

THE INDIAN TRIBAL FEDERAL
RECOGNITION ADMINISTRATIVE
ACT

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 2009

Mr. FALEOMAVAEGA. Madam Speaker, I rise today to introduce the Indian Tribal Federal Recognition Administrative Procedures Act, a bill to provide for an improved administrative process for federal recognition of certain Indian groups.

The fact of the matter is the process by which the Department of the Interior to recognize Indian tribes is riddled with problems. And these problems exist in large part because the Congress itself has never by law established a process or criteria for the recognition of Indian tribes.

First, the Bureau of Indian Affairs' budget limitations over the years have, in fact, created a certain bias against recognizing new Indian tribes.

Second, the process has always been too expensive, costing some tribes well over \$500,000 when most of these tribes lack the resources and necessary finances. I need not remind my colleagues that Native American Indians are still facing severe challenges to education, economic activity and social development, and this administrative process perpetuates an already embarrassing situation for this country.

Madam Speaker, the courts have already acknowledged the unfair treatment of Indian groups because of the current federal recognition process. In 1996, in the case of *Greene v. Babbitt*, 943 F. Supp. 1278 (W.Dist. Wash), the federal court found that the existing process is "marred by both lengthy delays and a pattern of serious procedural due process violations." Deciding on the recognition process for the Samish Tribe in the State of Washington, the court recognized that it took over 25 years for the Department to make a decision. Writing for the court, Judge Thomas Zilly opined that "the Samish people's quest for federal recognition as an Indian tribe has a protracted and tortuous history . . . made more difficult by excessive delays and governmental misconduct" (p. 1281). Moreover, certain procedures mandated in the Administrative Process Act (APA) and by the U.S. Constitution were glossed over during the acknowledgement process.

Sadly though, the Samish's administrative and legal conflict—much of which was at public expense—could have been avoided were it not for a 30-year-old clerical error of the Bureau of Indian Affairs which inadvertently left the Samish Tribe's name off the list of recognized tribes in Washington. With a record like this, it is little wonder that many tribes have lost faith in the Government's recognition procedures.

Fixing the recognition process was also noted by former President Clinton. In a 1996 letter to the Chinook Tribe of Washington, the President wrote, "I agree that the current federal acknowledgment process must be improved." Despite some progress been made, President Clinton further added that "much more must be done."

And the most recent action of this administrative acknowledgment process gives no

hope to non-recognized tribes of a reasonable and timely process. The Bureau of Indian Affairs recently issued what it calls a proposed finding on the Brothertown of Wisconsin petition for federal acknowledgment. This tribe's petition was considered ready for consideration by the BIA in 1996—even so, the BIA did not take up the petition until 2008, 12 years later. In the proposed finding issued this August, the BIA proposed to turn down recognition of the tribe for several reasons. One of those reasons was a finding by the BIA that the tribe had been terminated by Congress in 1839. Now, a tribe that has been terminated by Congress cannot be recognized by the BIA. And yet, the BIA insists that this tribe complete this administrative process—at the cost of thousands of dollars to the government and the tribe—even though the BIA could not recognize the tribe even if it finds that the tribe meets the criteria for recognition. A process that requires such a thing makes no sense for the Federal Government or for tribes.

Madam Speaker, the legislation I introduce today provides the vehicle to fix the recognition process for Indian groups. It embodies a framework to lessen the adverse impact and the unfortunate burden on Indian groups seeking federal recognition.

Under this proposal, the administrative burden and responsibility for the federal recognition process is transferred from the Bureau of Indian Affairs, BIA, to an independent Commission on Recognition of Indian Tribes. The Commission shall consist of seven members appointed by the President with the consent of the Senate. This commission is tasked with reviewing and acting upon documented petitions submitted by Indian groups that apply for federal recognition.

Under this legislation, clear and consistent standards of administrative review of documented petitions for federal recognition are provided for. Moreover, this bill clarifies and identifies clear evidentiary standards for administrative review and also helps expedite the process by providing adequate resources to process documented petition.

Some have expressed concern that prior bills would open the door for more tribes to conduct gambling operations on new reservations. While I cannot say that no new gambling operations will result from this bill, I do believe that this bill will have only a minimal impact in the area.

I would like to remind my colleagues that: (1) unlike State-sponsored gaming operations, Indian gaming is highly regulated by the Indian Gaming Regulatory Act (IGRA); (2) before gaming can be conducted, the tribes must reach an agreement with the state in which the gaming would be conducted; (3) under IGRA, gaming can only be conducted on land held in trust by the federal government; (4) gaming can only be conducted at a level the state permits on non-Indian land; and (4) any gaming profits can only be used for tribal development, such as water and sewer systems, schools, and housing.

I want to emphasize this point—this is not a gambling bill, this is a bill to create a fair, objective process by which Indian groups can be evaluated for possible federal recognition.

