the most recent membership list it was provided under part 83 of title 25 of the Code of Federal Regulations. If none of these lists were provided, the newly recognized tribe shall submit a membership list to the Secretary before the judgment fund distribution roll of descendants is approved. If it fails to do so, its share of the funds will be distributed to the individuals named on the judgment fund distribution roll of descendants.

Subsection 10(e)(2) provides that if a membership list was not provided to the Secretary, the Secretary will use the tribe's most recent membership list provided to the Bureau of Indian Affairs in their petition for federal acknowledgment filed under part 83, of title 25 of the Code of Federal Regulations, unless the statute which recognized the tribe provides otherwise. If the Bureau of Indian Affairs was not provided a membership list, the tribe must submit a membership list to the Secretary before the judgment distribution is approved, unless the statute which recognized the tribe provides otherwise. If the tribe fails to provide either of these lists before the judgment distribution roll of descendants is approved, the judgment funds are to be distributed per capita as provided for in section 9 of this Act.

SECTION 11. TREATMENT OF FUNDS IN RELATION TO OTHER LAWS

Section 11 provides that an individual's or tribe's eligibility or receipt of distributions under this Act shall not be considered as income, resources, or otherwise when determining that tribe's or individual's eligibility for or computation of any payment or other benefit under any financial aid program of the United States, including grants and contracts subject to the Indian Self-Determination Act and any other benefit to which such tribe, household, or individual would otherwise be entitled under any federal or federally assisted program.

SECTION 12. TREATIES NOT AFFECTED

This section makes it clear that no provision of the Act shall be construed to constitute an amendment, modification, or interpretation of any treaty to which a tribe mentioned in the Act is a party, nor to any right secured to such a tribe, or to any other tribe by any treaty.

Mr. KILDEE. Mr. Speaker, I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON] that the House suspend the rules and pass the bill, H.R. 1604, as amended.

The question was taken.

Mr. SAXTON. 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 clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## BURT LAKE BAND OF OTTAWA AND CHIPPEWA INDIANS ACT

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 948) to reaffirm and clarify the Federal relationship of the Burt Lake Band as a distinct federally recognized Indian Tribe, and for other purposes.

The Clerk read as follows:

H.R. 948

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Burt Lake Band of Ottawa and Chippewa Indians Act''.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) The Burt Lake Band of Ottawa and Chippewa Indians are descendants and political successors to the signatories of the 1836 Treaty of Washington and the 1855 Treaty of Detroit.

(2) The Grand Traverse Band of Ottawa and Chippewa Indians, Little Traverse Bay Band of Odawa Indians, the Little River Band of Ottawa, the Sault Ste. Marie Tribe of Chippewa Indians, and the Bay Mills Band of Chippewa Indians, whose members are also descendants of the signatories to the 1836 Treaty of Washington and the 1855 Treaty of Detroit, have been recognized by the Federal Government as distinct Indian tribes.

(3) The Burt Lake Band of Ottawa and Chippewa Indians consists of over 650 eligible members who continue to reside close to their ancestral homeland as recognized in the Cheboygan Reservation in the 1836 Treaty of Washington and 1855 Treaty of Detroit, which area is now known as Cheboygan County, Michigan.

(4) The Band continues its political and social existence with a viable tribal government. The Band, along with other Michigan Odawa/Ottawa groups, including the tribes described in paragraph (2), formed the Northern Michigan Ottawa Association in 1948. The Association subsequently pursued a successful land claim with the Indian Claims Commission.

(5) Between 1948 and 1975, the Band carried out many of their governmental functions through the Northern Michigan Ottawa Association, while retaining individual Band control over local decisions.

(6) In 1935, the Band petitioned under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the ''Indian Reorganization Act''), to form a government on behalf of the Band. Again, in spite of the Band's eligibility, the Bureau of Indian Affairs failed to act.

(7) The United States Government, the government of the State of Michigan, and local governments have had continuous dealings with the recognized political leaders of the Band from 1836 to the present.

**SEC. 3. DEFINITIONS.**

For purposes of this Act—

(1) the term ''Band'' means the Burt Lake Band of Ottawa and Chippewa Indians;

(2) the term ''member'' means those individuals enrolled in the Band pursuant to section 7; and

(3) the term ''Secretary'' means the Secretary of the Interior.

