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"Fort Berthold Indians of North Dakota," Pamphlet by Floyd Montclair, June 16, 1945

Floyd Montclair

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FORT BERTHOLD

INDIANS

OF

NORTH DAKOTA



BY

Floyd Montclair

Price - \$1.00

*To U.S. Senator William Goddard
With compliments - Martin J. Croes*

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SUPER VALUE
Store

Everyday Low Prices
on

Groceries - Dry Goods

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Agency for Jacobs

Wind-Chargers & Batteries

Carl Sword & Son

DUN CENTER,

North Dakota

DEDICATION

Whereas: The Tribal Business Council and Subcommittee concurred that on May 10, 1945, at Elbowoods, North Dakota, the undersigned Secretary has been elected to execute publication of "Fort Berthold Indians", as he may deem conducive to the public interest therefore;

NOW, THEREFORE, by virtue of and pursuant to authority vested in me by the Constitution and By-Laws of the Three Affiliated Tribes under the Bureau of Indian Affairs, the subject matter of said "Fort Berthold Indians" in pamphlet form is hereby respectfully dedicated to the American people in the United States of America.

Dated this 16th day of June, 1945 A. D., at Elbowoods, North Dakota.

(Signed) Martin T. Cross, President
Tribal Business Council.

Attest:

Floyd Montclair, Secretary
(Signed)
Subcommittee.

ACKNOWLEDGEMENT

Thanks are due to officials and civilians for direct and indirect assistance in part for the basic preparation, and the use of material in mimeographed papers upon which the foregoing resolutions are formulated.

Therefore, I wish to thank sincerely for the many courtesies extended to the author by many friends. With my highest expressions of personal regards, I have the honor to be, your obedient servant.

Sincerely,
Floyd Montclair

Power Equipment Company

W. R. Olson, Proprietor

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Sanish, North Dakota

INTRODUCTION

One of the fundamental facts relating to the present American Indian question pertinent to his rights is established beyond all dispute.

1. The American Indians were in possession of this country when Columbus discovered America, and the early maps show the approximate location of Tribal villages and ancient embattlements. If there is anything to the principle of the rights of occupancy, then the Fort Berthold Indians had rights which any civilized country was bound to recognize.

2. One may say therefore, without prejudice, that a lot of careless, yet righteous sounding language, has been used, not only in the so-called Treaties and official declarations of the Federal Government, in its dealings with the Fort Berthold Indians, but also in the many details emanating therefrom. Surely, every liberty-loving American will rebel against removal of whole communities of Indians from their ancestral homes on the Fort Berthold Reservation, State of North Dakota.

3. One may find it worth while to recall a little of the history of how the Fort Berthold Reservation came to be what it is today. The Fort Berthold Indians were parties to the Treaty negotiated at Fort Laramie, Wyoming, on September 17, 1851. This agreement and a subsequent one in 1866 formed the basis for creation of the original Fort Berthold Reservation. During the 60's these tribes suffered greatly from ravaging by the Sioux, from poor crops and from the meagerness of the government payments which had been pledged at Laramie. They wanted a separate treaty. As a result, the original Reserve of 8,640,000 acres was created by executive order April 12, 1870, at that time Congress agreed to pay the Tribes cash benefits of \$75,000 annually.

Then in 1873 and 1874, interests seeking to develop Dakota for white settlement, tried to have the Fort Berthold Indians removed to Indian Territory (in the South). At that time the plea of the Indians, probably worded by white friends, contained the statement: "We are willing to work harder and have less in Dakota, but are unwilling to run the risk of going away from a country which has so long been our home." The Tribes were not forced out, however, in 1887 came the Doves Act, the most important of a series of acts which caused the break-up of the great Reservations and provided for allotment of land holdings to Indians severally, paving the way for opening of Reservation Territory to white settlers. In the years that followed, portions of the Fort Berthold Reserve were opened. At present, the Reservation contains less than 600,000 acres, of which close to 300,000 is used by whites, as leased and for grazing and farming"—Minot Daily News, May 19, 1945.

4. One may, therefore, appreciate fully the issue of principle involved at present, and it might be better to transfer the basic background facts of the situation to a hypothetical project for the national welfare, the merits of which were not debatable, then to ask whether Uncle Sam or the Great White Father should forgo construction of a highly meritorious, perhaps indispensable project, in order to keep his word. Does a man's word, or a nation's word ever become obsolete?

THE AUTHOR

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Arvid Olson

General Store

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Andersgord & Company

General Merchandise

Sanish, North Dakota

MEMORIAL

Elbowoods, North Dakota
April 24, 1945

Pursuant to noticed members of the Tribal Council and other interested persons convened in special session on the above date to discuss the Garrison Dam in opposition thereto, the following record of the memorial is presented herewith:

Martin Cross, Chairman of the Tribal Council, called the meeting to order. Official letters were read by the Chairman for consideration, and deliberation of the Sub-Committee of the Tribal Council.

