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Statements Made by Members of the Three Affiliated Tribes at Hearing Before the Committee on Public Lands, August 7, 1950

United States Congress

US House of Representatives

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HOUSE OF REPRESENTATIVES
HEARINGS BEFORE THE COMMITTEE ON
PUBLIC LANDS
Subcommittee on Indian Affairs

H. R. 8411

Monday, August 7, 1950
Washington, D. C.

I N D E X

<u>STATEMENT OF:</u>	<u>PAGE</u>
MARTIN CROSS, Member, Three Affiliated Tribes, Fort Berthold Reservation.	
HON. USHER L. BURDICK, A Representative in Congress from the State of North Dakota.	
WILLIAM J. DEANE, Fort Berthold Indian Reservation.	
LAWRENCE M. STEVENS, Bureau of Indian Affairs.	
JAMES E. CURRY, Tribal Attorney for the Three Affiliated Tribes of the Fort Berthold Reservation.	

H. R. 8411

Per Capita Payments to Members of the Three
Affiliated Tribes, Fort Berthold Reser-
vation.

Monday, August 7, 1950

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INDIAN AFFAIRS OF
THE COMMITTEE OF PUBLIC LANDS,
WASHINGTON, D. C.

The Subcommittee met at 10 a.m., Honorable Toby Morris
(Chairman) presiding.

Mr. Morris. The committee will please be in order. The
committee has before it at this time H. R. 8411, a bill intro-
duced by Mr. Burdick, to provide for certain per capital pay-
ments to members of the Three Affiliated Tribes of the Fort
Berthold Reservation, North Dakota.

(H. R. 8411 follows:)*

*STATEMENT OF MARTIN CROSS, MEMBER, THREE AFFILIATED TRIBES,
FORT BERTHOLD RESERVATION.

Mr. Morris. Mr. Cross, will you please give your full name and the capacity in which you appear to the Reporter?

Mr. Cross. Mr. Chairman, my name is Martin Cross; I am a resident and enrolled member of the Three Affiliated Tribes of the Fort Berthold Reservation in the State of North Dakota.

First of all, I want to thank the members of the Committee for giving me this opportunity to come before you. I appear here today for and in behalf of Fort Berthold petitioners who favor early enactment of the legislation covered by the bills S. 3587 and H. R. 8411.

I am chosen spokesman for the group. I ask your favorable and expeditious consideration of my case. I only wish that more of the Indians themselves would personally come here and tell you their views, but due to lack of money, we are unable to do so. However, I have two or three written statements made by others that I would like to read, and I ask that they be inserted in the record, supplementing my remarks. I also have a petition with 328 names in favor of the per capita payments to be made to the Indians.

The legislation covered by the bills S. 3587 and H. R. 8411 has been discussed with the Indians many times, both by myself and others. The legislation has full support and consciousness of the Indians -- in other words, the matter has *been spelled out to them pro and con. It is on the up and up. The legislation in the form in which it appears before you is a product and result of our careful study and firm determination on the part of the petitioners, who actually reside on the Fort Berthold Reservation.

The policy outlined by this legislation is not intended or looking towards any material or physical changes in the status of the Indians, in so far as their wardship with the United States Government is concerned.

I do not propose or present any propositions whereby I am using the Fort Berthold Indians as a concession to gain my objectives. That is not my intention in coming here.

We asked Congressman Usher Burdick to introduce this bill for us.

The case I am about to present to you for consideration hinges on the question of the ability of the Indians to handle the funds in cash payments to the best advantage. These funds are awarded and recognized as due them for unseating them from their holdings by the reason of construction of the Garrison Dam Project.

It is my contention and understanding that when the U. S. Government set aside these funds provided for by the Sections 2 and 12 of the Public Law 437, the Government of the United States was providing satisfactory arrangements for circumstances of evicting the Indians out of their homes and lands. By the *very fact that the Indians have complied with the mandate of this public law 437 by ratification, by affirmative majority vote, under duress and depressing attitude of acquiescence to superior authority, lest they will not get any better deal by other litigation, it appears to me that there is absolutely no need for the U. S. Government to hold these funds back for any further wrangling.

The cooperation shown by acceptance of the act deserves recognition as good statesmanship on the part of the Indians. We ask for appreciation of this compliance by your show of granting our request by passing the legislation covered by the bills S. 3587 and H. R. 8411.

I am fully convinced that the sooner you release and pay over this money to us, the quicker you will relieve the tension and the anxious hopes the Indians are laboring under. I am anxious, too, that a harmonious and amicable relationship should be resumed and maintained between the U. S. Congress and the Fort Berthold Indians. I will concede that if the funds were made available in cash payments, one or two of the Indians might not get much good out of their respective shares of the money, but this should not be an excuse or hindrance to place the funds in trust status. I do not believe in penalizing all the Indians on account of one or two. The Indian Office will see to it that such occurrences be kept down to the minimum, and under control.

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*I protest any efforts by certain parties who laid careful plans to prevail upon the U. S. Congress to turn over to them these said funds, which are legally and rightfully belonging to the Indians. Undoubtedly, these parties planned for themselves well-paying jobs in handling of the funds for us. I am definitely against the flowing of this money to the pockets of others than the Indians only. I am also against the policy of too rigid control by the Bureau in doling out a little of it at a time. This practice is outmoded and should be liberalized.

I sincerely believe the members of this committee will readily see our point of view, that the only logical, fair and equitable way to distribute these funds is by means of per capita payments; only by this method will the benefits arising from it reach all Indians, regardless of their level or where they are. If the U. S. Congress does this, I will guarantee a wholesale satisfaction will be the outcome. I expect the Indians to come first, and not any outside administrators.

The Indian Bureau is supporting a plan submitted by the Tribal Council to use these funds in long-range programs. I maintain that such programs will not be the best answer to working out our problems as they immediately confront the Indians of the Fort Berthold Reservation. Such programs place a limitation upon the number of participants, because they select a few at a time. This will leave others out of the picture. All Indians, both in and out of the flooded area will be affected by this evacuation. Therefore a program of their own initiative and choosing is needed.

6

Past experience shows that there is a tendency to favoritism, to a system that will rule out a majority of the Indians.