Madam Speaker, this bill is not perfect in every form, but it is the result of many hours of consultation and years of work. I want to thank Chairman RAHALL and everyone involved in this endeavor. Many parties and

stakeholders have come together for the purpose of making sound, careful changes which recognize the historical struggles the unrecognized tribes have gone through, yet retaining some of the framework the Bureau of Indian Affairs has developed diligently over the years.

In conclusion Madam Speaker, I hope we can take final action and make much needed improvements to the Federal Indian Recognition process.

CONSTITUTION DAY

SPEECH OF

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 2009

Mr. LARSON of Connecticut. Mr. Speaker, I rise in support of House Resolution 734, which expresses support for and honors September 17, 2009, as "Constitution Day." September 17 is the day that our United States Constitution was signed in 1787, by 39 delegates from 12 states, including from Connecticut, Samuel Huntington, Oliver Wolcott, and Roger Sherman, whose statue resides in the crypt of this Capitol building.

My home state of Connecticut has a strong and proud connection to the founding principles and documents of this country. Roger Sherman was the only man to sign the Articles of Association, the Declaration of Independence, the Articles of Confederation, and the Constitution. Connecticut itself is known as the Constitution State, for its enactment of the Fundamental Orders of Connecticut, the first written constitution of its kind.

The Fundamental Orders of Connecticut was adopted by the Connecticut Colony in 1639 and established a government for the Connecticut Colony, based on the yearly election of a governor and six magistrates, two from each town in the Colony. These officials were chosen by the count of a written vote, and all freedmen who resided in the colony and had taken an oath of fidelity were eligible to cast their vote.

The Fundamental Orders established limits on the powers of government, emphasizing the power of the people to elect their leaders and act against them should those leaders ignore their concerns. Further, it defined the operating procedures of a government established by the people, of the people, and for the people, ensuring each elected magistrate a vote in matters of governance, and the governor a vote only in the event of a tie.

Many of the principles in the eleven sections of the Fundamental Orders of Connecticut later were echoed in the familiar cadences of our great Constitution, which continues to represent the American ideal of a government consisting of a body of officials elected by the people to serve in their best interests.

It was Roger Sherman's "Connecticut Compromise", made during the Philadelphia Convention of 1787, which ensured fair representation for large and small states in the bicameral legislature which defines our body of Congress.

As a high school history teacher, I had the privilege of studying, learning, and teaching the Constitution. It is the innovation and undiminished endurance of the ideals of our Constitution for which I rise in support of

House Resolution 734 to express support for and honor September 17, 2009, as "Constitution Day."

IN RECOGNITION OF BASS PRO SHOPS FOUNDER JOHNNY L. MORRIS, FOR HIS LIFETIME CONSERVATION ACHIEVEMENT AWARD FROM THE TEDDY ROOSEVELT CONSERVATION PARTNERSHIP

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 2009

Mr. BLUNT. Madam Speaker, I rise today to honor a man who has become an icon to fishermen, an innovative retailer and perhaps the humblest guy you might ever meet. You may not immediately recognize the name Johnny Morris, but you probably know the company he started in 1972—Bass Pro Shops. Johnny is also a dedicated conservationist who supports a host of national wildlife and habitat conservation efforts.

National Fish and Wildlife Foundation, National Wild Turkey Federation, the Nature Conservancy, International Game Fish Association, Ducks Unlimited, Rocky Mountain Elk Foundation, Quality Deer Management Association, Trout Unlimited, International Bowhunting Organization, The Congressional Sportsmen's Foundation, U.S. Fish & Wildlife Service, USDA Forest Service, Quail Unlimited, Federation of Fly Fisherman, and Safari Club International are among the organizations that Bass Pro Shops publicly supports.

Johnny's ideal work is fishing. While fishing the Bassmaster professional circuit, he was always taking notes of what lures were catching fish, who made them and how to find them. Starting with hand-tied lures and bait made from sowbellies and sold in jars, Johnny started his business in his father's store. Within two years he needed more room for his growing enterprise.

In 1972 Bass Pro Shops—or Pro Bass as many of his regulars still call it—began issuing catalogs. Today those books are 700 pages of full color pictures of lures, worms, hooks, sinkers, reels, rods and everything an angler would ever need. There is a line of hunting equipment and clothing too.

Among Johnny's successful ideas was selling fishing boats in packages—boat, motor, trailer and trolling motor. It had never been tried before, but it's an industry standard now. That is just one of several reasons why he was named the National Retail Federation's Retail Innovator of the Year in 2008.

Johnny Morris' vision has expanded from that small space in his dad's store to 56 megastores in the United States and Canada, a 1.7-million-square-foot warehouse and headquarters in Springfield, Missouri, and jobs for 16,000 employees.