The following resolutions were read and passed by the Sub-committee, setting forth reasons why we are opposed to the proposed Garrison Dam, including a reiterate of the one passed by the Council on November 15, 1943.

Resolution Opposing Lower Dam

WHEREAS; the Three Affiliated Tribes of the Fort Berthold Reservation depend very largely on their bottom lands along the Missouri River for their welfare, and there appears no other region obtainable as satisfactory substitute for agricultural and timber industry; and

WHEREAS; a dam below the Fort Berthold Reservation is being contemplated for future action by the Congress of the United States in cooperation with the State of North Dakota, which action, if realized, will destroy by permanent flood all the bottom lands of said Reservation, causing untold material and economic damage to the Three Affiliated Tribes; and

NOW, THEREFORE, BE IT HEREBY RESOLVED; by the Tribal Business Council, in a meeting assembled, duly and regularly called, a quorum being present, and voicing the adverse opinion of its constituents, that it oppose the present plan of constructing a dam below the Fort Berthold Reservation or any other plan which will destroy the flood areas of the Missouri Valley.

This resolution was passed on November 15, 1943, by the Council by a vote of 6 to 0. The Chairman was not voting.

Certification

We, the undersigned, as Chairman and Secretary of the Three Affiliated Tribes of the Fort Berthold Reservation Corporation, hereby certify that the Tribal Council is composed of 10 members, of whom 7, constituting a quorum, were present at a meeting thereof duly and regularly called, noticed, convened and held on the 15th day of November, 1943; that the foregoing ordinance was duly adopted at such meeting by the affirmative vote of 6 members; and that said ordinance has not been rescinded or amended in any way.

Dated this 15th day of November, 1943.

(s) Carl Sylvester

Chairman, Tribal Council of the Ft.
Berthold Three Affiliated Tribes.

ATTEST:

(s) Jeff B. Smith
Secretary.

H. J. Bugge

Druggist

Sanish, North Dakota

FARMERS CO-OP SUPPLY STORE

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ERICKSON-HELLICKSON- VYE COMPANY

HIGH GRADE LUMBER
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INSULATION - PAINT

PARSHALL — SANISH
and
VAN HOOK, NORTH DAKOTA

Recommended to be approved. Date: November 15, 1943.

(s) C. H. Beitzel,
Superintendent.

Resolution Further Opposing Garrison Dam

WHEREAS; there is embodied in the proposed plan for development of the Missouri River, construction of a dam at or near Garrison, North Dakota; and

WHEREAS; construction of the proposed Garrison Dam at an approximate elevation of 1850 feet would inundate 200,000 acres more or less of the best irrigatable land of our Reservation; and

WHEREAS; this inundation would force approximately 200 families to move from their permanent homes, and destroy or cause to be moved, their houses and other farm buildings; and

WHEREAS; it will flood or cause them to be useless, all Government buildings and improvements at Elbowoods, Nishu, Shell Creek, Independence, Beaver Creek, Lucky Mound, Charging Eagle and Red Butte, including the hospital, school buildings, total value over \$1,000,000, and other improvements, truck trails, dams, springs for livestock; and

WHEREAS; it will cause to be either cut and removed all timber now growing along the bottoms, thus destroying natural shelter for the cattle and will take away the continual fuel supply for our people, and source of income from sale of timber, fence posts, lumber, and fire wood for Fort Berthold Indians; and

WHEREAS; the unlimited supply of lignite in the hills and buttes and possibilities of lignite by-products located near the river will be inundated to an extent that lignite will become useless for man; and

WHEREAS; the cemeteries of our forefathers will be destroyed with it all our memories and kind remembrances of the burial places that have been held sacred for all; and

WHEREAS; this large body of water will separate the reservation which will make it difficult for the members to commute and transact the usual business, and the removal of the \$250,000 bridge on the Fort Berthold Reservation; and

WHEREAS; the members have recently contracted with the Federal Government to borrow money and cattle to develop a cattle program giving the members an opportunity to become self-supporting, and the program has been existing for nearly two years, and further contracted to with the Government for repayment within 10 to 15 years, with privilege of extension of time, with the inundation of bottom lands makes it almost impossible to continue this program, and with an investment of \$221,000 to repay the Government; and

WHEREAS; it will deprive approximately 250 boys from our reservation who are now serving in the armed forces, for land rightfully theirs; and

SATHER AND COMPANY

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Holliday, N. D.

