Arkansas border is owned by

the Cherokee, Chickasaw, and Choctaw Nations. However, to date, the claim of ownership of the same Arkansas River bed and banks upstream from Muskogee to the Kansas border has not even been filed with the courts.

I am told that the latter claim—which involves the Kaw, Ponca, Pawnee, Osage, and Creek Indians—may not finally be prepared by the Interior Department and presented to Justice for filing within the next year. If the statute of limitations—the July 18 deadline—is not extended, our Government will have failed to keep the trust of these Indians. Surely, if we owe court review to the Cherokees, Chickasaws, and Choctaw—then the same right should be accorded those Indians upstream.

In this—and those 1,000 other cases—failure to enact this bill would be a simple matter of justice denied; of trust betrayed.

You may ask: Why have not these issues been previously resolved?

I can tell they are complicated and costly cases to prepare. Frankly, in years past, the Bureau of Indian Affairs and Interior Department have not had the necessary funds and manpower to fill their trust responsibilities. In recent years, Congress has been increasingly generous and responsive in providing funds. Additionally, many tribes only recently have become aware of their tort and contract remedies. However, the leaders of the six groups of Indians claiming ownership of the Arkansas River from Muskogee to Kansas tell me that money appropriated this fiscal year to prepare their case has been tied up for 8 months by the bureaucracy. Certainly, that money should be released and the case should come to point. And I use this forum to urge immediate forward action by the BIA.

This bill, H.R. 5023, does not address the merit of this or any of these cases. The issue of payment for trespass should and will, rightfully, be decided by our courts. Beyond question, each and every Indian with a reasonable claim to their ancestral land should have the matter considered and, if there is adequate merit to the claim, they should enjoy judicial review.

Therefore, failure to enact this bill would permanently deprive thousands of Indians such consideration—something that has already been accorded to thousands of other Indians in the past. I believe in equal protection under the law. In a large sense, I salute our Government and our courts for acting to redress old wrongs which Indians suffered. Today, we have an opportunity to make certain that all of these matters are fully aired and that meritorious claims have ample time for court review.

Most respectfully and firmly, I urge my colleagues to approve this legislation and ask that the other body and the President join our affirmative action with the sensitivity and dispatch which we now are taking.

Mr. DANIELSON. Mr. Speaker, I yield such time as he may consume, up to 8 minutes, to the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, it is my belief that some of the most significant

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legal and constitutional issues which this or any other Congress has faced, will soon be before us. It will be the consideration of the issues raised by a multitude of Indian claims against the United States, against the States, and against individuals in support of alleged treaty and other obligations.

Mr. Speaker, I think we must soon show some willingness to look at the essential problem—to not continue to defer it through extending the statute of limitations. Indian tribes are the only groups in the United States that can have claims brought, centuries after those claims originally arose. They are the only entities in the United States that can sue the United States itself, simultaneously have the United States sue itself in its fiduciary capacity on behalf of the tribes and have the United States defend itself against the suit.

What the proposal asks for today is the extension of the authority of the United States to bring claims on behalf of Indians for another 4 years. In 1966, a term of 6 years was placed upon that authority. It was subsequently extended again for a total of 11 years. We are now faced with a request for another 4-year extension. I confidently predict that if this bill is passed that in December of 1981, or before, the Committee on the Judiciary will have another 4-year extension for us, if not a 21-year extension, as the gentleman from Oklahoma (Mr. RISENHOOVER) just indicated that he favors.

The question might be raised whether the United States should be continuing this antique aspect of a wardship with respect to representing tribal claims. Indian tribes have shown sufficient expertise and capacity to file and prosecute claims. They do it daily. It seems to me a rather strange circumstance for the United States to be throwing its full weight against the State of Maine or some other State trying to defend itself against what would be considered ridiculously exaggerated, inflated, and antiquated claims from any other source. But that is not the immediate problem presented by this bill.

The very minimum we should have from this House—the very minimum—is the right to have this kind of issue come before us on a regular calendar, first processed through the Committee on Rules in the regular manner, so that additional amendments can be offered.

The Committee on the Judiciary has known for years this termination date would arrive, yet they put this bill to extend the statute of limitations on the Suspension Calendar at the last minute and then plead an emergency exists. The issues presented by this bill are important enough to have a rule. They are important enough to have this House fully explore and fully amend the bill under a rule.