The resolution passed by the Council, which resolution is opposed to H. R. 8411, is an indication of the attitude of the Tribal Council on it; they feel that it is one way out of the situation. The resolution lacks the popular support of the representative body of the Fort Berthold Indians. Its terms certainly do not show good statesmanship. The provisions of the constitution under the Howard Act do not provide the power to expell the members of the Fort Berthold Reservation.

This resolution is merely a sore head and desperate effort to stop the Indian from the support of H. R. 8411.

At this point, Mr. Chairman, I would like to present a petition that has been circulated among the tribe and signed by those who favor the per capita payments. I ask that it be inserted in the record to substantiate my presentation here.

Mr. Morris. Very well, it will be filed and become a part of the record.

7

*Mr. Cross. I have three statements here which I promised I would read to the committee, and I would like to do so if it will not take too much of the committee's time. They are short and are in support of my presentation.

Mr. Morris. They are brief?

Mr. Cross. There are three short statements.

Mr. Morris. Very well.

Mr. Cross. (Reading) "Fort Berthold Reservation, "Elbowoods, North Dakota, July 28th, 1950 - To Various Committees of the U. S. Congress - Honored Friends: I, Chester Smith fullblood Mandan Tribesman of above said Reservation, do hereby make the following statements believing same relevant and material in support of the enactment of legislation covered by the Bills S. 3587 and H. R. 8411.

"I favor passage of these Bills believing my reasons are based on actual facts and in confirmatory with the wishes and needs of the other Indians who are in same category as I am in, which includes young and old, rich and poor, all stations of life.

"I oppose placing any Tribal funds in control of the Tribal Business Council because any funds administrated by them never reaches below their class. If fund provided by Public Law 437 is entrusted to their control it means goodbye to the fund as far as we are concerned.

8-10

*"I have definite knowledge that the Tribal funds are squandered by their manipulations. \$36,000 used in purchased of Tribal Bulls has never been replaced or accounted for. Such program never benefits anybody, but only those who participate in the program. \$80,000 of Tribal funds has been expended as traveling expenses and per diem for the Members of the Council for trips outside of the Reservation including trips to Washington, D. C., these trips amount to pleasure trips for the members of the Council since they do not accomplish anything to justify the costs to the Tribe. This plainly indicates total loss. I certainly do oppose recurrence of these actions of reckless spending.

"I have not been able to get any Tribal loans or any assistance from Tribal enterprises; even the Indian Office gives me no consideration on my requests. I do not understand their reasons for such action.

"I have written to Senatory Milton Young and Congressman Usher Burdick requesting their help in removing restrictions from my lands which have been laying idle and have gone back to sod with good regrowth of grass, enough to graze lot of cattle and hay put up from it. Some of my neighbors who have stock have been grazing their animals on these lands, free of charge, for the last eight years. I am entitled to some compensation for it, but the Indian Office refuses to permit me to plow these land for cropland for which they were farmed before.

11

* "Some of our Indian leaders are so-called patent in fee Indians who have lost all of their land through their own management they are landless Indians and their thinking is same as land speculators by using their Indian status to chisle some land from the U.S. Government, when they became Citizens they lost their rights from Tribal status and therefore they are not entitled to any consideration from the U.S. Government as same as any other Citizens.

"I suggest that they be barred from holding any elective or appointive office in the Indian Affairs, and I further urge that they be denied any share of the proceeds from Tribal benefits.

"Under the requirement plans of the Extension division those men that stack sufficient hay will be given preference on cattle issues from the repayment program, but this plan is farce because I know definitely some boys were rejected even though they met these requirement because the Tribal Credit Committee who approves these applications favor their own selves and their relatives first, this is glaringly truth.

"We have asked Carl Whitman jr Chairman of the Tribal Council just what would happen in case some of their heavy loan clients would fail to meet their payments at all. The answer we received was that in such instances the Tribes is liable to absorb any losses occur, I definitely oppose such policy as being unsound, does anyone?

12

* "In regard to Garrison Dam controversy and the settlement in connection with this problem, we the bona-fide Indians did not have much say in the matter, the so-called patent in fees Indians took leading roles in the negotiations. We did not want to sell our land or properties, but it was these people who sold us down the river on pretext of representing the Indians. If these men have violated or committed any illegal acts on transactions during these negotiations, I want them to be held responsible and punish them to the utmost extent of the law.

"I have personally told these same conditions to Congressman Usher Burdick when he came to Elbowoods on May 27, 1950.

"Martin Cross who has been representing the outside people giving our views in connection with matters submitted by Our Tribal Council has been paying his own expenses, because the members of the Council have absolutely refused to pay any expenses for him from our Tribal funds. This fact will indicate the smallness and attitude and type of men running our Reservation.

"I earnestly request that Martin Cross be given every consideration by the members of the U.S. Congress.

"Please admitted these statements as evidence in support of the Bills S. 3587 and H.R. 8411.

"I hereby certify that these foregone statements are to the best of my knowledge and belief and hereby affix my signature *thereto in presence of witness. Signed Chester Smith

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"Witness Martin Cross

"Address Elbowoods No. Dak.

"Date July 28, 1950."

"Fort Berthold Indian Reservation, Elbowoods, North Dakota
"To: Various Committees of the U.S. Congress: I Philip Atkins, age 65 years old, Gros Ventre member of the above said Reservation, do hereby make the following statements with view to support early enactment of the Bills S. 3587 and H.R. 8411.

"I was employed by the Indian Service for a number of years in capacity of Stockmen, I drew lot of pay from Uncle Sams till. I am well acquainted with the conditions here and have watched the changes which have taken place among the people of the Ft. Berthold reservation, both politically and economically. I have lived here from my cradle to the present time.

"Basing my humble judgment on above facts and from my own personal experience, I can without hesitation recommend the passage of the Bills #. 3587 and H.R. 8411.

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* "Per-capita payments made to the Indians will be in keeping with the present trend of the progress of the Ft. Berthold people. Needless to say, these Indians on the Ft. Berthold reservation are above the status of aborigines, we are well qualified to handle our own monies for our own gains and benefits, for someone to say otherwise is not telling the truth. If the funds set-aside by the sections 2 and 12 of the Public Law 437 were made available direct to the Indians in pro-rata shares it will provide the opportunity long due the Indians, the funds will buy many things needed too numerous to list here.

"Now on the other hand, if these funds were placed in trust status and to be administrated by the Tribal Council with the approval of the Indian Office supervision it will be repetition of old system long endured.

