

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Utah.

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Utah.

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Utah.

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

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

Mr. MULLIN. I yield the floor.

The PRESIDING OFFICER. The junior Senator from Alaska.

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

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

PAY OUR MILITARY ACT

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

my bill, the Pay Our Military Act. This bill would have made sure that we are paying our military, including our Coast Guard, in the event of a government shutdown.

A few hours ago, this looked like we really were going to have to do this. We ran the hotline on the Republican side. Every Republican Senator voted for this. And it makes sense.

This has usually been a bipartisan issue. If there is a government shutdown, which none of us want, we need to pay the men and women who are on the frontlines, in our country, overseas, many in dangerous situations defending our freedom—to make sure they are paid, to make sure they are paid.

The good news is, it looks like, just walking onto the floor here, the House is overwhelmingly passing the continuing resolution. It is not, I am sure, the deal I would have negotiated, but, nevertheless, it looks like there is a likelihood of that coming over here tonight soon, we hope, after the passage. It is likely going to pass in the House overwhelmingly and will likely pass here in the Senate later this evening. So we will likely not have a government shutdown, which is good.

And our military, who is doing a great job around the world, won't be subject to this crazy situation, which has happened before: The government shuts down, and the young men and women defending our freedom all around the world are not getting paid.

So with that, I am not going to ask for unanimous consent on this bill. I was hopeful nobody was going to block it. I am not sure if anyone was going to block it. At prior times, when we had been barreling toward a government shutdown, the Senate has actually taken action in a bipartisan way to pass this legislation—no troops getting their pay cut off. I was hopeful that was going to happen tonight. Maybe it would have; maybe it wouldn't. I am not going to bring it up.

What I want to do is just wish our troops a Merry Christmas.

You know, a lot of people are going to be serving away from their families, serving in dangerous parts of the world. I will tell you, in my great State, the great State of Alaska, our military has been really, really busy. It doesn't make a lot of news in the lower 48, but we have had two Russian incursions into our ADIZ in just the last week—young men and women flying in the middle of the night, going and intercepting Russian bear bombers and fighters. They are doing a great job, a professional job. It is dangerous work.

So to all of our troops, Merry Christmas. Keep up the great work. I am really glad that I am not having to bring my bill to pay all of you.

If the government shuts down, and if we ever have another government shutdown, I sure hope my Pay Our Military Act will get unanimous, bipartisan support.

If the U.S. Congress can't keep funding our government, the men and

women in our military should not suffer the consequences when they are defending our freedom around the world.

With that, I yield the floor.

NOMINATION OF SERENA RAQUEL MURILLO

Mr. DURBIN. Madam President, today, the Senate will vote to confirm Serena Murillo to the U.S. District Court for the Central District of California.

Born in Pomona, CA, Judge Murillo received her B.A. from the University of California, San Diego and her J.D. from Loyola Law School. After law school, she worked as a post-bar law clerk at Shernoff, Bidart, and Echeverria in Claremont, CA. She then worked as an associate attorney at McNicholas & McNicholas in Los Angeles, where she represented plaintiffs in personal injury cases.

From 1997 to 2014, Judge Murillo served as a deputy district attorney in the Los Angeles County District Attorney's Office. She prosecuted various criminal cases, including juvenile matters, felonies, white-collar crime, and criminal appeals. She tried approximately 68 cases to verdict in State court, half of which were jury trials.

Since 2015, Judge Murillo has been a judge on the Superior Court of California in Los Angeles County. From 2018 to 2019, she served by appointment of the chief justice of the California Supreme Court as an associate justice pro tem on the California Court of Appeal. She has presided over approximately 55 jury trials in civil, felony, and misdemeanor matters, nearly all of which were criminal trials. She has also taught as a lecturer in law at the University of Southern California Gould School of Law since 2022.

The American Bar Association rated Judge Murillo as "well qualified" to serve on the district court. She has deep ties to the Central District of California, and she enjoys the strong support of her home State Senators and the California legal community.

Judge Murillo's litigation background and experience as both an advocate and State court judge ensure that she will be an asset to the district court. I am proud to support her nomination, and I ask my colleagues to join me in my support.

The PRESIDING OFFICER. The Democratic whip.

Mr. DURBIN. Madam President, I ask unanimous consent that the scheduled vote begin immediately.

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

VOTE ON MURILLO NOMINATION

The question is, Will the Senate advise and consent to the Murillo nomination?

Mr. DURBIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr.

MANCHIN), and the Senator from California (Mr. SCHIFF) are necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Florida (Mr. RUBIO) and the Senator from Ohio (Mr. VANCE).

The result was announced—yeas 49, nays 47, as follows:

[Rollcall Vote No. 332 Ex.]

YEAS—49

Baldwin	Hickenlooper	Sanders
Bennet	Hirono	Schatz
Blumenthal	Kaine	Schumer
Booker	Kelly	Shaheen
Brown	Kim	Sinema
Cantwell	King	Smith
Cardin	Klobuchar	Stabenow
Carper	Lujan	Tester
Casey	Markey	Van Hollen
Coons	Merkley	Warner
Cortez Masto	Murphy	Warnock
Duckworth	Murray	Warren
Durbin	Ossoff	Welch
Fetterman	Padilla	Whitehouse
Gillibrand	Peters	Wyden
Hassan	Reed	
Heinrich	Rosen	

NAYS—47

Barrasso	Fischer	Murkowski
Blackburn	Graham	Paul
Boozman	Grassley	Ricketts
Braun	Hagerty	Risch
Britt	Hawley	Romney
Budd	Hoeben	Rounds
Capito	Hyde-Smith	Schmitt
Cassidy	Johnson	Scott (FL)
Collins	Kennedy	Scott (SC)
Cornyn	Lankford	Sullivan
Cotton	Lee	Thune
Cramer	Lummis	Tillis
Crapo	Marshall	Tuberville
Cruz	McConnell	Wicker
Daines	Moran	Young
Ernst	Mullin	

NOT VOTING—4

Manchin	Schiff
Rubio	Vance

The nomination was confirmed.

(Mr. KIM assumed the Chair.)

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

SOCIAL SECURITY FAIRNESS ACT OF 2023

The PRESIDING OFFICER (Mr. DURBIN). Under the previous order, the Senate will resume the legislative session and the clerk will report the pending business.

The senior assistant legislative clerk read as follows:

A bill (H.R. 82) to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

The PRESIDING OFFICER. The majority leader.

JUDICIAL CONFIRMATIONS

Mr. SCHUMER. Mr. President, we just passed our 235th judge. It is historic. It sets a record. In a few moments, I will be speaking about that. But first, let us finish our housekeeping and other business, so we can