I hope whatever our position is on this bill, we will join in defeating the suspension, if for no other reason than to give the proper use to the suspension calendar, which in this case, I suggest, is an inappropriate use. The suspension calendar was designed to have bills brought before the House over which there was

little or no controversy, and where no amendments were anticipated.

This is not the case in this bill. I will personally ask for a vote on the bill, and I hope Members will join in rejecting a suspension of the rules.

Mr. DANIELSON. Mr. Speaker, I yield 1 minute to the gentleman from Wyoming (Mr. RONCALIO).

(Mr. RONCALIO asked and was given permission to revise and extend his remarks.)

Mr. RONCALIO. Mr. Speaker, I rise in support of this bill and hope we do, indeed, pass it on the Suspension Calendar.

Five years ago in the Committee on the Interior, we listened to this precise argument against extending for a 5-year period the life of the Indian Claims Commission, knowing full well in those 5 years that all claims would not be settled.

There are aboriginal claims. I notice that the word "aboriginal" was omitted from the plea made by my friend from Washington. These are aboriginal claims made to the land we live on, and they have a right to be heard and a right to be adjudicated on the basis of legal determinations in a court of law, and not in a political forum as we have now.

The SPEAKER pro tempore (Mr. WRIGHT). The time of the gentleman from Wyoming has expired.

Mr. DANIELSON. Mr. Speaker, I yield 1 additional minute to the gentleman from Wyoming.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Washington.

Mr. FOLEY. The gentleman knows that this bill does not in any way affect the right of tribes to bring claims. It only extends the statute of limitations for the authority of the United States to bring claims on behalf of the tribes. Is that not correct?

Mr. RONCALIO. That may be correct, but when one only has one guardian to speak for one, then that is the one agency that needs the time. In the case of the Arapahos and the Shoshones, the only litigant who can sue for them is the United States of America.

Mr. FOLEY. The gentleman will agree that we have already extended this authority once since 1966. If we pass this bill, we will again extend for 4 years this special statute of limitations—a total extension of 15 years rather than the original 6 years contemplated.

Mr. RONCALIO. I agree with that. I only say this: I believe passage now is preferable to the alternative if this is not passed.

Mr. DANIELSON. I thank the gentleman for his comments and his support of the bill. I recognize that this is probably not an ideal solution to a very difficult problem, but it is a practical, conscientious and serious approach to what could be tragic in some areas of the United States. I urge support for the bill, and I reserve the balance of my time.

Mr. COHEN. Mr. Speaker, I would simply like to indicate that I sympathize with the gentleman from Washington (Mr. FOLEY) in the arguments he has

presented, but I would like to come to the defense of the gentleman from California (Mr. DANIELSON) just for a moment.

He received this request only 2 or 3 weeks ago as to the statute of limitations. The Judiciary Committee had nothing before it prior to the Justice Department coming in at the last moment, because of the negotiations going on now with the two tribes in the State of Maine. Justice Gunter came into the picture only recently to provide some sort of recommendation, so it was not that the Judiciary Committee was being dilatory.

I agree entirely that in 1981 chances are that someone is going to come back in and request a further extension. My position is that we have got to come to grips with these Indian claims. That is why I filed a bill, and the Maine delegation in the House and Senate filed a bill, to extinguish these claims to land, to provide a mechanism for removing clouds on titles to property throughout the country and to find an equitable means of resolving the issue that would permit a monetary recovery.

There have been no hearings held, and we are up against the wall. If the Justice Department does not get the extension, they will file a lawsuit and they will unravel the economic fabric of the States of Maine, Massachusetts, and a number of other States, and all other claims they now have pending in the Interior Department they might file immediately in order to protect themselves. So, under the circumstances, while I am not enthusiastic about this particular measure, I think it has to be adopted.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Washington.

Mr. FOLEY. If my remarks carried with them any criticism of the distinguished gentleman from California (Mr. DANIELSON) or the Committee on the Judiciary, I regret them and retract them. I have the highest admiration for both the gentleman from California and the committee on which he serves. But I do think that all committees which realize that bills are expiring or authority is expiring, should make some effort to insure that legislation is recommended by the departments of Government in sufficient time for the committee to consider and report legislation through the normal channels.

I personally do not believe that the suspension calendar should be used to bring bills to the floor that are controversial, and where at the same time it is plain that there is immediate urgency, for consideration under the suspension calendar. Under normal circumstances, I do not think that is the appropriate use of the suspension calendar. If this is an emergency bill, there is nothing to prevent a rule being granted by the Rules Committee before the expiration date. That is why I hope Members will vote against this bill.