"There is definite move to place these funds in trust status advocated by both Tribal Council and with the support of the Indian Bureau you can draw your own conclusions on the matter, my conclusion is that they can control the Indians better and keep them eating out their hands at their mercies.

"Tribal Council have made lot of bungling of our affairs and some misrepresentations before the U.S. Congress in that I mean they went and present some controversial matters which lacked our support, such actions caused lot of friction and distrust among our peoples.

15

* "The last two years our tribal funds has depleted for traveling between the points of Elbowoods and Washington, D.C. Sometimes our delegations consist of 15 men, they travel first class, pay themselves \$20.00 a day per-diem, some even prefer luxury airliners. It is not necessary to carry so many men I

believe fewer good men can accomplish same purpose, besides we supposed to have two Tribal attorneys hired on full time basis to look after our interest there.

"This extravagant expenses run up against our Tribal funds is disapproved by our Indians, such expenses do not justify the results obtained. Therefore I demand that the U.S. Congress order investigation into this misconduct. It amounts to embezzlement.

"I want to call the attention of the Members of the U.S. Congress to the following facts.

"Tribal Loan Committee is composed of five members. It happens in this case that four members of the Committee are closely related by blood and through marriage, the fifth member has sold out to them by going along with them. They have connived the functions of the committee by making and giving out loans and repayment cattle to themselves and their relations first, of course we protests such actions in vain. It is my understanding that some of these exceed \$10,000 each. This fact does not leave much money left for others to use. This may sound incredible but the records or files in the
16 *Indian Office will verify this. With these funds they buy machinery of latest models such as tractors with plows and hydraulic equipment, combines, trucks and even cars. I live close by the road and I have many times see them chasing around with these tribal financed machines for pleasure it seems, most of the time tractors are not pulling anything and trucks are empty.

"Those of us not related to them have been ignored. Our requests for loans are rejected time after time. They are very much prejudiced against those that are not in with them on their actions.

"These are few of the discriminatory facts that will show you without doubt that it is not wise to place the funds in their charge and will be better all around to distribute these funds by outright payments. One way to curb the racketeering practiced here.

"I know such complaints will not penetrate the inner circle of the Commissioners office since his local representatives have approve these acts. Agency Superintendent and Extension Agent have to sign all the papers passed by the loan committee. We made protest against these acts without any satisfaction. This is the reason why I am making my complaints direct to the U.S. Congress. This is the true picture as I see it here. I am hopeful that you will consider them for me.

"I also request of you honorable gentlemen that you extend
17 *kind courtesies to Martin Cross who is down there in the interest of the Bills S. 3587 and H.R. 8411.

"Thanking you in advance I am very sincerely. Signed
"Philip Atkins - "Witness Martin Cross - Address Elbowoods, N.D.
"Date July 28, 1950."

Mr. Morris. Is this the last one that you have now, Mr. Cross?

Mr. Cross. Yes, sir.

Mr. Burdick. Mr. Chairman, I suggest that he file the last one as part of his testimony. He does not need to read it because you have to read it anyhow.

Mr. Morris. Yes, that is true. I suppose this one is short?

Mr. Cross. Yes. I would like to read this one, Mr. Chairman, then I have one here that I will file. May I read this one, because I promised that I would?

18 Mr. Marshall. Mr. Chairman, I believe the witness ought to read his next statement. There are some very serious charges made in the first two statements, and if the next one contains charges as serious as these others, it seems to me that this Committee is under the duty of asking that an *investigation be made or of making an investigation itself. Those are very, very serious charges.

Mr. Morris. All right, proceed, Mr. Cross.

Mr. Cross. (Reading): "Fort Berthold Indian Reservation "Elbowoods, North Dakota, May 21, 1950. To: Various Committees of the United States Congress:- Honored Friends:-

"I, Mrs. Lillie Wolf, age 63 years old enrolled member of the Three Affiliated Tribes of the Fort Berthold Reservation in State of North Dakota, believing these to be relevant and material present them as my statement before the U.S. Congressional Committees for consideration.

"I wish to make some specific references in the interest of my constitutional rights and title to my own land and properties.

"I also wish to make a complaint against the Tribal Business Council of the Ft. Berthold Reservation for their arbitrary and unreasonable methods as being used against us of the Ft. Berthold Indians in running their office as Councilmen.

19 "There are some specific violations of my rights perpetrated by the Tribal Council deliberately, and I will state them *in item herewith to be considered by the Members of the United States Congressional Committees and placed the same in the Congressional Record for all to hear and see.

"First: Is the selling out of all constitutional rights, homes, lands, and properties of the Ft. Berthold Indians by the Tribal Council on pretext of representing our wishes in and before the U.S. Congress, they have done all of these acts without the knowledge, consent nor the approval of the represented body of the Ft. Berthold Reservation. I did not empower them to act in my stead on my individual rights.

"Second: Is their reckless depletion of our Tribal funds for their own pleasure and their selfish interests. There is no record or accounting of this expenditure available here. The years from Sep't 1948 to present time has been the most extravagant expenditure of any Councils expense that we know of. This will indicate the long fingered and greediness of our Members of the Council. The Chairman Carl Whitman jr. and James Hall a member of the Council are the aggressive ones in draining our Tribal funds.

20

"Third: The Tribal Council did not permit any negatives votes to be considered during the voting on the question of acceptance or rejection of the \$12,605,625 offer as made by the Public Law #437, the reason for that is very obvious they were afraid that we might reject the measure, the election for the matter was supposed to be on voluntarily affair, the polls were * open on Feb 1st, 1950 and to remain open until April 28, 1950, but instead of following this course that they set, they turned about and conduct a door to door soliciting of votes by the members of the Council, they used forcible ways, intimidation and scaring the people into voting for the measure. They did not come to my place because they knew fairly well that I will not sign up with them, since they did not come to my place it is plain to see that they skipped those place that they know were against the measure, if they had conduct fair campaign they would have come to my place regardless. In conclusion I will try to show you my proof of charges. I am a poor widow. I am now living on my own place on my own allotment. I inherited all of my deceased husbands properties. It is my definite understanding that regardless of race, creed or color that our homes and property were sacred and that no one has any right to molest or disposses us of our homes and property without our consent or permission, that being the case I am not giving up any of my lands or property now. If the Almighty Creator of this Universe so desires to make any changes he will do so. Until then I will stand pat.