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Killdeer, North Dakota

Fred Keller

Poultry

Holliday, North Dakota

WHEREAS; lands of the Indians were inherent property from time immemorial and in no sense given to them by any human power arriving from somewhere else; and

WHEREAS; the various treaties and executive orders have given the people of this Reservation promise of a perpetual use of this land, which promise was further stated in the recent Indian Reorganization Act giving indefinite extension of the trust status of all Indian land and incorporated in the Tribal Constitution which provision is quoted below:

(QUOTE)

ARTICLE IX — LAND

Section 1. Allotted lands, including heirship lands, within the Fort Berthold Reservation shall continue to be held as heretofore by their present owners. It is recognized that under existing laws such lands may be inherited by the heirs of the present owner, whether or not they are members of the Three Affiliated Tribes. Likewise it is recognized that under existing laws the Secretary of the Interior may, in his discretion, remove restrictions upon such land, upon application by the Indian owner, whereupon the land will become subject to State taxes and may be mortgaged or sold. The right of the individual Indian to hold or part with his land, as under existing law, shall not be adrogated by anything contained in approval of the Secretary of the Interior, voluntarily convey his land to the Three Affiliated Tribes either in exchange for a money payment or in exchange for an assignment covering the same land, as hereinafter provided.

Section 2. The unallotted lands of the Fort Berthold Reservation and all lands which may hereafter be acquired by the Three Affiliated Tribes or by the United States in trust for the Three Affiliated Tribes, shall be held as tribal lands, and no part of such land shall be mortgaged, sold or ceded. Tribal lands shall not be allotted to individual Indians but may be assigned to members of the Three Affiliated Tribes, or leased, or otherwise used by the Tribes, as hereinafter provided. (UNQUOTE).

WHEREAS; we are permanently located on these lands, and our forefathers also have lived on these grounds and it is the hopes and plans to have our children and their children to occupy this land continuously forever; and money or exchange for other land will not compensate us for the land, land marks, and sentimental attachments.

NOW, THEREFORE, BE IT RESOLVED; by the Tribal Business Council in a meeting duly and regularly called, a quorum being present, that we reiterate and oppose the present plan of constructing a dam at Garrison, or any other plan which will destroy the flood areas of the Missouri Valley; also,

WE FURTHER RESOLVE; to urge that the Bureau of Reclamation study and set up irrigation projects to irrigate our low lands so as to furnish us feed for our cattle during the drowth years to come. We hereby favor the original Sloan Plan, diversion of water from Fort Peck Dam to Devils Lake, commonly called the Missouri-Souris Unit.

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Peter Molson, Manager

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Dealer

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Makoti, N. Dak.

BE IT FURTHER RESOLVED; that copies of this Memorial be sent to all officials and interested persons in the United States of America.

Respectfully submitted,
(s) Martin T. Cross,
President, Tribal Business Council.
(s) James Baker
(s) Douglas Standish
(s) Sam Lincoln
Sub-committee.

ATTEST:

(s) Floyd Montclair,
Secretary.

SUBMITTED AS APPROVED:

(s) C. H. Beitzel,
Superintendent.
April 24, 1945.

RESOLUTION

WHEREAS; We, the Mandan, Gros Ventre, and Arickara people known as the Three Affiliated Tribes, residing on the Fort Berthold Indian Reservation, State of North Dakota, parties to the Fort Laramie, Wyoming, treaty in 1851; and

WHEREAS; The present Tribal Business Council of said Indians appointed Martin Cross, Chairman; Douglas Standish, Earl Bateman, and Floyd Montclair under date of May 10, 1945 to study the proposed Garrison Dam embodied in the rivers and harbors bill H. R. 3961, and the flood-control bill H. R. 4485; and

WHEREAS; The said Subcommittees, after careful consideration of the proposed legislation, have made their report hereto follows:

Proposed Garrison Dam

First, It will destroy the Three Affiliated Tribes of the incentive to build substantial homes for their families in the future days to come.

Second, It will implicitly create more intricate problems in determining the individual equities in the tribal estates of the Fort Berthold Indians.

Third, It will repeal legislative enactments of vested rights on Indian allotment lands, and treaty stipulations of the Federal Government.

Whatever the good intentions of the proposed Garrison Dam are, they will be lost in the maze of red tape, and we respectfully request the exemption of the Fort Berthold Reservation from the provisions of H. R. 3961 and H. R. 4485 respectively.

THEREFORE, BE IT RESOLVED; That the proposed Garrison Dam is designed to the detriment of Fort Berthold Indians, and the judgment of the Three Affiliated Tribes is to comply with the recommendation and report of the Subcommittee named herein, and we the people hereby voice our expression in unison opposing the Garrison Dam. We further tender the following points as hereinafter set forth, which is construed to mean by us as not to be our best welfare and interest to the end that we may secure to ourselves economic independence.