Mr. COHEN. The gentleman from California was concerned with the

July 18 date, specifically what the consequences might be if we did not get a rule and get this matter passed in the Senate and the House. The Senate has already accepted it.

It is the same measure that is before the House now. I can assure the Members that is the only motivation of the gentleman from California.

Mr. RISENHOOVER. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Oklahoma (Mr. RISENHOOVER).

Mr. RISENHOOVER. I thank the gentleman for yielding.

Mr. Speaker, I cannot disagree with what the gentleman from Washington says. I, too, am concerned with what will happen on July 18 if we do not enact this legislation.

But let me ask the gentleman this question: In the gentleman's opinion, would enactment of this 1377 jeopardize the legislation that the gentleman envisions, legislation which he has already introduced, that is to be heard by the Indian Affairs Subcommittee? Will this jeopardize that legislation?

Mr. COHEN. I will say to the gentleman that it will in no way jeopardize that legislation that I have submitted to the Interior Committee. I see the chairman of the subcommittee is on the floor. I would be happy to engage in colloquy with the gentleman. The reason we have not had hearings on this issue is because President Carter appointed Mr. Gunther to see if he could serve as a catalyst and make recommendations. He is to make a recommendation by the end of June or the first of July if possible. I am confident that once that recommendation is made, legislation will be submitted by the various delegations of the States affected and that hearings will be properly held before the subcommittee. And also I will consider filing legislation that could come before the Judiciary Committee if we have to provide alternative types of remedies. But I am sure that is why the gentleman from Wyoming is withholding.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. I thank the gentleman for yielding.

Mr. Speaker, I commend the gentleman for his expert statement of the facts surrounding the present proposition. Speaker O'NEILL, the majority leader, the gentleman from Texas (Mr. WRIGHT), and the chairman, the gentleman from Arizona (Mr. UDALL), have all three concurred that this is the time to allow the discussions to go ahead.

After those negotiations, then if necessary the House Indian Affairs Committee will come into action on the legislation.

Mr. COHEN. Mr. Speaker, let me just indicate that no one is more distressed than myself or the people of the State of Maine with the present situation. In all of these years since 1794, the Justice Department had taken the position that the State of Maine had the responsibility of dealing with those tribes. The State of Maine accepted that responsibility

and dealt with the Indian tribes. Suddenly, in 1975, the Justice Department is coming back under court order and saying they have to assume responsibility for all of the tribes in the country and are now bringing the full weight of the Federal Government against the State of Maine.

I must say that I am in great sympathy with the statement of the gentleman from Washington (Mr. FOLEY) about what this means. It is difficult enough when the tribes bring these suits, but to put the full weight of the Federal Government behind them is indeed awesome. I have great reservation about this matter, but under the circumstances I feel we have to adopt it.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. WIGGINS).

(Mr. WIGGINS asked and was given permission to revise and extend his remarks.)

Mr. WIGGINS. Mr. Speaker, there are very few domestic problems of the magnitude of this one. The issue of Indian land claims is applicable to vast areas of North America. It certainly is not confined to the State of Maine or even to the Northeast. I have thought a lot about the proper resolution of this question, and the only decision I have reached at this point is that we accomplish nothing by delay. Sooner or later this issue has to be confronted, and I for one am presently persuaded that we best confront it early.

It has to be brought to a head, and I would think that a no vote on this bill will bring it to a head. It will cause the United States to file actions promptly. The pendency of such claims affecting millions of acres will surely cause the political arms of Government to move for a final resolution of this issue.

The argument is that such actions will cloud titles throughout the Northeast. I do not believe that the Department of Justice is going to record its pends over an entire State. I think they are much too prudent to do anything as radical as that.

It is important that this Government decides where it stands vis-a-vis the Indian claims. I would like to get on with it. I would like to have a decision made, Mr. Speaker, and the way to expedite the moment of decision is to vote "no" on this suspension.

Mr. COHEN. Mr. Speaker, in response to the remarks of the gentleman from California (Mr. WIGGINS), I would simply indicate that I, too, would think prudence would prevent the Justice Department from filing such a suit.

However, they have filed several different briefs with the Federal District Court in Maine indicating that indeed they do have the intent of filing such a suit, and absent some sort of resolution between the parties or through the administration, the Department will have no choice but to file that suit on or before July 18 of this year.

Mr. DANIELSON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. DANIELSON asked and was given permission to revise and extend his remarks.)