21

"I made charges that Tribal Council have squandered our Tribal funds for sole purposes of padding their own pocket books. There is nothing to show they have spent our funds any good cause or any profitable returns to the tribe for our dollars worth. I am asking the U.S. Congress to make thorough *investigation of these charges of exploitation of our Tribal Funds and make restitution of the funds if found true.

"The 525 votes that were presented to the Secretary of Interior for acceptance of the Public Law 437 is very much questionable we have no record here in the Tribal Council files to show legality of these votes.

"Those of us that oppose the law were not given any opportunity to file or express our dissenting views in this matter. We deem this unfair and undemocratic action.

"We still have our titles and retain written guides for use of our timber reserve, my father Harry Eaton was the main one to set aside the Tribal timber reserve so that a greatest number of the Indians will get the most benefit from the timber products such as for house logs, rails, posts and drywood for fuel for our stoves and heaters, and now Carl Whitman jr. who was born just recently comes along and disrupt this guide and sold us out in violation of everything set up for our benefit. I personally want to continue to get my supply of fuel from the timber reserve and the same with coal rights.

"Personally I do not intend to accept any money for sale of my lands, properties and for my constitutional rights, inasmuch as I did not participate in any of the negotiations or deals conducted by the Tribal Council. Money is easily spent and nonrecoverable while the lands are valuable and remain as such for everlasting so I will keep the land.

22

* "These fcs statements are made not lightly for I am sincere and earnest and I hope that the U.S. Committee members will take some action from it.

"Please may I ask that you will lend all possible aid and extend all courtesies to Martin Cross who is in Washington as our delegate. Signed Mrs. Lillie Wolf - Witnesses Mary Smith "Mattie Griswell."

Mr. Chairman, there is a little article written in the Bismarck Tribune by Matt Crowley of Hebron, North Dakota under date of January 19, 1948. He calls it, "Political-Economic Treason" on the Fort Berthold Reservation. I would like to have that inserted in the record.

Mr. Murdock. How long is the article?

Mr. Cross. I will not read it. I will just turn it over to the reporter to be included in the record.

Mr. Murdock. Without objection it may be included in the record.

(The matter referred to is as follows:) "Political-Economic Treason, Hebron, N.D., Jan. 19, 1948 - Editor, Tribune:

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* "It is very depressing to read in the daily papers of the suffering and hardship among the American Indians and most especially so among the Indians of the two Dakotas, where we have had seven of the best years in a row that we ever had, or can ever expect to have again.

"Our Indians west of the Missouri in the two Dakotas are very well located, they have plenty of room, the topography of their territory and other environments are suited to their tastes and with any intelligent and sagacious supervision they should be better off then any citizens of the two states.

"It seems to be the policy of the government, or that segment of the government which has control of Indian affairs, to keep the Indians eating out of their hands so as to perpetuate their jobs and it necessarily follows that all such men are incompetent and inefficient executives.

"A few years ago, one government agency furnished the Indians several hundred head of female cattle of good quality in the month of June. Among those cattle were 300 herd of yearling heifers which were turned on the range with the cows and bulls. There was no provision made for taking care of the

heifers the coming winter and every heifer that got in calf, which was most of them, died before spring. Then the agents of our great white father claimed that you can't do much for the Indians.

24 "After 70 years of maladministration of Indian affairs it *is time we adopt a sound and constructive policy towards our first citizens who were naturally resourceful and self-reliant before being brought under the white man's heel.

"Doling out money from the federal treasury is not a cure-all and will not help the Indians any more than easy credit and other easy emoluments will help our soldier boys who have had no experience in handling their own affairs.

"Our politicians all vie with one another and also collaborate in bleeding the treasury to assuage their constituents and then effect their support of election time, by virtue of their prowess in bringing home the bacon.

"If our present form of government is to survive, we must get men at the head who have guts enough to take the bugs out and adhere to the principles of the founding fathers who were not interested in self aggrandizement and never condoned either political or economic treason. - Matt Crowley."

Mr. Cross. The resolution that I made reference to reads thus:

25-26 "BE IT RESOLVED, by the Tribal Business Council of the Three Affiliated Tribes of Fort Berthold Reservation that it opposes H.R. 8411 of Congressman Burdick requiring that the balance of the proceeds of the Garrison Dam Settlement be divided equally among the members of the Tribe, unless said *bill shall be amended to provide that each and every member receiving such a per capita payment shall relinquish his membership in the Tribe and all future rights or benefits that may arise therefrom."

This is a record of the minutes of the Tribal Council of June 8, 1950. It is my understanding that this resolution was drafted as Exhibit A by Mr. James E. Curry, Tribal attorney, Washington, D. C. I stated before that this is just an indication of the attitude of the Council. I would like to have that inserted in the record.

I am not here to make any concessions as I said before, Mr. Chairman.

Mr. Murdock. The document you just handed to the reporter is the official minutes of your Council?

Mr. Cross. Yes, sir.

Mr. Murdock. Without objection, it may be incorporated into the record.

(The matter referred to is as follows:)

27

*Mr. Cross. Mr. Chairman, and gentlemen of the Committee, I believe my remarks here are not in a sense a demand. I believe that they are conciliatory, and I ask that the Committee give us favorable consideration.

I know that we have imposed on your time. The House Committee on Indian Affairs of the Public Lands Committee has spent a lot of time on us, and we are grateful for it.

That is all, Mr. Chairman.

Mr. Murdock. May I ask a question or two, Mr. Cross? H.R. 8411 is Congressman Burdick's bill, "To provide for certain per capita payments to members of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota." Are you in favor of this bill or opposed to it?

Mr. Cross. Yes, sir, I am in favor of it.

Mr. Murdock. With certain amendments which you suggested?

Mr. Cross. No, sir, I would not want any amendments. I favor it in the form in which it appears.

Mr. Murdock. You favor it in this form?

Mr. Cross. Yes, sir.

Mr. Murdock. Are there any questions?

Mr. D'Ewart. If this money is divided up among how many members of the Tribe will it be divided?

Mr. Cross. I would say approximately 2,215.

Mr. D'Ewart. How many of those are minors?

Mr. Cross. I would say half of them.

28

*Mr. D'Ewart. Half of them are minor children?

Mr. Cross. Yes, sir.

Mr. D'Ewart. And it is your thought that under the provisions of this bill that that money should be paid directly to those minors without limitation?