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Elbowoods, North Dakota

Final Conclusion

We, the Subcommittee, by Memorial of a recent session sent copies to officials and interested people, and expressed what we believe are the sound and basic principles be it

FURTHER RESOLVED; That copies of this Resolution be sent to officials and interested people in the United States of America.

Unanimously adopted May 21, 1945 at Elbowoods, North Dakota.

- (s) Martin T. Cross, Chairman.
- (s) Douglas Standish
- (s) Earl Bateman, Sub-committee.
- (s) Floyd Montclair,
Secretary.

STATEMENT OF FLOYD MONTCLAIR SECRETARY, FORT BERTHOLD AMERICANS INC., ELBOWOODS, N. DAK.

Senator Overton. Give your name for the record.
Mr. Montclair. My name is Floyd Montclair.

Mr. Chairmen, Gentlemen of the committee, and friends, I have consolidated my statement in written form and will read it as quickly as I possibly can.

Senator Overton. You may proceed to do so.

Mr. Montclair. First I have a certificate from a part of the membership of the Fort Berthold Americans, Inc., which I will read:

April 21, 1944.

TO WHOM IT MAY CONCERN:

By vote of entire membership of the Fort Berthold Americans, Inc., hereby elected Floyd Montclair and authorized and empowered him to speak in our stead before any official and the several committees of Congress of the United States.

Therefore, we humbly pray that you may help the above-named elected delegate in all matters that may arise to the best interests of the Fort Berthold Americans, Inc.

Respectfully submitted,

Walter Young Bear, Chairman.
Sam Badgun, Vice Chairman.
Robert Lincoln.
Philip Snow.
Martin Fox.
Richard Burr.
Philip Atkins.
Oscar Burr.

And now I will make my statement.

Representing and speaking for the membership of Fort Berthold Americans, Inc., of Elbowoods, North Dakota, I, a humble citizen of North Dakota and the United States, have some constitutional rights which I will assert without any fear in behalf of the above organization.

Relevant to large land holdings of Fort Berthold Indians and their coal land and timberlands extending 46 miles on each side of the Missouri River in the Fort Berthold Reservation, North Dakota. They have many valuable homes and other tribal assets,

COMPLIMENTS

OF

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**MINOT,
NORTH DAKOTA**

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North Dakota**

LARSON BROTHERS

STANDARD OIL CO. PRODUCTS

AND

CASE IMPLEMENTS AND REPAIRS

Makoti, North Dakota

such livestock and many fertile fields and for many other reasons Fort Berthold Indians do not want any part of the proposed Missouri River diversion on the Fort Berthold Reservation, State of North Dakota. The Missouri River development plan might be a great thing in other places, but it will only cause a great deal of unprecedented losses of allotted lands of the Fort Berthold Reservation, State of North Dakota.

The people I represent wish to say that from time immemorial the Fort Berthold Indians have been known to be the most peaceful people in the Northland. The Mandon, Gros Ventre, and Aricokoree peoples, better known or so-called Three Affiliated Tribes, have always complied with all constituted authority of the United States. Six of our young men have already given up their lives fighting for this American country and many others of our young men are now in the armed forces of the United States. Therefore, the people I represent wish to say further that the Missouri River development plan is inapplicable and inoperative and will cause many unprecedented losses in millions of dollars worth of coal land, timberland, tribal assets, and in livestock.

The people I represent wish for me to take back to them some definite word or agreement from you gentlemen of the committee. They are asking for a simple justice for the exclusion of Fort Berthold Reservation in the Missouri River development plan.

At this point I wish to include in this statement the following:

**MEMORANDUM OF VESTED RIGHTS
IN ALLOTMENTS**

The Supreme Court of the United States has said that no right that has been granted to an Indian by a prior law or contract, by which it has become a vested right, can be repealed. That part of the decision follows:

"There have been comparatively few cases which discuss the legislative power over private property held by Indians. But all of those few recognize that he is not excepted from the protection guaranteed by the Constitution. His private rights are secured and enforced to the same extent and in the same way as other residents and citizens of the United States.

"His right of private property is not subject to impairment by legislative action, even while he is a member of a tribe and subject to the guardianship of the United States as to his political and personal status.

"But there was intimation that the power of wardship conferred authority on Congress to lessen any rights of property which had been vested in the individual Indian by prior laws and contracts. Such rights are protected from repeal by the provisions of the fifth amendment of the Constitution of the United States (Choate v. Trapp, 224 U. S. 677-678, 56 L. 946-947)."

The allotment vested in the allottee the right to transmit to his heirs the allotment made to him in accordance with the laws of the State where the land is located. That may only be changed by the laws of descent of the States, and not by special enactment that affects the rights of a class or race. It will be a reflection upon Congress to attempt any such legislation.

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Parshall, North Dakota

Cooper Merc.