**SEC. 4. FEDERAL RECOGNITION.**

(a) FEDERAL RECOGNITION.—Federal recognition of the Burt Lake Band of Ottawa and Chippewa Indians is hereby reaffirmed. All laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians, including the Act of June 18, 1934 (25 U.S.C. 461 et seq., commonly referred to as the ''Indian Reorganization Act''), which are inconsistent with any specific provision of this Act shall not be applicable to the Band and its members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—The Band and its members shall be eligible for all services and benefits provided by the Federal Government to Indians because of their status as federally recognized Indians, and notwithstanding any other provision of law, such services and benefits shall be provided after the date of the enactment of this Act to the Band and its members without regard to the existence of a reservation or the location of the residence of any member on or near any Indian reservation.

(2) SERVICE AREAS.—For purposes of the delivery of Federal services to the enrolled members of the Band, the area of the State of Michigan within 70 miles of the boundaries of the reservation for the Burt Lake Band as set out in Article I, paragraph ''seventh'' of the Treaty of 1855 (11 Stat. 621), shall be deemed to be within or near a reservation, notwithstanding the establishment of a reservation for the tribe after the date of the enactment of this Act. Services may be provided to members outside the named service area unless prohibited by law or regulation.

**SEC. 5. REAFFIRMATION OF RIGHTS.**

(a) IN GENERAL.—All rights and privileges of the Band and its members, which may have been abrogated or diminished before the date of the enactment of this Act are hereby reaffirmed.

(b) EXISTING RIGHTS OF TRIBE.—Nothing in this Act shall be construed to diminish any right or privilege of the Band or of its members that existed before the date of the enactment of this Act. Except as otherwise specifically provided in any other provisions of this Act, nothing in this Act shall be construed as altering or affecting any legal or equitable claim the Band may have to enforce any right or privilege reserved by or granted to the Band which was wrongfully denied to or taken from the Band before the enactment of this Act.

**SEC. 6. TRIBAL LANDS.**

The Band's tribal lands shall consist of all real property, now or hereafter held by, or in trust for, the Band. The Secretary shall acquire real property for the Band. Any such property shall be taken by the Secretary in the name of the United States in trust for the benefit of the Band and shall become part of the Band's reservation.

**SEC. 7. MEMBERSHIP.**

Not later than 18 months after the date of the enactment of this Act, the Band shall submit to the Secretary a membership roll consisting of all individuals currently enrolled for membership in the Band. The qualifications for inclusion on the membership roll of the Band shall be determined by the membership clauses in the Band's governing document, in consultation with the Secretary. Upon completion of the roll, the Secretary shall immediately publish notice of such in the Federal Register. The Band shall ensure that such roll is maintained and kept current.

**SEC. 8. CONSTITUTION AND GOVERNING BODY.**

(a) CONSTITUTION.—

(1) ADOPTION.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall conduct by secret ballot elections for the purpose of adopting a new constitution for the Band. The elections shall be held according to the procedures applicable to elections under section 16 of the Act of June 18, 1934 (25 U.S.C. 476; commonly referred to as the ''Indian Reorganization Act'').

(2) INTERIM GOVERNING DOCUMENTS.—Until such time as a new constitution is adopted under paragraph (1), the governing documents in effect on the date of the enactment of this Act shall be the interim governing documents for the Band.

(b) OFFICIALS.—

(1) ELECTIONS.—Not later than 6 months after the Band adopts their constitution and

bylaws pursuant to subsection (a), the Band shall conduct elections by secret ballot for the purpose of electing officials for the Band as provided in the Band's governing constitution. The elections shall be conducted according to the procedures described in the Band's constitution and bylaws.

(2) INTERIM GOVERNMENTS.—Until such time as the Band elects new officials pursuant to paragraph (1), the Band's governing bodies shall be those bodies in place on the date of the enactment of this Act, or any new governing bodies selected under the election procedures specified in the respective interim governing documents of the Band.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SAXTON] and the gentleman from Michigan [Mr. KILDEE] each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, parliamentary inquiry.

Is the gentleman from Michigan opposed to the bill?

The SPEAKER pro tempore. Is the gentleman from Michigan opposed to the bill?

Mr. KILDEE. No, Mr. Speaker, I am not opposed to the bill.