Mr. DANIELSON. Mr. Speaker, I am about to conclude my side of the argument. I think that all the parties on both sides of the aisle have participated in a rather heated and, I hope, helpful debate.

From the point of view, I hope, of less heat and more light, I would like to say that the most responsible position we could take at this time in this situation is to vote for the bill.

When I hear arguments to the effect: "Well, what do we care? Let us just go ahead; it isn't going to hurt anyone." I am reminded that when I started practicing law, I went to work for a very competent trial lawyer who won far more than his share of cases.

I remember one time we had a tough, sticky, situation, and I briefed the law very carefully. I told him, "Look, we don't have to do thus and so. I am sure we can win if we do something else."

He said, "Look, George, you may be entirely right, but who the heck wants to test an electric chair?"

Mr. Speaker, that is precisely what we will be doing here if we do not pass this bill. Let us not try to test an electric chair. Let us not bring chaos to the States of Maine, Massachusetts, Connecticut, Georgia, and the Carolinas and everywhere else.

Mr. Speaker, I urge the passage of the bill.

Mr. Speaker, the bill S. 1377 and the bill H.R. 5023, as amended by the Judiciary Committee, amends section 2415 of title 28, United States Code, to extend to December 31, 1981, the time for the United States to file tort or contract actions in behalf of Indians which accrued prior to July 18, 1966.

Both the Department of the Interior and the Department of Justice have recommended the enactment of the bill as amended by the committee and as passed by the Senate.

On July 18, 1966, section 2415 of title 28 was enacted into law and it for the first time imposed a statute of limitations on tort or contract suits brought by the United States. This statute of limitations also applied to actions brought by the United States as trustee for Indians. In 1972, the Congress extended the limitations period to July 18, 1977, for actions for monetary damages brought by the United States in behalf of Indians.

The difficulties of identifying and processing these claims are such that the Department of the Interior has recommended that the statute of limitations be extended until December 31, 1981, for this specific group of claims. The committee amendment would extend the limitation to that date.

The Office of the Solicitor of the Department of the Interior estimates that there could be many pre-1966 claims as yet unidentified or still being asserted that now would have to be filed by July 18. Nationwide the unprocessed cases could amount to well over 1,000. The major reason why the previous 5-year extension was insufficient is that many tribes have only become aware of their tort and contract remedies in the last few years and thus have not, until recently, had adequate procedures to document claims. Therefore, hundreds of

pre-1966 claims are still being researched and identified and cannot all be filed by July 1977.

In 1972, when this committee reported the bill H.R. 13825 providing for the previous 5-year extension for commencing actions on behalf of Indian tribes, bands or groups—House Report No. 92-1267, 92d Congress, 2d session—it was observed that the claims which accrued prior to July 18, 1966 include a number of complicated matters, and further that the identification of the claims and the development of their factual and legal basis were difficult. This problem still exists.

The Department advised the committee that it found it difficult to estimate the number which remain unprocessed. As an example, the Department's Field Solicitor's Office in Phoenix, Ariz., has developed approximately 35 claims in their geographical area which they will attempt to process by July 18, 1977. The Twin Cities' field solicitor's office, covering Minnesota, Iowa, and Wisconsin, has developed 167 cases. The Office of the Solicitor estimates that there could be many pre-1966 claims as yet unidentified or still being asserted that would have to be filed by July 18. Nationwide the unprocessed cases could amount to well over 1,000. The committee has been advised that many tribes have only become aware of their tort and contract remedies in the last few years and thus have not, until recently, had adequate procedures to document claims as they arose. Further, the Department of the Interior has not, until recently, had adequate procedures to document claims as they arose. Therefore, hundreds of the pre-1966 claims are still being researched and identified and cannot all be filed by July 1977.

The Justice Department sues on behalf of Indian tribes only at the request of the Solicitor of the Department of the Interior. The Justice Department has pointed out that while a few of the matters already referred to it by Interior might be affected if the current July 18, 1977 limit in the present statute were not changed, the greater problem is with those claims which have not yet been unearthed by the Department of the Interior or which have not been investigated to the extent that they can be referred to the Justice Department for litigation.

The conclusion of the Department of Justice is that an extension of the statute until December 31, 1981, when coupled with an effort by the Department of the Interior to find and investigate these claims, would be a fitting and appropriate action in view of the Government's traditional role of guardian and trustee for the Indian.