Parshall,

North Dakota

"The Chairman. The other day you called my attention to the fact that your legal department had advised, or that they felt that under the LONE WOLF CASE. They had the power, or that Congress had the power, to take away from these Indians, by compulsion, lands that had been vested in them by trust patents. Which one of your counsel advised to that effect I would like to know?"

"Commissioner Collier. The departmental view on that was—and I think it is Mr. Margold's own view, largely researched by Mr. Segal, who is not here now.

"The Chairman. If Mr. Segal and Mr. Margold advised you to that effect, I think they had better read that case again, because there is no question of doubt in my mind that it cannot do anything of the kind. Not only that, but there are subsequent cases which hold directly that lands held by Indians under trust patents cannot be divested, without their consent. Of course, Congress can abrogate a treaty; that is, legally it can abrogate a treaty with an Indian. Morally, in my judgment, it cannot do it, legally Congress can do it, as the Supreme Court has held. But the granting of a trust patent to an Indian is quite a different thing than abrogating a treaty. When the Government of the United States once vests these Indians with lands under a trust patent, they have a vested interest in it, and the courts have held that that cannot be divested by Congress or by anybody else without their consent. It would be not only legally wrong, but it would be morally wrong, in my judgment, to do it. It could not and should not be done.

"Commissioner Collier. Of course, it is very unfair for me to be presenting the views of lawyers. As you know, I am not even a lawyer.

"The Chairman. I was curious to know which one of these students up there advised you."

In conclusion, from the treaty agreements between the United States and the Fort Berthold Indians wherein some parts it says: "Long as the sun shines and all the streams and rivers flow, we will keep this agreement."

I have every good reason to believe that you will give simple justice and favorable consideration to the request of Fort Berthold Indians. The people I represent always enjoy the words in the song America, wherein it says: "I love thy rocks and rills, and thy woods and templed hills."

Thanking you beforehand for your favorable consideration in view of above matter pertinent to Fort Berthold Indians of North Dakota, I have the honor to be,

Your obedient servant,
Floyd Montclair.

STATEMENT OF MR. THOMAS S. WOLF

The government did a number of good things for the Three Affiliated Tribes among which are:

1. It granted perpetuation of Indian ownership of land which may be translated along the lines of Indian thought thusly: That if there is such a thing as an unborn child choosing the place and environment of birth it would readily select the Fort Berthold Reservation and the Three Affiliated Tribes as its future home and parentage, which in other words mean that there will always be land to inherit.

2. It guaranteed inviolate and unmolested oc-

cupancy of the land meaning that the Indian is assured of perpetual enjoyment of every acre of his holdings.

It is deplorable that these good points should be nullified by another policy influenced by extraneous reasons. Our position is in opposition to the Garrison Dam, first, last and always.

STATEMENT

In opposition of the proposed construction of the Garrison Dam

I wish to state that I am a member of the Arikara Tribe of Indians in North Dakota and a member of the Tribal Business Council, representing the Nishu District. The Tribal Council also appointed me to the membership of the committee opposing the construction of the Garrison Dam.

I wish to emphasize a few facts pertaining to the Act of June 18, 1934, known as the Indian Reorganization Act. If you remember that there was a movement to repeal this Act, and if Congress would have repealed this Act, I believe it would have been a grave mistake. The repeal of this act would have meant a return to the chaotic condition, which led to the enactment of this law. We would have forfeited our rights and powers, and finally lost our subsistence on the reservation.

I further wish to stress that if the proposed Garrison Dam was to be permitted to be built, I would urge that the Secretary of the Interior duly submit a full report to the Congress of the United States the condition of the Fort Berthold Reservation, containing all our protests to the construction of the Dam.

The construction of the proposed Garrison Dam would effect our means of existence on the Reservation severely. Furthermore with the construction of the Dam will automatically repeal the Indian Reorganization Act, and the government will have to begin all over again to build up a new form of Tribal Government. To prevent all these complications,—We, the Three Affiliated Tribes of the Fort Berthold Reservation, are definitely opposed to the proposed Garrison Dam. We further are opposed to the construction of any dams on the Missouri River that would effect our economic and social well being.

I request every respective congressman and others in power to consider and support our many resolutions opposing this proposed Dam at Garrison that will effect our Fort Berthold Reservation.

I further request the respective Congressmen of the United States to respect and consider our boys and girls, who are now serving in the armed forces, and who will some day return to their homes on our reservation.

I therefore plead to the Government of the United States to give us protection to the above statements. As I wish to emphasize that the Fifth Amendment to the Constitution of the United States gave the Indians the right of protection of property the same as to all people.

Earl Bateman,
Member Tribal Council
Member Sub-Committee Opposing
the construction of the Garrison
Dam, Fort Berthold Reservation.

June 18, 1945.