If you want to know the real success of Morris' Bass Pro Shops, visit one of their stores. Complete with aquariums full of game fish or rare turtles, a Bass Pro Shops store is a visit that will satisfy your interest in everything outdoors. Equipment for most any sportsman's experience is available along with advice from people who have used it. Bass Pro Shops receives nearly 100 million customers, sight-

seers and visitors a year. The Springfield store is Missouri's number one visitor attraction, welcoming more than 4 million people through its doors last year.

Johnny is a conservationist who enjoys the outdoors and preservation of America's scenic beauty found in its open spaces, wildlife and waters. Earlier this week, the Teddy Roosevelt Conservation Partnership honored Johnny Morris with its Lifetime Conservation Achievement Award for his dedication to conserving our national resources and ensuring the future of America's sporting traditions.

This is an honor Johnny Morris has earned through a lifetime of work as a retailer and sportsman. Foremost, I think Johnny would like to be thought of simply as a pretty good fisherman.

RECOGNIZING TIBOTEC THERAPEUTICS FOR CONDUCTING THE GRACE STUDY, A GROUND BREAKING HIV CLINICAL TRIAL FOCUSED ON WOMEN AND PEOPLE OF COLOR IN THE UNITED STATES

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 2009

Mr. CLAY. Madam Speaker, I rise today to commend and congratulate Tibotec Therapeutics, part of the Johnson & Johnson family of companies, for demonstrating continued innovation and corporate responsibility in the fight against HIV/AIDS by conducting the groundbreaking GRACE study. GRACE, which stands for Gender Race And Clinical Experience, is the largest study to date in treatment-experienced women with HIV to examine gender and race differences in response to an HIV therapy. In recent HIV studies of treatment-experienced patients, women accounted for less than 11 percent of the patients being studied, on average. GRACE was able to enroll nearly 70 percent women and 84 percent people of color.

In my home State of Missouri, there are almost 12,000 people living with AIDS, and African Americans represent over a third of these cases. Women account for more than one quarter of all new HIV/AIDS diagnoses in the United States, with African American and Latina women representing 79 percent of women living with the disease. People of color have been historically underrepresented in clinical trials in the United States, and HIV/AIDS disproportionately impacts African Americans. In terms of new HIV infections, African American women are infected at a rate 15 times higher than white women.

The trial was designed to help overcome some of the barriers, identified by the advisors, which have historically deterred women and people of color from participating in clinical studies, including stigma, lack of child care, transportation and personal support systems. Based upon advisor and community input, study participants could obtain assistance to cover costs associated with their participation in the study, including funds for travel and childcare, as well as food vouchers. I am proud to say that one of the study sites in this historic clinical trial is located in my congressional district.

Results of the GRACE study showed that there were no statistical differences in the safety, tolerability or effectiveness of the HIV regimens used in the study between male and female participants, or for people of different ethnicities. Additionally, the GRACE study showed that with the appropriate commitment from the trial sponsor and input from affected communities and providers, clinical trials can enroll meaningful numbers of women and racial and ethnic minorities.

Madam Speaker, I commend Tibotec Therapeutics and Johnson & Johnson for their commitment to addressing the disproportionate impact of this epidemic on women and people of color.

U.S. POLICY TOWARDS BURMA

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 1, 2009

Mr. SOUDER. Madam Speaker, today the Senate Foreign Relations Subcommittee on East Asian and Pacific Affairs held a hearing on U.S. policy towards Burma. I would like to contribute some remarks on this important topic. I represent the Third District of Indiana, which is home to the largest concentration of people from Burma in the U.S. In recent years, resettlement agencies have placed well over 2,000 refugees in Fort Wayne, Indiana. Fort Wayne has also become a "community of choice" amongst the refugee community, and secondary migrants have increased Fort Wayne's population of people from Burma to over 6,000. As a result, the Third District is acutely aware of the atrocities and suffering that the people from Burma have faced at the hands of the State Peace and Development Council (SPDC).

I am disappointed that this hearing, which is intended to evaluate the role the U.S. can play in facilitating democratic reform, did not invite testimony from a single representative of Burma's democracy movement or one individual who has endured the violence of the Tatmadaw. A thorough evaluation is impossible without their perspective.

Over the years, U.N. reports have documented some of the military regime's harrowing crimes, including widespread rape, conscription of child soldiers, torture, and the destruction of thousands of villages. It is clear that the SPDC has in part been conducting a war against its own citizens.

In spite of these realities, the Administration has recently engaged in direct dialogues with the Burmese regime and the Senate Committee's hearings today are in part seeking to re-evaluate the role of sanctions in U.S. policy. I support the establishment of a peaceful and democratic Burma. However, it is improbable that this can be achieved through negotiations with the junta—a dictatorship will not act in good faith and broker a deal that will lead to its own demise.

Before such dramatic changes in policy can be made, it is necessary for the military dictatorship to demonstrate a clear movement towards democracy. This must include ending the current violence against its citizens, installing Daw Aung San Suu Kyi to her rightful place as Burma's democratically elected Prime Minister, and drafting a constitution that creates the possibility for true civilian leadership.