Mr. SHAYS. Mr. Speaker, in that case I would claim the time in opposition to the bill.

The SPEAKER pro tempore. The gentleman from Connecticut [Mr. SHAYS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, just as a point of order, if I may would it be possible that I can yield to the gentleman from Michigan, and we will all be happy here, right?

The SPEAKER pro tempore. The gentleman has that right.

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

Mr. Speaker, if I may, H.R. 948, the proposed Burt Lake Band of Ottawa and Chippewa Indians would reaffirm and clarify the Federal relationship of the Burt Lake Band of Ottawa and Chippewa Indians.

The Burt Lake Band consists of approximately 650 individual decedents from the Cheboigan band of Ottawa and Chippewa Indians who have lived for centuries along the shores of Burt Lake on Michigan's Lower Peninsula. The band, recognized by the Federal Government through various treaties and Federal court cases, was terminated by the Bureau of Indian Affairs without the approval of Congress earlier this century. H.R. 948 would restore the Federal recognition of the band by reaffirming the Federal Government's previous recognition. H.R. 948 is long overdue, and I recommend its passage by the House.

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

The SPEAKER pro tempore. Does the gentleman from New Jersey yield time to the gentleman from Michigan?

Mr. SAXTON. I think the gentleman from Michigan would just as soon wait to hear from the opposition, and then I will be happy to yield to him at that time.

Mr. SHAYS. Mr. Speaker, I am happy to reserve my time until we hear a presentation of the bill.

The SPEAKER pro tempore. The gentleman from Connecticut reserves the balance of his time.

Mr. SAXTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I thank the gentleman for yielding. I appreciate the gentleman's generosity in sharing his time.

Mr. Speaker, I want to thank the gentleman for bringing this bill to the floor today. The legislation before the House today would simply reaffirm the relationship between the Burt Lake Band of Ottawa and Chippewa Indians of Michigan and the U.S. Government. This tribe has a long history with the United States Government, dating back to the Treaty of Washington in 1836 and 1855 Treaty of Detroit.

Although the Federal Government promised the Burt Lake Band a tract of land encompassing 1,000 acres for its reservation, the tribe never got the land. In fact, this tribe has suffered one of the worst injustices in our government's sordid history with Native Americans.

After the tribe signed 2 treaties with the U.S. Government in the 1800s, land was held in trust for the tribe by the governor of Michigan. In 1878, the land was unexplainably put back on the tax rolls and was eventually bought by a land speculator.

In the fall of 1900, in my father's memory, during his lifetime, my father recalls this, the local sheriff evicted the tribal members from their own homes and burned the tribe's village to the ground. It is from the ashes of this tragedy which has been told to me by my father that this tribe seeks reaffirmation today.

Mr. Speaker, this tribe deserves to have its relationship with the Federal Government reaffirmed. I urge the Members of this House to support this bill.

Mr. SAXTON. Mr. Speaker, I reserve the balance of my time.

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

To my colleagues on both sides of the aisle, I rise in strong opposition, not to recognition of any tribe necessarily, but to recognition of a tribe through a legislative process rather than through the Bureau of Indian Affairs.

The fact is that this bill, as it is titled, is to reaffirm and clarify the Federal relationship with the Burt Lake Band as a distinctly recognized Indian tribe and for other purposes. What we are trying to do is circumvent a process of petition before the Bureau of Indian Affairs, while the Bureau of Indian Affairs is trying to determine that while you were once a tribe, does this group of people still constitute a tribe today. That is a process that is in the works today. As the Bureau of Indian Affairs has stated, they expect to know within 6 months whether or not they can recommend that this tribe should be Federally recognized.

Please know that when we recognize a tribe, we are giving them a status as an independent nation, notwithstanding the other benefit that they can establish a gaming institution.

For the purposes of this debate, I would like to point out on the floor what we are deprived of hearing right now, but what the Resources Committee heard in this statement from Ada Deer, the Assistant Secretary for Indian Affairs under the Department of Interior, supporting what basically had been told to this tribe 2 years earlier, and stated directly by the Secretary of the Interior. Her testimony before the committee on June 24 begins:

> Good morning, Mr. Chairman and members of the Committee. Thank you for the opportunity to present the views of the Department of the Interior on H.R. 948, a bill to ''Reaffirm and clarify the Federal relationship of the Burt Lake Band as a distinct Federally recognized Indian tribe''. The Department appreciates the interest the committee has expressed in recognition matters.

