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Authorizing the Mortgaging of Tribal Lands on the Fort Berthold Reservation for Certain Purposes

United States Congress

US Senate

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AUTHORIZING THE MORTGAGING OF TRIBAL LANDS ON THE FORT BERTHOLD RESERVATION FOR CERTAIN PURPOSES

MAY 7, 1970.—Ordered to be printed

Mr. BURDICK, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany S. 774]

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 774) to authorize the mortgaging of tribal lands on the Fort Berthold Reservation for certain purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 774, introduced by Senator Burdick, is to authorize the mortgaging of tribal land acquired after the date of its enactment. Funds received as a result of mortgage would be used for the express purpose of buying lands within the boundaries of the reservation to improve the tribal land base. Title to land purchased under this authority would be taken in trust and would be subject to foreclosure or sale pursuant to the terms of the mortgage and in accordance with North Dakota law with the United States an indispensable party to any such proceeding with the right to remove the case to the U.S. district court where the land is located.

NEED

The Fort Berthold Reservation had an original area of 623,589 acres. Through allotment, sales, and fee patents the reservation has substantially diminished. However, the largest single loss of tribal property resulted from the taking of land for the construction of the Garrison Dam and Reservoir project. Under the act of July 31, 1947,

as amended October 29, 1949 (61 Stat. 690, and 63 Stat. 1026-1049), the United States took approximately 175,700 acres for that project.

The Three Affiliated Tribes used considerable sums of money made available for rehabilitation after the reservoir taking, in the acquisition of tracts of land which were scattered throughout the reservation. Those funds did not create any significant impact on the economic growth of the agriculturally oriented membership.

The enactment of S. 774, which the Indians have requested, will be of great assistance to them in improving the general economic conditions on this reservation.

COST

No additional expenditure of Federal funds will result from the enactment of this legislation.

DEPARTMENTAL REPORTS

The favorable reports of the Department of the Interior and the Bureau of the Budget recommending enactment of S. 774 are as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 1, 1970.

HON. HENRY M. JACKSON,
*Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on S. 774, a bill to authorize the mortgaging of tribal lands on the Fort Berthold Reservation for certain purposes.

We recommend the enactment of the bill.

The bill authorizes the mortgaging of tribal land acquired after the date of its enactment, such acquisitions being subject to the approval of the Secretary of the Interior or his authorized representatives under such terms and conditions as the Secretary may prescribe. Any funds received as a result of a mortgage authorized by this bill may be used only to purchase property within the boundaries of the reservation, and title to this property shall be taken in the name of the United States in trust for the Three Affiliated Tribes. Land acquired by the tribes under this legislation shall be subject to foreclosure or sale pursuant to the terms of the mortgage and in accordance with the laws of the State of North Dakota with the United States being an indispensable party to any such proceeding with the right to remove the case to the U.S. district court for the district in which the land is located. It further provides that the United States shall have the right to appeal from any order of remand entered in such action.

The acquisition of additional lands to enhance the economic position of tribal members in the farming and livestock industry has been one of the primary objectives of the Three Affiliated Tribes of the Fort Berthold Reservation in North Dakota for nearly a quarter of a century and this bill is designed to facilitate the tribes' efforts in this endeavor.

The Fort Berthold Reservation had an original area of 623,589 acres, lying in the northwestern part of North Dakota, divided

throughout its length from the northwest to the southeast by the Missouri River, and further by the Little Missouri in the southwestern portion. 3,405 allotments were made to members of the three tribes (Arikara, Gros Ventres, and Mandan) to occupy the reservation. Although the usual steady alienation of allotted lands through sales, fee patents, or otherwise had taken place over the years, a drastic and traumatic taking of land and displacement of the people occurred with the construction of the Garrison Dam and Reservoir project. Under the act of July 31, 1947, as amended October 29, 1949 (61 Stat. 690, and 63 Stat. 1026-1049), the United States took approximately 175,700 acres of land for that project.

The enclosed map of the reservation illustrates how the heart of the reservation was taken, resulting in a mass movement of virtually the entire Indian population from the Missouri River bottom land to the residual upland of the reservation. The communities as they existed were torn apart and the three different tribes that previously had lived in generally defined districts then became intermingled as the result of moving, to a large extent, to their allotments on the upland; the allotments having been made without regard as to location, to the tribal background of the allottees.

The Three Affiliated Tribes, as they are known since they so organized under the act of June 18, 1934 (48 Stat. 984), used considerable sums of money made available for rehabilitation after the reservoir taking, in the acquisition of tracts of land which were scattered throughout the reservation. Those funds did not go far, nor have moneys since been available to the tribes, to create any significant impact on the economic growth of the agriculturally oriented membership.

Our earliest readily available figures on Fort Berthold show that as of June 30, 1952, there were 6,102 acres of tribal land and 422,730 acres of allotted land held in trust. The tribe had then begun the acquisition of land with some of the funds paid by the United States for the reservoir project. Present tribal trust land totals 41,237 acres. The increase is the result of the investment of tribal funds in purchases, with the exception of about 1,100 acres restored to tribal ownership under authority of the 1934 act. The present allotted acreage still in trust is 376,591 acres (as of June 30, 1969).

We believe the history of this reservation, including the fact that the people are of three distinct and separate tribal antecedents; that their relatively comfortable home locations along the Missouri River were taken and they found themselves scattered on the upland, exposed to the harsh and hostile heat of summer and winds of winter; and that the tremendous reservoir area (known presently as Lake Sakakawea) divides their reservation into segments more remote each from the other than ever before; explains in large part why the people of Fort Berthold, as a tribe, or as affiliated tribes, have never had, and do not now propose, a "land consolidation" program in the traditional sense of blocking out large compact areas.

The entire Tribal Council of the Three Affiliated Tribes spent several days in the Aberdeen area office of the Bureau of Indian Affairs in January, and their discussions with area staff included the subject of land programs. Resolution 70-39 enacted by the tribal business council on March 12, 1970, requests favorable action the

the bill. It also states the objectives of the tribe are the same as those set forth in 1959 which are still in effect. These objectives are:

"To purchase land only where the purchase will benefit a member of the tribe who is already in agricultural business * * *

"To purchase tracts that will add to the land already held by the tribe in partly consolidated blocks * * *

"To purchase key tracts near highways and reservoir for development of tourist facilities in the future * * *

"To use the funds for land adjustments which will be eventually beneficial to one and/or all members of the Three Affiliated Tribes."

As a result of a favorable judgment in their claims against the United States the Three Affiliated Tribes contemplate the use of a part of the anticipated funds for land acquisition. In line with this objective the tribal business council submitted to the area office Resolution No. 69-107, enacted January 2, 1970, which requests a moratorium on the issuance of patents in fee until September 1 of this year to give the council an opportunity to negotiate for the purchase of any of the land involved. The council has been advised that at the agency and area levels, its request will be supported, subject to the right of any individual applicants to appeal through channels to the Commissioner of Indian Affairs. To date no appeals have been received by the Commissioner.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

FRED J. RUSSELL,
Under Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., May 1, 1970.

HON. HENRY M. JACKSON,
*Chairman, Committee on Interior and Insular Affairs, U.S. Senate,
New Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget on S. 774, a bill to authorize the mortgaging of tribal lands on the Fort Berthold Reservation for certain purposes.

The Department of the Interior, in its report on this bill, explains the purposes of the legislation and recommends enactment.

The Bureau of the Budget would have no objection to enactment of S. 774.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

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