Mr. Cross. Well, I feel that all of us would feel that our share would be placed to the credit of IMM accounts, which are under the supervision of the Bureau.

Mr. D'Ewart. Do you think that there is anything in Public Law 473 that prevents what you propose to do in H.R. 8411?

Mr. Cross. No, sir, I do not.

Mr. D'Ewart. I do not think so either. I think you can do it under the present law. I believe that you can make this distribution under the present law.

Mr. Cross. Yes, sir.

Mr. D'Ewart. That is all.

Mr. Murdock. Mr. Marshall?

Mr. Marshall. I have no questions.

Mr. Murdock. Do you feel, following that answer to Mr. D'Ewart's question, that existing law provides for the distribution of the funds in such a way that the funds for the minor heirs or the children could be safeguarded?

Mr. Cross. Yes, sir, under H.R. 8411 that will be the proper solution.

29 *Mr. Murdock. Does the existing law make that provision either way?

Mr. D'Ewart. No, the existing law says the monies shall be placed in the Treasury to the credit of the Tribes. It does not make any provision whatsoever for distribution, but it being placed to the credit of the Tribes, why, then, it is a matter of whether we would distribute it as a per capita payment or distribute it in some other way. It says it shall remain in the Treasury to the credit of the Tribes.

Now, it is contemplated by the Congress that it will remain in the Treasury until Congress takes further action. There is nothing in this law that would prevent, as I understand it, the per capita distribution of that fund.

Mr. Cross. That is right, sir.

Mr. D'Ewart. It may be that I am wrong about that, but I think that is correct.

Mr. Murdock. Then the existing law does not provide for per capita payment, but this bill provides for per capita distribution?

Mr. Cross. Yes, sir.

Mr. Murdock. And you would prefer to have it on the per capita basis, even for the children or the minors?

Mr. Cross. Yes, sir, they would prorate their share of all the minors.

30 Mr. Murdock. Well, we thank you very much for your state-
*ment. Unless there are further questions I would like to call
on Congressman Burdick whose bill we are considering.

31 *STATEMENT OF THE HONORABLE USHER L. BURDICK,
A REPRESENTATIVE IN CONGRESS FROM THE STATE
OF NORTH DAKOTA.

Mr. Burdick. Well, first of all, Mr. Chairman, I want to thank the Committee for permitting this hearing, which is sort of an ex parte hearing, but with the understanding that the testimony which is now taken will be held in abeyance until the other side can be heard, as we are not making any attempt to take any advantage of anyone.

Mr. Murdock. Congressman Burdick, may I interrupt you for just a moment to say that you need not thank the Subcommittee on Indian Affairs for wanting to hear you.

Mr. Burdick. Yes.

Mr. Murdock. And may I also say that I recall when I came here 14 years ago you were on the old Indian Affairs Committee before the Reorganization Act, and one of the most valuable members of the old Indian Affairs Committee. I know of no one, unless it be your deceased colleague, William Lemke, who has been more careful and energetic in his friendship for, and looking after the interests not only of the Indians of the Dakotas, but the Indians throughout the Nation. I am very glad to welcome you back. I would be glad to welcome you back as a member of the Committee, but, be that as it may, I am glad to welcome you back as a witness.

32 Mr. Burdick. Mr. Chairman, I want to say that you put
*your finger on a question there that I want to go into a little. You say under the present law there is no distribution provided for on a per capita basis. Now, that is correct. At the time Mr. Lemke and I were working on the original bill, Mr. Lemke suggested to me to hold up my amendment for per capita payments until the other matter was settled because that might prejudice final settlement, and that is the reason the bill is in here separately.

Now, as to the reasons for this bill, I want to say to you that I visited the Reservation here some time ago and listened for two or three hours to the complaints of the Indians, and they, without any dissenting vote, and I imagine there were about 100 of them there, apparently were all dissatisfied with the way the Tribal Council has handled their money, and that they would handle it in the future as they had in the past, and a great many of them stood up and spoke, and while we did not take any record of it, it is clear in my mind just what happened.

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Now, their complaint was this, and that is the reason the bill is in here, that the Tribal Council really has its hands tied. It is not probably as mean as they think it is, but when making loans to these Indians they have to take into consideration the fact that they have land, and their ability, and this and that. In other words, they must be pretty well fixed before they can get any credit. Now, that leaves all *of these other people out, and it is apparent from the testimony I heard at that time, and from what you have heard this morning, that some Indians get benefits from the use of the Tribal funds, but a great many of them do not participate and cannot participate. Whether it is due to the pernicious activity of the Tribal Council, or to conditions under which they must make a loan, I do not know. The final hearing will dispose of that, but the fact is that some of them are getting help and some of them are not getting help, and so they said, and especially those who were not well to do, let us have our per capita payments, and let us do something for ourselves, because they will not do it for us, and yet they are using our money to do it with, and we object to sitting here without any benefits and letting that Tribal Council use our funds as a basis of credit and distribute it around the Reservation where we do not get any of it. That explains Mr. Cross's idea when he wrote to me about these per capita payments. That is in substance what he said. This is not my bill, you understand. I want those Indians to do their business just as they want to do it, but Mr. Martin Cross told this story of how they are treated, and I then suggested this per capita payment bill. I do not know how you are ever going to settle that trouble on that Reservation for those Indians unless, through the wisdom of this Committee, you can devise some plan by which those who do not and cannot expect to receive any benefits from the Tribal Council loans will receive direct help from the Government like a per capita payment, because if we leave it as it is, it is just a source of trouble and a fight always.

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As you know, they have condemned the greater portion of that Reservation, that is, the best land in the Reservation for the purpose of building a reservoir, but under the law you passed settling that matter of damages the Indians are to remain in possession until it is needed. Well, now, with the present war trouble and probably several other wars right following it, the chances are that they will be in possession a long time. I want to do whatever I can to bring justice to those Indians who now receive no benefits, and can never receive any benefits from the Tribal Council because they say they must have so much before they can get a loan. We must be satisfied that they are going to go through with this cattle program, and see what a chance it gives for a favoritism.

Mr. D'Ewart. Will you guarantee that if we make this per capita payment that it will settle all troubles among the Three Affiliated Tribes?