And then she continues:

> Although we acknowledge and respect the Congress' authority to recognize Indian tribes, we have serious concerns with H.R. 948 because of unresolved questions about the group's history, community, government, and the nature of the membership to be acknowledged. These are concerns that cannot be resolved at the present time without a detailed review of the facts and documents presented by this group. Knowledgeable members of this group have raised significant concerns with the BIA concerning the membership of the band. Preliminary research indicates that while the current leadership and a substantial body of new members affiliated with them may have ancestry from the historic band in the 19th century, they may not have been part of the tribal community and have not resided close to the historic homeland of the band for over a hundred years. This raises significant questions within the BIA about how the community wishes to define itself.
>
> This has also caused political dissension within the group. A related concern is that the group's present membership criteria appear to create the possibility that a large number of individuals with no ancestral ties to the ''historic Burt Lake Band'' or no Indian ancestry at all could be added to the group's membership.
>
> The BIA believes it is premature to consider acknowledgment, until the community resolves these questions. Although the bill states that it is to ''reaffirm and clarify the Federal relationship of the Burt Lake Band as a distinct Federally recognized Indian tribe'', the fact that a recognized Burt Lake Band existed at some earlier point in time does not automatically mean that a tribe presently exists. It is the responsibility of the Department to ascertain the maintenance of tribal existence for acknowledgment, notwithstanding previous tribal recognition.

□ 1645

Then she said, ''See the decision of the Ninth Circuit Court of Appeals in U.S. v. Washington. The court rejected the argument that the group should

benefit from a presumption of continuing existence, just because their ancestors belonged to tribes with which the United States had signed treaties.'' This is what we are being asked to do.

''Without question, Congress has authority to recognize Indian tribes. However, we believe recognition would be premature even for Congress if it is yet to be established that the group has continued to exist as a social and political entity, as required of all other groups petitioning under established BIA procedures. The questions concerning the present composition of the membership requires this kind of detailed review.''

Then she continues,

During the 103rd Congress, legislative recognition and approval by the President ended the Department's review of certain Michigan acknowledgment cases. One of them, the Pokagon Pottawatomi, were recognized by Congress while the BIA was evaluating its petition. Stopping the administrative process has resulted in some problems for the band in defining its membership and in dealing with other issues petitioners normally resolve during the acknowledgment process.

Because of the importance of Federal recognition and the rights and services acknowledgment brings to tribes, the BIA cannot, at this point, affirmatively support this legislation. It is important that the group document its existence in anticipation of adjustments to existing State-tribal agreements on treaty fishing rights under U.S. v. Michigan.

''The BIA's acknowledgment process is designed to evaluate the facts and evidence pertinent to the Burt Lake Band and its members, and to provide pertinent information for resolving questionable and conflicting claims.''

The BIA maintains cordial working relationships with the Burt Lake Band leadership and the individuals working on their petition. Extensive technical assistance from the BIA Branch of Acknowledgment and Research has enabled the group to complete the documentation of its initial petition.

The petition is now fully documented and ready for review. A preliminary determination under Section 83.8 is that a Burt Lake Band was previously recognized as late as 1917. However, the historical membership issues raise questions which the BIA has not had the opportunity to fully research. The question of whether the present group's membership reflects the same tribe as the one that was previously acknowledged must be resolved in cooperation with the group. If this is the same group as previously acknowledged in 1917, it would substantially reduce the amount of work necessary to produce a decision on acknowledgment.

In conclusion, the BIA has provided technical assistance and conducted on-site visits as were promised to the Burt Lake Band's Congressman in 1995. The petitioner has subsequently completed its research. Real progress has been made and the case is moving forward. The acknowledgment process should be allowed to continue.

An evaluation of the Burt Lake Band's petition under 25 Code of Federal Regulations Page 83 will allow resolution of important continuing issues concerning the group, verification of the petitioner's claims, and demonstration of continuous historic existence, while taking into account past Federal acknowledgment.

That concludes her statement.

Mr. Speaker, I would petition and ask the Congress and the Members who are not here, and the staff that may be listening, that we defeat this bill. It certainly should not be on the consent calendar, as I would call it. It should be defeated, and the Bureau of Indian Affairs should be allowed to conduct its review. Their estimate is that it will take 6 more months.

