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Letter from Representative Burdick to Frank Heart Regarding Letter from Wesley D'Ewart Which Answers Inquiries Made by Heart, March 1, 1956

Usher Burdick

Wesley D'Ewart

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Per Cap
Pmts - Fort
Burdick

March 1, 1956

Mr. Frank Heart
Emmett, North Dakota

Dear Mr. Heart:

In this morning's mail I received a letter from Mr. Wesley A. D'Ewart, Assistant Secretary of the Interior Department, written in reply to mine of February 2, in which I requested information on the points brought up in your letter of January 26.

I am enclosing a copy of Mr. D'Ewart's letter, and I believe it will fully answer the questions in which you are interested.

If there is anything further I can do for you here, please let me know.

Sincerely yours,

Usher L. Burdick, M. C.

Enclosure



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON 25, D. C.

Fort Berthold

FEB 29 1958

My dear Mr. Burdick:

I have your letter of February 2 with which you transmitted a letter you received from Mr. Frank Heart of Emmet, North Dakota, pertaining to the segregation of certain funds on deposit in the United States Treasury to the credit of the Fort Berthold Indians as proposed in Bill S. 2151. Mr. Heart comments on certain portions of the bill and on statements regarding this bill allegedly made by members of the Fort Berthold Tribal Business Council. He also states that the Tribal Business Council is not the legal representative body of the Three Affiliated Tribes of the Fort Berthold Reservation.

On January 31, I advised Mr. Heart that this Department recommended that the Bill S. 2151 be enacted. The presentation of the bill to Congress was prompted by the action of the Tribal Business Council in adopting a resolution on March 25, 1955, which set forth the following four basic purposes for the use of the tribal funds on deposit in the United States Treasury to the credit of the tribes:

"1. There will be an immediate per capita emergency payment of \$500.00 to each individual Indian enrolled in the Three Affiliated Tribes as determined by the Tribal Business Council as of a certain date, except that such payment made to a minor or incompetent person shall be deposited in the IIM account to be disbursed under existing IIM Regulations.

"2. That the remaining principal account in the United States Treasury, title Three Affiliated Tribes of Fort Berthold Reservation, North Dakota, shall be allocated to the members of said Tribe in accordance with the establishment of a Tribal Roll by Congressional legislation for that purpose only.

"3. That the shares so established in paragraph 2 shall remain in the United States Treasury at 4 percent interest per annum until expended in accordance with the individual or family plans promulgated by representatives of the Bureau of Indian Affairs and the individual Indian or family.

"4. That upon the final adoption of a plan for the individual Indian or family, his share so allocated shall be disbursed in accordance therewith."

On March 31, 1955, a \$500 per capita payment was authorized as provided in paragraph 1 quoted above. It will be noted that the resolution does not provide for an additional per capita distribution from funds remaining in the United States Treasury to the credit of the tribes, but provides for the utilization of the funds in accordance with the provisions outlined in the resolution.

As stated in Mr. Heart's letter the Secretary does have the authority to authorize a direct per capita payment. However, in order to carry out the request of the Tribal Business Council to have the funds segregated and to have the funds remain in the United States Treasury to the credit of the individual and to draw interest at 4 percent until suitable plans have been developed, the Department recommended that the Bill S. 2151 be enacted. If this bill becomes a law the funds will be segregated and disbursed in accordance with approved individual or family plans which will be developed between representatives of the Bureau of Indian Affairs and the individual or family.

Mr. Heart feels that the present Tribal Business Council is not a representative body of the Three Affiliated Tribes of the Fort Berthold Reservation because of the failure of the Tribal Business Council to hold an election in September 1954 for the purpose of selecting councilmen to succeed those whose terms were then expiring. It was not possible, however, for the Tribal Business Council to hold an election on the regular election date in 1954 as some of the districts as described in the tribal constitution for purposes of representation on the Tribal Business Council had been inundated due to the Garrison Dam and Reservoir Project which resulted in a major relocation of families to other reservation districts and elsewhere. Representatives, therefore, from the resituated districts could not be chosen until appropriate tribal constitutional amendments were adopted and approved defining more realistic boundaries within the confines of the reservation.

Two amendment elections were held on the Fort Berthold Reservation for the purpose of voting on amendments to the Fort Berthold tribal constitution which, if adopted, would have redistricted the reservation. The amendments, however, failed of adoption

because 30 percent of the tribal voting membership did not cast votes in the elections as required by the Act of June 15, 1935 (49 Stat. 378). Consequently, the members of the Tribal Business Council whose terms would have normally expired in September 1954 have continued in office. It has been held that in the absence of anything to the contrary in the tribal constitution the members of the Tribal Business Council are to serve until their successors are elected and qualified. Therefore, the present councilmen on the Tribal Business Council are considered to be properly representing the Three Affiliated Tribes of the Fort Berthold Reservation.

The matter of an election of new councilmen is now receiving consideration and it is hoped that an equitable solution can be worked out to the satisfaction of all concerned.

Your correspondent's letter is being returned.

Sincerely yours,

Assistant

Wesley A. O'Leary
Secretary of the Interior

Honorable Usher L. Burdick
House of Representatives
Washington 25, D. C.

Enclosures