JAMES H. THORNBURG ROSEGLLEN, NORTH DAKOTA

June 11, 1945.

Senator William Langer
Washington, D. C.

Dear Bill,

Will try in my feeble way to explain what a big dam would do to the country west of Garrison, a strip of land from 50 to 70 miles wide.

It would back the water through Rice Lake; also north of old Amundsville; that would come through Raub. It would also back up White Earth Creek through Powers Lake to McGregor, and it would also fill the creeks and coulees. Oh, yes, we can dam the backwaters out of those creeks; then the spring runoff will fill them full so we will have water on both sides of the little dams. Yes, but no least it will cut our roads in sections so we will have to get out and stay out as we will have no coal to burn, and no roads to travel. It will cut my homestead in too, as I am fifteen miles from the river C. Just think of the thousands of cattle and sheep that winter in the brush without much help from man.

It will cover up all the land that is fit to irrigate. Our prairie farms are too rolling so it would be too expensive to water them.

Furthermore, what are we going to do with the SAND deposit from the Yellowstone and Little Missouri. Please tell me, it will soon fill in back of the dam so we will have a sand dam instead of a water dam, and then everything will be dammed.

I have spent a lot of my life on water ways as a contractor, surveyor, and construction boss, so I have some idea what a dam does. I can also see that some of the fellows that are shouting "big dam" do not know what it means.

Yours very truly,
Jim.

Elbowoods, N. Dak.
June 11, 1945.

A GREAT CAUSE

The Democratic and the Republican Platforms, both major political parties, and their promises: "We pledge an immediate and final settlement of all Indian claims between the Government and the Indian citizenship of the Nation."

The final settlement of all Indian claims forever, is just as potent today as the day when first announced or adopted by the major political parties in their 1940 platforms. And, it will have lost none of this potency when the present national emergency shall have passed. The greatest cause in which any group of citizens, racial or otherwise, may possibly engage. It means a New Day for the original and true American. Give it consideration, Americans.

Sincerely,
Floyd Montclair.

19

The Fort Berthold Case, The Fort Berthold Indians of North Dakota claiming also under the Fort Laramie Treaty, as follows:

Many cases can be cited where courts have granted relief on the ground of "mistake of material facts." A recent case decided by the Court of Claims is that of Morgan v. The United States (80 Ct. Cls. 81, 94.) The court held—

Unconscious ignorance by both parties of a fact material to the contract or belief in the present existence of a thing material to the contract constitutes a mutual mistake of fact.

Where a settlement is entered into or a compromise is made under a mutual mistake as to a material fact, relief may be had. * * * A mutual mistake of fact generally affords relief from the performance of contracts, and a contract of compromise stands in this regard upon the same plane as other agreements. If one party knows of the mistake and keeps silent, the party who is misled by the mistake is entitled to have the settlement vacated.

The treaty of Fort Laramie of 1851 was ratified by the Senate on May 24, 1852, after amending article 7 of the same. The amended treaty was returned to the tribes for their assent to the modification of the same. All tribes assented thereto, and due to an administrative error and oversight the treaty was never proclaimed; hence the Indian Office and other delegated officials concerned in negotiations with the Indians proceeded upon the erroneous conviction that the Fort Laramie Treaty was never ratified. * * * There can be no doubt that the failure of Government officials and others dealing with the Indians at this time to recognize the treaty of 1851 was due exclusively to a belief that the treaty of 1851 was never ratified by the Senate. The plaintiff Indians were at the time an ignorant and unlettered people, forced by their status and situation to rely implicitly upon the representatives of the Government, and while they laid claim to a much larger territory than the 1870 reservation, they were in no position to controvert an alleged existing condition which was represented to them by those in authority as leaving them without any landed reservation whatever. As we look at it, it was the Government's error and unintended misrepresentation which resulted in procuring a settlement with the Indians in 1870 which did not equitably compensate them for rights granted them under the Fort Laramie Treaty of 1851.

The Indian Office and other delegated officials (meaning treaty commissioners) concerned in negotiations with the Indians preceded upon the erroneous conviction that the Fort Laramie Treaty was never ratified—

and—

there can be no doubt that the failure of Government officials and others dealing with the Indians at this time to recognize the treaty of 1851 was due exclusively to a belief that the treaty was never ratified by the Senate—

and that the—

Indians were at the time an ignorant and unlettered people, forced by their status and situation to rely implicitly upon the representatives of the Government—

**STATEMENT OF HON. USHER L. BURDICK,
REPRESENTATIVE AT LARGE FROM THE
STATE OF NORTH DAKOTA**

Mr. Burdick. Well, in order to make this matter perfectly simple so that anybody, even a lawyer, can understand it, I want to say that in the prior settlement these Indians had in the Court of Claims for payment of their lands that involved land west of the Missouri River, and they were paid in full for that land, but in arriving at the judgment for some unknown reason the Court of Claims deducted \$400,000 that the Government had paid these Indians previously but for entirely different lands, lands on the east side of the Missouri River and they, as I say, for some unknown reason, just reached over into the other case and took the \$400,000 and deducted it from the judgment and the recovery on the lands west of the Missouri River. Now, what they ask for is not to go before the Court of Claims. They ask for an appropriation for money. This is money which they say was arbitrarily reduced from their judgment. That is all there is to the case and at this point I would like to hear from two of the Indians from that reservation. The first one will be Floyd Montclair.