I know the gentleman from Michigan [Mr. KILDEE], who is interested in this bill and is working for his constituents, would like to move now rather than later. I appreciate that. But we should let the Bureau of Indian Affairs work its will, or we should just abolish the whole process. That, I would say, would be a disaster.

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

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

Mr. Speaker, I would just like to say, in response to the gentleman from Connecticut [Mr. SHAYS], the gentleman is correct in that under normal circumstances we would all certainly prefer to let the Bureau of Indian Affairs manage those affairs which they have been delegated. Unfortunately, the history of this set of circumstances is such that I believe the great majority of the Members of this House believe that the action we are taking today is quite appropriate, and, in fact, perhaps more than appropriate.

Were we to step out of the way and permit the Bureau of Indian Affairs to complete their consideration, these things in the BIA take years. These people, these Native American people, have been waiting years if not decades to have their status as a recognized tribe restored. We can take an important step in that direction today.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Speaker, I rise today to express my strong support for H.R. 948 and for the reaffirmation and clarification, not the new certification and not a recognition, but a reaffirmation and clarification of the Federal relationship of the Burt Lake Band of Odawa and Chippewa Indians as a distinct federally-recognized Indian tribe.

The Burt Lake Band was an original signatory to the 1836 Treaty of Washington and the 1855 Treaty of Detroit. Pursuant to these treaties, the Burt Lake Band relinquished lands in the western half of the Upper Peninsula of Michigan and the northern half of the Lower Peninsula.

As a result of these treaties and the Burt Lake Band's subsequent treatment by the Federal Government, the Burt Lake Band was and is a federally recognized tribe. Shortly after the turn of the century, the Burt Lake Band lost all of its land as a result of illegal tax sales. They were forced from their homes, and as the gentleman from Michigan [Mr. KILDEE] pointed out, their village was burned to the ground by the local sheriff and a timber baron who claimed ownership of the lands pursuant to the illegal tax. The United States Justice Department subsequently filed suit to recover the lands as trustee and guardian for the Burt Lake Band in 1917.

Mr. Speaker, a tribe can only be terminated by an act of Congress, not by the administrative action or the inaction of officials of Indian Service or the Bureau of Indian Affairs. Congress has never, Congress has never, ever passed an act to terminate the Burt Lake Band. The Burt Lake Band continues to exist today. However, the administrative actions of the Indian Service of the 1930s amounted to and had the practical effect of an administrative and illegal termination of the Burt Lake Band.

The Burt Lake Band contends, and I believe justifiably and legally so, that since they were never legally terminated, they have been and continue to this day to be a federally-recognized tribe. H.R. 948 simply reaffirms the Burt Lake Band's recognized status, which they have never legally lost, and would commence to mitigate the injustice the Burt Lake Band has endured since the 1930s.

The gentleman from Connecticut [Mr. SHAYS] mentions the Pokagon Band Potawatomie and the Algonquin, which we recognized in the 103rd Congress. That legislation was enacted into law, once again reaffirming the status of three other tribes in the Lower Peninsula of Michigan who were likewise previously considered to be recognized tribes, but who, like the Burt Lake Band, were denied the opportunity in the mid-1930s to reorganize under the IRA.

The Burt Lake Band also had similar legislation pending in the 103rd Congress. Unfortunately, it did not come before the floor. The merits of the Burt Lake Band, the merits of the Burt Lake Band legislation and this bill before us today are actually, I think, stronger than the legislation Congress adopted in 1994 for the three other Michigan tribes. H.R. 948 should be given the same thoughtful, favorable consideration.

With that, Mr. Speaker, I thank the gentleman from New Jersey for yielding, and I thank him for his work on behalf of the Burt Lake Band and the other Native Americans throughout northern Michigan.

Mr. SAXTON. Mr. Speaker, I yield 2 minutes and 30 seconds to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

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

Mr. FALEOMAVAEGA. Mr. Speaker, I want to thank the gentleman from Michigan [Mr. KILDEE] for his sponsorship of this piece of legislation. I would also like to thank the chairman of the Committee on Resources, the gentleman from Alaska, Mr. DON YOUNG, for his support, and certainly other Members from that side of the aisle for their support, especially our good friend, the gentleman from New Jersey [Mr. SAXTON].