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Mr. Burdick. No, but it will settle some of them. That is about all we, as Congressman, can do, settle some of them. We cannot settle all of them. I do not want this Committee to feel that it is my idea to raise any way of taking funds away from the Tribal Council, but I am in here representing the underdog Indians as well as the upper class Indians, and I *I know from the testimony that I have heard that these fellows down the grade are not participating in the program. If the other side can show you that that is false, if they can present evidence here showing that any Indian who will take care of livestock can get credit, why, then, that has to be considered in your conclusions on this matter.

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Mr. Morris. I am glad that you are bringing this to the attention of the Committee, Congressman Burdick, and I want to express my appreciation to you for doing so. I had to step out for a moment, but I have heard enough of your statement to know what your ideas are, and I agree that something ought to be done in the way of investigating this matter. As to what the final answer is I do not know. As I told you a day or so ago, I am happy to accommodate you and these gentlemen who have come here to make this protest, and to appear in behalf of H.R. 8411, but, of course, we will not be able to decide the matter this morning for the reason that we will have to give the other side an opportunity to be heard also. However, I think growing out of your appearance here and your efforts we may be able to work out a program that will be beneficial to all of these people. Certainly, we will have to give a great deal of weight to the program that these people themselves want to carry out. My experience has been in dealing with these Indian Tribes that they know a lot better about how to use their own funds than we do where a group really gets *together to formulate a program. On the other hand, they will make mistakes from time to time, as they are subject to mistakes just as we are. However, we certainly do not want to permit this Council or any other group to show favoritism toward certain people, and we are not going to permit them to do it if we can help it, nor are we going to permit them to dissipate these funds or to allow unnecessary expenses or things of that kind.

I do not know what the answer is, but I do assure you, as far as I am concerned, and I believe I speak the sentiment of each member of this Committee when I say that we are vitally concerned with this, but it is going to take us a little time to figure the thing out.

Mr. Burdick. While you were out I made the statement that this was sort of ex parte testimony in here today, but that will be supplemented before you reach any decision by whatever the other side has to say.

Mr. Morris. Yes, sir.

Mr. D'Ewart. I wonder if we could have Mr. Stevens take two or three minutes to tell us just exactly what has been done so far under Public Law 437. It is now 10 months since the bill was signed by the President, and I would like to be brought up to date on it.

Mr. Morris. Yes, I would like to do that. Are you through with your statement, Congressman Burdick?

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*Mr. Burdick. Yes, sir.

Mr. Morris. If there are other Indians here we want to hear them. Do you have a statement to make?

Mr. Deane. Yes.

Mr. Morris. Will your statement be brief or lengthy?

Mr. Deane. I want to read my statement, sir.

Mr. Morris. All right, let us hear this witness, and then we can hear Mr. Stevens.

Mr. Deane. Thank you.

STATEMENT OF WILLIAM J. DEANE, FORT BERTHOLD INDIAN RESERVATION.

Mr. Morris. All right, you may proceed.

Mr. Deane. Mr. Chairman, and members of the Committee: I reside in the Nishu district of the Fort Berthold Indian Reservation, and am an enrolled member of the Three Affiliated Tribes.

I was chosen by the Arikara Tribe, to which I belong, to appear before this Committee. I am authorized to speak for those who sent me. The opinions I express are concurred in by all the adult members of my Tribe whose names appear on the petition as favoring Representative Burdick's bill, H.R. 8411.

Most of the people I represent have families, and reside in or near the taking area of Garrison Reservoir. We urgently request the passage of this bill, the monies involved arising out of Section 12, Public Law 437, 81st Congress. We do not request the entire payment of the amount of \$7,500,000, if doing so will hinder the carrying out of the provisions of Section 5, paragraph (A,B,C,) Public Law 437. We request direct payment due all adult Indians concerned and that the remainder per capita due minors be retained in trust until they become of teen age or school age.

We strongly protest the methods employed by the autocratic Tribal Council. There is no assurance if the monies were allocated on a loan basis, that past performance of setting

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*their relatives up in business and refusing just loans to

deserving persons would not be repeated. We Indians detest and fear Communism and dictators, but the Communists may well have established a beachhead in our midst. We have had a taste of dictatorship under the present Council. This applies not only to the way our funds have been handled, but also other tribal affairs. There has been a strong feeling of frustration for those who have been fortunate in acquiring an education and professing some semblance of intelligence. Those less fortunate feel there is nothing that can be done about the situation and blindly follow the Council's action and as something that must be accepted under the Tribal Council system.

We have quite a number of ex-servicemen on our list, who are entitled to preference rights, but have been badly neglected. As Al Smith would say, "Let's look at the record." Check in the files of Indians who have fought in war protecting this Nation. We make no apology for the serviceman Indian. Indians have been instilled with a sense of duty and perform as their conscience dictates. Few, if any Indians, have been known to hold Communist Party cards. We are red only in our pigmentation.

40-41 Being a member of the American Legion, I am satisfied with the professed American way of life. I accepted the wish of my people to assist my good friend, Martin Cross, also a member of the Legion, to express the desires of my people. It is *with righteous indignation and a heavy heart that I have observed these things.

I speak for those members of the Three Affiliated Tribes who have not had a fair deal at the hands of the Council. Only a select few are given monetary aid or given an opportunity to obtain an education with the Tribal loans. Many of them have been able, with their own funds, to attend institutions of higher learning. Their scholastic performance has been creditable. However, it seems to be an avowed purpose of the Council to keep the Indians in a state of ignorance about what is going on in our tribal affairs.

It is with a feeling of pity and resentment that we see present generation children leaving school with only an eighth grade education due to lack of funds. Is it any wonder that we sometimes are confronted with a juvenile delinquency problem! It is for this reason that we want the monies due children to be left in trust for them. We do not want the Council to dip in the till whenever they choose unless approved by all members of the Tribe.

42 *And, on the other side of the fence, we demand complete payment to individual adult Indians of the rightful sale prices of their lands. There can be no reasonable argument to refute this. Council members and their supporters in higher positions believe that the Indians would squander their money if paid in full. This is their prerogative. However, knowing my people, I feel that they would spend their rightful money for things badly needed, just as other Americans would spend

money. And, if there is any squandering to be done, let the fightful designees do the squandering. We do not believe that this right should be reserved to council members. I say this in the light of their past performances.