Elbowoods, N. Dak.

June 9, 1945.

Honorable William Lemke,
and Gentlemen of the Committee:

On behalf of the Three Affiliated Tribes of Fort Berthold Reservation, State of North Dakota, I thank you for this opportunity to present to you, and thru you to the Congress and the people of the United States, what the aforementioned tribes consider sufficient reason for the passage of H. R. 1095 which I hereby respectfully call to your attention that the following statement be included in the record of hearing before your committee in order that the wishes, purposes, and the position of our people in asking the early passage of this bill now pending before the House Indian Affairs Committee may be clearly and fully presented for consideration by your committee, and in making a just report on said bill.

Relevant to the claim of \$400,000 anticipated by the Three Affiliated Tribes in order that they may present their claims for compensation under the articles in the treaty of 1866 negotiated with them by a duly authorized commission sent among them by the Government of the United States, and under that treaty they ceded their lands to and accepted the dominion of the Government of the United States. The Three Affiliated Tribes by the above facts ask to be permitted to go into the Supreme Court of the United States to seek payment of the debt they believe the Government of the United States owes them. They ask only that they be given the right to go into the Supreme Court, to present their claims, have them adjudicated by the said Court as to whether or not they are just claims, and as to whether or not they are entitled to a fair compensation.

To the Three Affiliated Tribes their right of occupancy is clear. The right and history and legends of our people are handed down from generation to generation by written records and verbally. Unquestionably having this right of occupancy, as well as other reorganized rights, and the promises in the treaty of 1866 with them, is a matter between them and the United States Government, and not between them and the Department of the Interior and the Office for Indian Affairs.

The Three Affiliated Tribes, in the matter of their Claim bill, are seeking adjudication of their claim. They are seeking and asking for justice, not charity. We know the needs of our people and would be glad to have relief extended to them in their immediate emergencies. We appreciate whatever benefits they can be given by appropriations by the Congress and the Department of the Interior and the Office for Indian Affairs; but we do not see in the according of such temporary relief and bestowal of occasional benefits a recognition of and a just payment of the debt we believe the United States Government owes us.

This does not mean that we do not appreciate nor that our people would reject any benefits of the United States Government, through the Department of the Interior and Office for Indian Affairs, or otherwise, might be disposed to extend to us. In addition to this it would carry with it a moral and spiritual value that cannot be computed into dollars.

It would give the Three Affiliated Tribes the high assurance and satisfaction that the Government of the United States, to which they gave their great lands, whose Government they accepted, and on whose promises they relied, is a just and honorable Government.

We know our people, their natural prudence and ability, the qualities that have been developed in them. We believe they can be trusted to handle with prudence and common sense any share of the compensation be granted them.

We respectfully request permission to go before the Supreme Court of the United States to determine whether or not we have a case. After we find out we have a case there can be formulated by the proper authorities having jurisdiction over our people a policy as to how to disburse the money upon the basis of per capita payment.

I commend this statement to your earnest and serious consideration. We hold ourselves in readiness to submit any information available to us which might be valuable to you. We ask, that should objection to the bill be presented, to be given an opportunity to reply thereto at the present or a subsequent hearing.

I thank you again, gentlemen, for this "Day in Court."

Very respectfully yours,

Floyd Montclair

I. DARK VOICES:

I am the darker brother.
They send me to eat in the kitchen
When company comes,
But I laugh,
An' eat well
And grow strong.

Tomorrow,
I'll sit at the table
When company comes.
Nobody'll dare
Say to me,
"Eat in the kitchen,"
Then.

Besides,
They'll see how beautiful I am
And be ashamed—

ALL:

I, too, am American.

II. SOLO VOICE:

I, too, sing America.

MEDIUM VOICES:

I am the Jewish brother.
They send me to live in the Ghetto;
They call me "Kike."
But I learn
And work hard
And grow wise.

Tomorrow
I'll live in friendship
With the best of them.
No one will dare
Say to me
"Shylock" or "Kike"
Then.

Besides they'll see how loyal I am
And be grateful—

ALL:

I, too, am American.

III. SOLO VOICE:

I, too, sing America.