Mr. Speaker, I also want to say that I have the highest respect for the gentleman from Connecticut [Mr. SHAYS] expressing his point of opinion on this piece of legislation.

I would like to share some bits of information with my colleagues about this bill, and why it is important that we should pass this legislation.

In the first place, this tribe, along with three other tribes in Michigan, were unilaterally terminated by the Bureau of Indian Affairs. It was not by an act of Congress. But it was in 1994 that three tribes in Michigan were federally recognized by this body, by the Congress of the United States: the Little River Band, the Pokagon, and the Grand Traverse tribes. So what we are doing, we are just simply correcting a deficiency that existed even for these two tribes. We were simply saying that the Congress has absolute authority to do this.

I want to share some information with my friend, the gentleman from Connecticut. The Federal administrative procedure, in recognition given to the tribes, is not working and has never worked. We have tribes, Mr. Speaker, on the rolls that it has taken over 100 years, and they are still not recognized by the Federal Government. It is a sad situation for our Government to recognize the fact that the Federal administrative procedures now, as applied by the Bureau of Indian Affairs, simply is not working.

I want to say to my friend, the gentleman from Connecticut, this is just simply correcting an error that was committed by a bureaucracy. It was not done by the Congress. The Congress has the absolute authority to give proper recognition, Federal recognition, for any tribe that wants to be recognized federally.

The problem we have also with the recognition process, some tribes have accumulated in excess of $500,000 to $1 million just to pay attorneys to try to apply for recognition. If a tribe has only 500 members, where are they going to get half a million dollars to seek recognition from this bureaucracy? Impossible. So what we are simply doing here is correcting an error that was committed by a bureaucracy.

I sincerely hope my colleagues will support this bill. We should grant Federal recognition to these two tribes.

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

Mr. Speaker, it is not an easy process to speak against any bill proposed by any Member, but unfortunately, the explanation we were just given is the reason why we need to clearly vote down this attempt to circumvent the Bureau of Indian Affairs, because really, then, what we are saying is it is going to be a political process. It is going to be what Congressman do you know? What Congressman has the power? It is going to also be: which Indian tribes have greater motivation to be recognized? Which tribes will be given independent status as a nation within our own country?

This is an extraordinary decision. I totally concede the fact that this tribe did exist in 1917. We just do not know, and we will not know until the Bureau of Indian Affairs, with their documentation, ascertains that the tribe that existed in 1917 is the same tribe that we want to recognize, with all the same historic lineage. For us politically to make that determination, frankly, boggles my mind.

Mr. Speaker, I would strongly oppose recognition. I would say to both gentlemen from Michigan that we are going to know in 6 months whether the Burt Lake Band will be recognized as a tribe. The BIA has done so much work on this application. It is likely that this tribe will be recognized. It is likely, but not certain. But there will be some stipulations along with that recognition as to who, in fact, are members of the tribe and who are not, which are not issues resolved in this legislation and will not be.

We should allow the Bureau of Indian Affairs to complete their work and not do an end run around the Bureau of Indian Affairs, a system that we, the Congress, established.

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

□ 1700

Mr. SHAYS. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, the point of this bill is to correct a wrong. The wrong was the BIA's incorrect decision to administratively terminate a tribe, a power they did not have. Now, we are asking the same BIA to treat them well when they violated the law in terminating them in the first place.

A few years ago, the Catholic parish in this area, who keeps the best records, one can go back and find their great, great grandfather's baptismal records, they know these Indians. The Catholic parish gave them 3 acres of land so they would have at least some land they could call their own, some of the same land that they had lost before.

We should certainly recognize what the locals, the European locals, the European Catholic Church recognized, that these were the same people whose homes were burned to the ground by the sheriff. The church gave them some land so they would have at least that recognition. I think we should do no less.

Mr. SAXTON. Mr. Speaker, I reserve the balance of my time.

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

I just want to say that this is not the same BIA today that existed in 1917. It is just blatantly not a factually correct statement. The facts are that the Bureau of Indian Affairs was established and new processes were established by recent Congresses to get recognition out of the political process, which it is in right now, and give it to the experts.