One other thing I would like to point out to the committee. Many of us signers of this petition cast our votes favoring the acceptance of the Public Law 437 because we had no choice or alternative but to accept the law. However, the 525 votes presented to the Secretary of the Interior on March 16, 1950, by the Tribal Council represented the acceptance of the Act only; it did not authorize or give the Tribal Council the right to go ahead and use them as a means to carry out their plans. I want to point this out clearly to the committee so that you will understand that 525 votes cannot be considered as favoring any plans of the Tribal Council.

43 Gentlemen, I am only a voice for my people. Perhaps it is only a small voice and will go unnoticed. I am speaking *honestly — the way my people desire. I lack the designing influence of some who will speak before you. In any event, I want my opinions, which are the expressed desires of those who sent me, to go on record. There is nothing more I can do.

Mr. Morris. Does that complete your statement?

Mr. Deane. Yes, sir.

Mr. Morris. We thank you very much. We appreciate your contribution to the record that is being made here and the effort of all of us to try to find a proper solution to this problem.

If there are no questions, thank you a lot.

Now, Mr. Stevens, we would like a statement from you regarding this matter.

Mr. Murdock. Before Mr. Stevens starts, if I might make a comment as to the last witness, I feel he has certainly presented one side of this picture for the consideration of the committee in all of its complications.

I created a smile here some time ago when I suggested we ought to enlarge this committee to include thereon King Solomon. I am more and more convinced that we need plenty of wisdom to decide the matters that are being presented today with regard to Indian affairs and with regard to other bills, too.

I want to compliment both witnesses on their splendid statements.

Mr. Morris. Now you may proceed, Mr. Stevens.

44 * STATEMENT OF LAWRENCE M. STEVENS, BUREAU OF INDIAN AFFAIRS.

Mr. Stevens. Mr. Chairman, I understand you would like me to summarize what has been done on the Fort Berthold relocation problem since the passage of Public Law 437 last October.

Mr. Morris. That is the main thing we would like to have you do.

Mr. Stevens. The Act of October 29, 1949, provided approximately \$12,500,000 to be paid by the United States to the Fort Berthold Indians in return for the taking of 155 acres of their best bottom lands for Garrison Reservoir.

The Act also provided there would be a board of appraisers of three members designated respectively by the Army, the Department of Agriculture, and the Department of the Interior. That board was formed, and the appraisals have been completed.

The Act then provided that the appraisals of that board would be presented by the Corps of Engineers, who were building the dam, to the Indians concerned. That meant two types of appraisals were to be presented, one involving tribal assets and the second involving the assets of the individual Indians, since a large amount of the land was allotted.

The Corps of Engineers agreed last week that they would transmit the appraisals to the Tribal Council before the end of the week, and I assume, therefore, they will be received by the Tribal Council today, and that will leave the Council free to 45 *act upon the tribal portion of the appraisal. My own anticipation is that they will react favorably and accept it.

The Tribal Council, of course, cannot act upon the individual appraisals, because those are up to the Indians concerned, and the colonel in charge of the Corps of Engineers at Garrison is conferring at this time with our people to determine the best way of submitting individual appraisals to the Indians, because, as you can well realize, it is a rather complex matter to explain to all of them exactly what is involved. But we hope to work out a procedure and to get it under way in the very near future.

The Act provided that the Corps of Engineers must do the explaining, but it is believed that they can authorize our people, who know the Indians and work with them every day, to act in behalf of the Corps.

Coincidentally with what I have just described, the Tribal Council has been very active in formulating plans for the wisest possible use of the funds to be obtained under Public Law 437, and they have adopted a plan which our Bureau — and, as far as I know, the Department of the Interior — thinks is a wise plan. They are opposed to per capita payments, but favor a program broken down into land credit and water development, and for the land they propose to use \$1,500,000 with

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which they would establish a sort of land pool which would be used to clear up the complicated land status which now exists *and which prevents the use of the land in economic units; because, on that reservation, as on so many others, the heirship determinations over several generations have fractionated the land, and much of it is under lease and very little is in large enough units to be used by a family to make a living. But they believe through the purchase of that land and its resale and use by Indians on an economic basis there could be a substantial number of those Indians who could make a living on the residual areas.

The second phase involves \$3,000,000 for credit which would be used to make loans to individual Indians in reestablishing themselves on the residual areas and purchasing the necessary equipment and the many other things needed in farming or ranching starting from scratch.

The third phase involves \$150,000 for their water development program which is designed to drill wells in those parts of the residual areas where there is not now a sufficient water supply and where the use of the land would be greatly improved through an additional source of water.

The tribe is ready to act immediately upon receipt of the money, and they will be able to get some of the money when they act upon the tribal portion of the appraisal.

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There was some question during the last few months of whether or not the \$5,000,000 originally available in the Engineers' appropriation could be turned over to the tribe with- * out an appropriation under the provision in this 1951 Appropriation Act, but the Solicitor's Office of the Department recently ruled that was questioned and should not be done. But we do hope that this payment of actual damages in the next few days will enable the tribe to proceed under the first part of the Act.

Mr. D'Ewart. How does your Bureau interpret section ??

Mr. Stevens. I interpret that as referring to the actual damages received by the individual Indians and not as applying to the tribal funds. I think the tribal funds represent the last remains of the tribal heirship or a large proportion of it, because those lands which will be lost very soon are not replaceable and the funds received in return for those lands should be considered as capital and not as income which could be spent immediately for living expenses. I think it should be re-invested to replace as far as possible the valuable assets which will be lost.

Mr. D'Ewart. As I understand, if this submitted to the tribe today, then the tribe has 90 days to accept or reject the proposal?

Mr. Stevens. That is correct.

Mr. D'Ewart. And if they reject it, then the U. S. Army Engineers institutes proceedings in the United States District Court and the matter is handled through the courts from there on?

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*Mr. Stevens. That is correct.

Mr. D'Ewart. Does that apply, now, both to individual allottees and the tribe?

Mr. Stevens. The individual allottees, as I understand, would have the same right.

Mr. D'Ewart. They have exactly the same right?

Mr. Stevens. Yes. But it is my understanding that the tribe can proceed immediately without waiting for the presentation to the individual allottees.

Mr. D'Ewart. That will be determined when it is submitted to the individual allottees?

Mr. Stevens. Yes.

Mr. D'Ewart. Is it submitted by registered mail or by personal contact so that the 90-day period for rejection can be fixed?

Mr. Stevens. That is one of the details being worked out by the Engineers. I am quite sure it will be by personal contact in each case.