In testimony before the Senate Select Committee on Indian Affairs with reference to the Senate Bill, S. 1377, there was a discussion of a number of matters now pending in the Department of Justice which could be affected by an expiration of the statute of limitations. These include the claims of the Maine Passamaquoddy and Penobscot Indians based upon violations of the Indian Trade and Intercourse Act.

Information submitted to the Subcommittee on Administrative Law and Governmental Relations in connection with its consideration of H.R. 5023 referred to the problems which could arise if the Government were requested to file a suit covering these particular claims in order to meet the July 18, 1977, deadline.

At a hearing before the Senate Committee on Indian Affairs on May 12, 1977, the Governor of Maine, the Honorable James B. Long, and the Honorable Joseph E. Brennan, attorney general of the State of Maine, testified concerning the complexities of the Maine litigation. Attorney General Brennan stated that the position of the State of Maine is that an extension of the statute would offer more opportunity to find a possible solution to the matter without litigation. He, too, noted that the present deadline of July 18, 1977, is so close that without an extension, a protective lawsuit, with all the problems it could create, may be unavoidable.

In its report to the committee on the bill, the Department of Justice referred to the relationship of this bill to the claims by the Indians of the State of Maine and indicated that the passage of the bill would obviate a need for a special bill to deal with the limitations problem as to those particular claims. In this connection, the Department of Justice stated:

The Department of Justice at one time intended to submit a bill to extend the statute of limitations for those claims which the United States may assert on behalf of the Indians of the State of Maine arising out of trespasses on their ancestral aboriginal landholdings. H.R. 5023 addresses on a broader scale the same problem and the passage by the Congress of H.R. 5023 would render unnecessary the passage of legislation specifically for the benefit of the Maine Indians.

As I have stated, the Department of Justice recommends enactment of the bill providing for an extension to December 31, 1981.

There is a clearly defined need for the amendment provided in this bill, and prompt congressional action is necessary. It is recommended that the bill be considered favorably.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DANIELSON) that the House suspend the rules and pass the Senate bill S. 1377.

The question was taken.

Mr. FOLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered to be withdrawn.

GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just under consideration.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

INDIAN CLAIMS COMMISSION AUTHORIZATION FOR FISCAL YEAR 1978

Mr. DANIELSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4585) to authorize appropriations for the Indian Claims Commission for fiscal year 1978; to facilitate the transfer of cases from the Indian Claims Commission to the U.S. Court of Claims; and for other purposes, as amended.

The Clerk read as follows:

H.R. 4585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated to carry out the provisions of the Indian Claims Commission Act (25 U.S.C. 70), during fiscal year 1978, not to exceed \$2,250,000.

Sec. 2. The Act entitled "An Act to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes," approved August 13, 1946 (60 Stat. 1049), as amended, is further amended by adding thereto the following new section:

"CASES TRANSFERRED TO THE UNITED STATES COURT OF CLAIMS

"Sec. 29. (a) The powers of the Commission set forth in the first paragraph of section 15 of this Act, relative to fees and expenses for any attorney or attorneys for any tribe, band, or other identifiable group of Indians, shall be exercised by the United States Court of Claims with respect to any case transferred pursuant to this Act, as amended.

"(b) The powers of the Commission set forth in section 14 of this Act, relating to information from governmental departments and official records as evidence, may be exercised by the United States Court of Claims with respect to any case transferred pursuant to this Act, as amended.

"(c) Final judgments rendered by the United States Court of Claims on cases transferred to it pursuant to this Act, as amended, shall be paid in the same manner as other judgments of the court in accordance with the provisions of section 2517 and 2518 of title 28, United States Code.

"(d) Cases transferred to the United States Court of Claims pursuant to this Act, as amended, shall be thereafter subject to review by the Supreme Court in accordance with the provisions of section 1255 of title 28, United States Code: *Provided*, That any decision of the Commission rendered in a case prior to its transfer, which could have been appealed pursuant to the provisions of section 20 of this Act, as amended, shall be appealable to the Court of Claims subject to such provisions: *Provided further*, That such provisions shall not otherwise be applicable to transferred cases.

"(e) The provisions of the Act of November 4, 1963 (77 Stat. 301), as amended, shall continue and shall be in effect with respect to all cases transferred to the United States Court of Claims pursuant to this Act, as amended."

Sec. 3. Subsection (a) of section 792 of title 28, United States Code is amended to read as follows:

"(a) The Court of Claims may appoint sixteen commissioners who shall be subject to removal by the court and shall devote all their time to the duties of the office. The Court shall designate one of the commissioners to serve at the will of the court as chief commissioner."