We had testimony before the full Resources Committee from Ada Deer, the Assistant Secretary for Indian Affairs, who has given us ample reason why we cannot recognize this tribe until we know who is actually a member of this tribe. And we have testimony from the Assistant Secretary who says that there is dispute as to who are members and who are not.

I beg this Congress to take this out of the political process. Let this work be completed in the next 6 months. The Bureau of Indian Affairs is cooperating with Burt Lake. We do not have much longer to wait. But what a gross precedent we will continue to set by circumventing the Bureau of Indian Affairs.

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

Mr. SHAYS. I yield to the gentleman from Michigan.

Mr. STUPAK. With all due respect to the gentleman from Connecticut, in the 103rd Congress I had the legislation then to recognize the Burt Lake Band, and we were told it would only be 6 months, do not worry about it, we will get it taken care of. That was 4 years ago.

Mr. SHAYS. Mr. Speaker, reclaiming my time, let me just ask the gentleman, had they submitted a petition? Had they gone through the process?

Mr. STUPAK. Yes, Mr. Speaker.

Mr. SHAYS. Mr. Speaker, I do not think they had. The petition was just recently submitted to answer the questions the Bureau of Indian Affairs had.

Mr. STUPAK. Mr. Speaker, if the gentleman will continue to yield, the first part of that petition was before 1994, in the 103rd Congress. And to keep asking for more information, they say, just one more piece of information, we will get it to you. This has been going on since 1917.

Mr. SHAYS. Let me say to the gentleman, if he withdrew this bill, I would not oppose this bill next year if the bureau has not completed its work. I have been told they have the documentation. They can proceed, and it will be done.

Mr. STUPAK. With all due respect, Mr. Speaker, I have been hearing that since 1994. Here is our opportunity today. I think we should move the bill.

Mr. SHAYS. Mr. Speaker, reclaiming my time, just to say that the petition is now complete and they are ready to take action. It would be a shame to now circumvent the process.

Mr. SAXTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KINGSTON). The question is on the motion offered by gentleman from New Jersey [Mr. SAXTON] that the House suspend the rules and pass the bill, H.R. 948.

The question was taken.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the eight bills just debated, S. 588, S. 589, S. 591, S. 587, S. 531, H.R. 1856, H.R. 1604, and H.R. 948.

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

There was no objection.

## HELPING EMPOWER LOW-INCOME PARENTS (HELP) SCHOLARSHIPS AMENDMENTS OF 1997

Mr. RIGGS. Mr. Speaker, pursuant to House Resolution 288, I call up the bill (H.R. 2746) to amend title VI of the Elementary and Secondary Education Act of 1965 to give parents with low-incomes the opportunity to choose the appropriate school for their children, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 2746 is as follows:

H.R. 2746

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Helping Empower Low-income Parents (HELP) Scholarships Amendments of 1997''.

**SEC. 2. DEFINITIONS.**

Section 6003 of the Elementary and Secondary Education Act of 1965 is amended—

(1) in the section heading by striking ''definition'' and inserting ''definitions'';

(2) by striking ''(1)'', ''(2)'', and ''(3)'';

(3) in the matter proceeding subparagraph (A), by striking '' title the term'' and inserting the following:

''title—

''(1) the term'';

(4) by striking the period at the end; and

(5) by adding at the end the following:

''(2) the term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved; and

''(3) the term 'voluntary public and private parental choice program' means a program that meets the requirements of section 6301(b)(9), is authorized by State law, and includes 1 or more private schools to allow low-income parents to choose the appropriate school for their children.''.

**SEC. 3. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.**

Section 6102(a) of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

''(a) DISTRIBUTION RULE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), from the sums made available each year to carry out this title, the State educational agency shall distribute not less than 90 percent to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

''(A) children living in areas with high concentrations of low-income families;

''(B) children from low-income families; and

''(C) children living in sparsely populated areas.

''(2) EXCEPTION.—A State that has enacted or will enact a law that establishes a voluntary public and private parental choice program and that complies with the provisions of section 6301(b)(9) may reserve an additional 15 percent from the sums made available each year to carry out this title if the additional amount reserved is used exclusively for voluntary public and private parental choice programs.''.