Mr. D'Ewart. And if the individual allottee accepts, then, under section 7, the amount will be deposited only for damages and not the amount that is due for settlement of his holdings?

Mr. Stevens. That is right -- the appraisal price set by this board.

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Mr. D'Ewart. But today you are at the point of submitting it to the tribe?

Mr. Stevens. Yes, sir.

Mr. D'Ewart. And 90 days from now it will either be accepted or rejected by the individual allottees, or at least by the tribe?

Mr. Stevens. Yes. I anticipate the tribe will act well before the 90 days, because they are anxious to get that money so that they can undertake beginning the program.

Mr. D'Ewart. Then, when the next session of Congress convenes, the bill which we have before us and others would be in order for further disposition?

Mr. Stevens. Yes; except I think the Tribal Council is showing extraordinary foresight in its plans and, if it

should decide it wants to make a per capita distribution of a portion of its funds, then it could have the right to do so.

Mr. D'Ewart. Without further legislation, or with further legislation?

Mr. Stevens. I would say without further legislation.

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Mr. Stevens. There is one other aspect which I would like to mention, which I think is quite pertinent; that is, when the area directors of the Indian Bureau were in Washington at the end of June to meet with the new Commissioner, some of them stayed over, including the area directors from Billings and Aberdeen, who are particularly concerned with this Fort Berthold problem, the Billings one because it was handled from that office for three or four years and the Aberdeen one because it is a new office and will have immediate jurisdiction in the future. But the Commissioner was most explicit in instructing the area directors to take every possible step to work out the best possible deal for the Fort Berthold Indians who are being dispossessed. He does not want a repetition of what took place in the last century when the Indian agencies were set up and very little thought was given to their integration with the non-Indian population. Commissioner Myer is strongly of the opinion that the Indians will ultimately be a part of the general population and that this forced relocation, however unfortunate it is for the Indians, does present an opportunity to make a new start and not repeat the past mistakes. So he is giving very careful consideration to the relocation, including the school problem, the road problem, health, welfare, and all of those other matters which are now handled by the Indian Service but which need not necessarily be handled by them in the future.

Mr. D'Ewart. Are you having good cooperation from the State and the university in the relocation job?

Mr. Stevens. Yes. The university and the State both have been in on it, Mr. D'Ewart, and I believe they are fully aware of the problem and are willing to cooperate. The Tribal Council, of course, is working with them, also.

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*Mr. Morris. As I recall it, in the original acceptance of this legislation, there were 525 affirmative votes by qualified voters of those three tribes.

Mr. Stevens. Yes.

Mr. Morris. And there were something over 900 qualified voters. There were 525 who affirmatively voted for it, and there were 900 and some odd entitled to vote. Do you know whether the others just refrained from voting or how much opposition there was to this legislation?

Mr. Stevens. The situation was this, Mr. Chairman. There are 991 adult members who were eligible to vote. The Tribal Council was anxious to get the acceptance at the earliest possible time, because that was when the interest started to run in the Treasury. So, when the 525 favorable votes, which was more than half, had been received, they acted. I am quite certain that others have since been received, but that was the number which was presented to the Secretary of the Interior and which officially set the acceptance date, I believe, as March 5th of this year.

Mr. Morris. The reason I ask that question — and you can see the pertinency of it — is to find out, if I can, about what percentage of the Indians themselves are in favor of the legislation, to start with, and about what percentage of them favor the program being carried on.

Can you give us any idea at all about that?

Mr. Stevens. Mr. Cross mentioned 328 as having signed the petition, which would be far less than half. I do not know whether some of them are minors or not. I have not seen the petition. But from all the indications we have gotten, a very substantial majority is in favor of the Tribal Council's plan.

Mr. Morris. Gentlemen, I suggest this: I have a very important matter that is coming up before the House today, and I must be there. I think we had better pass this over for another hearing at a later time.

Mr. Attorney (Mr. Curry), do you want to make a statement before we conclude?

53 *STATEMENT OF JAMES E. CURRY, TRIBAL ATTORNEY FOR THE THREE AFFILIATED TRIBES OF THE FORT BERTHOLD RESERVATION

Mr. Stevens. I just want to point out that the Tribal Council did pass a resolution opposing H.R. 8411, and they added a rather pertinent statement to the effect that they were opposed to it unless it was amended to provide that any member of the tribe receiving a per capita payment should thereby relinquish his tribal rights.

Mr. Morris. You may proceed.

Mr. Curry. My name is James E. Curry; I am tribal attorney for the three affiliated tribes of the Fort Berthold Reservation. Mr. Ralph Case, who also represents them, is present and may want to say something.

I only want to clarify one point, Mr. Chairman, and that is that there has been considerable criticism in this record of the Council for not having made available this money to the people of the Reservation. As a matter of fact, what appears from a careful reading of Mr. Stevens' testimony is that the Council has not laid its hands on one red cent of this money. It has been tied up ever since the Act was passed, and it has been tied up too long and should be made available promptly.

54 Mr. Stevens now testifies that \$440,000 will be made available in a few days to the Council. That is not enough. *I think more should be made available, and it is needed. These people are in desperate need either of getting the money to which they are entitled as land owners or getting loans out of the additional funds provided to the tribe. They want to do some haying this year, and the haying season is passing without their getting any money for equipment. I think the money should be made available to the Tribal Council for handling under the provisions of the Act as promptly as possible.

Now, as to the other charges, that they are slow about getting the money out to the Indians, I think that was covered by this statement that they have not gotten their hands on one cent of the money. That has been delayed by the Government.

As to the charges about mishandling and dishonesty, I do not think they should be answered at this time. I think the committee ought to set a time when the Council can come in and make its own answers to those charges. I have no knowledge that there has been any dishonesty or mishandling of those funds, but I am confident the Council can defend itself.

55 I do say, though, this demand for per capita payments has a certain sentimental basis, some may say, perhaps, a very proper basis. These people want to get their hands on some of that money, and it has been tied up by delays; so perhaps they feel if their tribe cannot get hold of the money any other way, *it is better to divide it all up, however mistaken that procedure might be.

That is all I have to say at the moment. I hope the committee will hear the rest of the Council whenever they are willing to come in.

Mr. Morris. We will do that just as soon as possible, and we will adjourn at this time subject to the call of the Chair.

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