

very well administered. It has acquired this land and feels that, in order to remove a cloud from title, this act of Congress is necessary.

I would like to suggest to the subcommittee that it consider legislation that deals with this type of situation because I expect that the Lower Sioux community is not the only Native American group in the United States that faces this type of obstacle, to the disposition of land, that it has purchased which has not been in trust status which is off of its reservation area.

As we see here in the 21st century, we have a number of Native American communities that are becoming more prosperous. They are engaging in commerce. I think that it would certainly facilitate the activities of these communities if, in these fairly well-defined situations where there is not a concern about any abuse in connection with the assets of the community, that they had the flexibility to, on their own, make these transfers and not have the cloud on title that exists in situations such as this one.

I have worked with the community in crafting this legislation, with the administration, and also with the committee and subcommittee staff. I would like to express my appreciation to the staff, members of both the committee and the subcommittee.

At the request of the Lower Sioux Indian Community I have sponsored legislation that would exempt land owned in fee by the Community from the effect of the Indian Nonintercourse Act, 25 U.S.C. 177 (1994) (INA). In recent years, the Community has acquired several parcels of property outside the boundaries of its Reservation. It is likely that not all of those parcels will not be needed for the development which the Community contemplates. Therefore, the Community should have the ability to dispose of any unneeded portions of fee land as and when appropriate purchasers may appear. At present it is unclear whether the INA prohibits such transactions absent an Act of Congress. It was this problem which prompted the Community to seek legislation that will permit similar conveyances without resorting to the cumbersome and time-consuming legislative process each time an individual sale is agreed to.

The terms of the INA does not distinguish between fee land and trust land. My bill states that "No conveyance of lands from any tribe of Indians shall be of any validity unless the same be made by treaty or convention entered into pursuant to the Constitution." In the past, this has been interpreted to mean that Congress must either give direct approval or must establish the process for giving such approval. Although Congress has allowed the Secretary of the Interior to approve the conveyance of lands owned in trust for tribes by the United States, Congress has never set up any process for approving the conveyance of fee lands.

The "clouding" effect of the INA is illustrated in a discussion contained in a brief filed with the United States Supreme Court by the United States Department of Justice, in *Cass*

*County, Minnesota v. Leech Lake Band of Chippewa Indians*. The brief observed that "[i]n recent times, Congress and the Executive Branch have assumed that the INA requires congressional approval of sales of all tribally owned lands, whether or not those lands are within a reservation". [Brief of the United States as Amicus Curiae, supporting Respondent, Case No. 97-174 (January, 1998), at 28 (footnote 13).] Congress repeatedly has passed legislation allowing individual fee parcels of tribal land to be sold. Congress has on several occasions in recent years adopted legislation similar to that which the Community seeks.

For example, P.L. 86-505, § 1, 74 Stat. 199, authorizing the Navajo Tribe to dispose of its fee lands without federal approval; P.L. 101-630, 104 Stat. 4531, authorizing the sale of a parcel of land owned in fee simple by the Rumsey Indian Rancheria; P.L. 101-379, § 11, 104 Stat. 473, authorizing the Eastern Band of Cherokee Indians to convey a particular parcel of its fee land; P.L. 102-497, § 4, 106 Stat. 3255, authorizing the Mississippi Band of Choctaw Indians to convey certain lands which it owned in fee.

The Supreme Court has never ruled that the wording of the INA does not apply to fee lands. In fact, in a case decided just last year, the Court made a point of saying that the question is open: "This Court has never determined whether the Indian Nonintercourse Act . . . applies to land that has been rendered alienable. . . . *Cass County v. Leech Lake Bank*," U.S., 118 S.Ct. 1904 (1998). The assumption has been, and still is, that the Act prevents the sale of fee land without congressional approval. This is the legal position of the United States, citing the amicus brief of the United States in the *Cass County* case. And the Department of the Interior has taken the position that it cannot not give the Lower Sioux Community permission to sell fee land because Congress has not given the Department that authority.

Most importantly, purchasers assume that the consent of Congress is required before tribal fee land can be sold. The effect of all this is that the Lower Sioux Community is stymied. The wording of the INA seems to say that congressional permission is needed to sell fee land; the Justice Department acknowledges that; the Department of the Interior acknowledges that; Congress has acknowledged that; and purchasers acknowledge that. This bill will solve that problem for the Lower Sioux Indian Community. This is a matter of fairness.

Mr. FALEOMAVAEGA. Madam Speaker, I have no further speakers, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHERWOOD) that the House suspend the rules and pass the bill, H.R. 2484.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. SHERWOOD. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1749, S. 613, and H.R. 2484, the three bills just debated.

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

There was no objection.

#### SPECIAL ORDERS

##### HERITAGE AND HORIZONS: THE AFRICAN AMERICAN LEGACY AND THE CHALLENGES OF THE 21ST CENTURY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentlewoman from Ohio (Mrs. JONES) is recognized for 60 minutes as the designee of the minority leader.

Mrs. JONES of Ohio. Madam Speaker, it is always a great opportunity for me to have opportunity to address the Congress in a special order, particularly when the gentlewoman from Missouri (Mrs. EMERSON) is the Speaker pro tempore.

Our theme today is *Heritage and Horizons: The African American Legacy and the Challenges of the 21st Century*. As we come to the close of the celebrated African American history month, it is a great opportunity for the Congressional Black Caucus to organize a special order to celebrate black history. I want to thank the gentleman from South Carolina (Chairman CLYBURN) for designating me to organize this special order.

I took up the mantle after my predecessor, the Congressman from the 11th Congressional District of Ohio, Congressman Louis Stokes, who had this responsibility for his 30 years in Congress.

The theme for this year's Black History Special Order is *Heritage and Horizons: The African American Legacy and the Challenges of the 21st Century*.

As we embark upon a new millennium, I believe it painful and powerful that this theme allows us to pay tribute to our past and allows us to make plans for our future. The question is how do we plan for our future. One way is to plan for our future by giving tribute to our past, learning the lessons of our past and paying tribute to our successes as a people.

I believe the past can serve as a blueprint for future generations on how to get things done.

There are many events that have shaped and defined the African American experience in America today that never should be forgotten. What should never be forgotten is the sacrifice that others have made to ensure future generations' success.