**SEC. 4. USES OF FUNDS.**

(a) STATE USES OF FUNDS.—Section 6201(a)(1) of the Elementary and Secondary Education Act of 1965 is amended—

(1) in subparagraph (C), by striking ''and'' after the semicolon;

(2) by inserting after subparagraph (C) the following:

''(D) establishing voluntary public and private parental choice programs in accordance with section 6301(b)(9); and''.

(b) LOCAL USES OF FUNDS.—Section 6301(b) of the Elementary and Secondary Education Act of 1965 is amended—

(1) in paragraph (7), by striking ''and'' after the semicolon;

(2) in paragraph (8), by striking the period and inserting ''; and''; and

(3) by inserting after paragraph (8) the following:

''(9) voluntary public and private parental choice programs that—

''(A) are located in an area that has the greatest numbers or percentages of children—

''(i) living in areas with a high concentration of low-income families;

''(ii) from low-income families; or

''(iii) living in sparsely populated areas;

''(B) ensure that participation in such a voluntary public and private parental choice program is limited to families whose family income does not exceed 185 percent of the poverty line;

''(C) ensure that—

''(i) the maximum amount of a voluntary public and private parental choice scholarship does not exceed the per pupil expenditure of the local educational agency in which an applicant for a voluntary public and private parental choice scholarship resides;

''(ii) the minimum amount of a voluntary public and private parental choice scholarship is not less than 60 percent of the per pupil expenditure of the local educational agency in which an applicant for a voluntary public and private parental choice scholarship resides or the cost of tuition at a private school, whichever is less;

''(D) ensure that for a private school that chooses to participate in a voluntary public and private parental choice program—

''(i) such a school is permitted to impose the same academic requirements for all students, including students selected for a scholarship as provided under this paragraph;

''(ii) receipt of funds under this title is not conditioned with requirements or regulations that preclude the use of such funds for sectarian educational purposes or require removal of religious art, icons, scripture, or other symbols; and

''(iii) such a school is in compliance with all State requirements applicable to the operation of a private school that are in effect in the year preceding the date of the enactment of the Helping Empower Low-income Parents (HELP) Scholarships Amendments of 1997;

''(E) may allow State, local, and private funds to be used for voluntary public and private parental choice programs; and

''(F) ensure priority for students who were enrolled in a public school in the school year preceding the school year in which a voluntary public and private parental choice school begins operation.''.

**SEC. 5. EVALUATION.**

Part D of title VI of the Elementary and Secondary Education Act of 1965 is amended—

(1) by adding at the end of section 6402 the following new subsection:

''(j) APPLICATION.—This section shall not apply to funds that a State or local educational agency uses to establish a voluntary public and private parental choice program in accordance with section 6301(b)(9).''; and

(2) by adding at the end of such part the following new sections:

**''SEC. 6404. EVALUATION.**

''(a) ANNUAL EVALUATION.—

''(1) CONTRACT.—The Comptroller General of the United States shall enter into a contract, with an evaluating agency that has demonstrated experience in conducting evaluations, for the conduct of an ongoing rigorous evaluation of the programs established under section 6301(b)(9).

''(2) ANNUAL EVALUATION REQUIREMENT.—The contract described in paragraph (1) shall require the evaluating agency entering into such contract to evaluate annually each program established under section 6301(b)(9) in accordance with the evaluation criteria described in subsection (b).

''(3) TRANSMISSION.—The contract described in paragraph (1) shall require the evaluating agency entering into such contract to transmit to the Comptroller General of the United States the findings of each annual evaluation under paragraph (1).

''(b) EVALUATION CRITERIA.—The Comptroller General of the United States, in consultation with the Secretary, shall establish minimum criteria for evaluating each program established under section 6301(b)(9). Such criteria shall provide for—

''(1) a description of the implementation of each program established under section 6301(b)(9) and the program's effects on all participants, schools, and communities in the program area, with particular attention given to the effect of parent participation in the life of the school and the level of parental satisfaction with the program; and

''(2) a comparison of the educational achievement of all students in the program area, including a comparison between—

''(A) students receiving a voluntary public and private parental choice scholarships under section 6301(b)(9); and

''(B) students not receiving a voluntary public and private parental choice scholarships under such section.

''(c) EVALUATION FUNDS.—Pursuant to the authority provided under section 14701, the Secretary shall reserve not more than 0.50 percent of the amount of funds made available under section 6002 to carry out this section.