LIGHT VOICES:

I am the eastern brother.
They send me to do their washing
And they call me "Chink."
But I smile
And do well
And respect.

Tomorrow,
They'll learn my soft ways
And understand.
No one will dare
Say to me
"Heathen Chinese"
Then.

ALL:

I, too, am American.

IV. SOLO VOICE:

I, too, sing America.

MEDIUM VOICES:

I am the foreign brother.

They send me to work in the ditches,
And call me names.

THREE VOICES IN SERIES:

Dago! Greaser! Wop!

MEDIUM VOICES:

But I sing

And make gardens

And save.

Tomorrow,

I'll listen with them to my music.

No one will dare

Call me names

Then.

Besides, they'll see how forgiving I am

And be humble.

ALL:

I, too, am American.

Part I is the poem "I, Too," by Langston Hughes. Used by permission of and special arrangement with Alfred A. Knopf, Inc., authorized publishers. Entire reading from Living Together in Today's World by Louise Benckenstein Griffiths. Used by permission of The Friendship Press.

Poem: O NATIVE LAND

O native land, how fair you seem,
With lakes as lovely as a dream,
And, stretching far from sea to sea,
Great mountains, high in majesty.

Thy gracious farms, with fields unfurled,
With wealth to feed a hungry world;
How fair thy missions, how divine,
To give thy aid, dear land of mine.

O God of nations, help us grow
In kindness, as in power; to know
The freedom of true brotherhood
And wealth of love the highest good.

(Myrtle K. Cherryman)

PEACEFUL INDIANS

On the shore of Lake Winnebago in Wisconsin is a little town called Brothertown. It was settled over a hundred years ago by Christian Indians who migrated from New England. They called each other "brother." They called other Indians and white men "brother" too. They had a town council or court which they called "The Peace Makers." And they lived quiet, peaceful lives as they farmed the rolling hills. Descendants of these peaceful Indians still live in Brothertown. They look and act like other Wisconsin farmers, however, and they are full-fledged American citizens. (The interesting story of the origin and migration of these Indians is told in the first chapter of Brothertown.) There are many Christian Indians today. In Elbowoods, North Dakota, for example, is a mission school and church where Indians take active part in the work. An Indian girl from Elbowoods

was recently elected vice-president of the Northwest Pilgrim Fellowship. There are many Indian pastors at work in Indian churches throughout the west. Of course many Indians are confined to reservations and do not mingle with other Americans. But Christian workers are trying to help both Indians and whites work together. And progress is being made.—The Pilgrim Highroad, October, 1941.

PETITION

We, the undersigned, Gros-Ventre, Mandan and Arickaree people being 21 or more years of age, and duly enrolled members of the Fort Berthold Americans, Inc., of Elbowoods, North Dakota, hereby respectfully petition the Congress of the United States, and North Dakota, Delegation in Congress to use their official influences and urge the early passage of our \$400,000 claim.

We certify this to be true copy of the original petition we signed on and after the 28th day of April, 1941 at Elbowoods, North Dakota.

Respectfully submitted,

George Parshall	Driver, Sr.
Alfred Driver, Sr.	Ira L. Waters
Glenn Smith	George Spotted Wolf
Charles Black Bear	Agnes Spotted Wolf
Hannah Black Bear	Gertrude Spotted Wolf
Pheobe W. Smith	Richard Wolf
ruby Parshall	Julia Fox
Dora Smith	Charlotte Smith
Mrs. Mary R. Smith	Lucy L. O. Smith
Mrs. Rose Drags Wolf	Mrs. Many Ribs
Pearl Wolf	Mrs. Lillie W. Driver
George Wolf	Mrs. Carrie D. Fox
Charles Fox	Mrs. Bull's Eye
Bird's Bill	Mrs. Four Dance
Emily Fox	Glenn Fox
Percy Rush	Mariam Bull's Eye
Carrie Fox	Verna Driver
Emma Bird's Bill	Carolette Mason
Joseph Black Bear	Charloette Mason
Moses Smith	Cecil Smith
Ernestine Smith	Olive Stevenson
Josephine Dancing Bull	Winnie Stevenson
Jackson Dancing Bull	Caroline Stevenson
Agnes Dancing Bull	Joseph Smith
Fred S. Gun	Hilda Smith
Susie S. Gun	Mark Necklace
Noami F. Bear	George Drags Wolf, Sr.
Lucy Spotted Wolf	Robert Dancing Bull
Agnes Conklin	Francis Stevenson
David Grant	Chester Smith
James Horn	John White Body
Aline Horn	Mamie White Body
Julia Horn	John Sitting Crow
Lottie Necklace	Grace P. Fox
William Smith	Margaret Deane
Mrs. Ernest Black Hawk	Manie Deane
Rufus Stevenson	Maye Bird Lying Down
Adalai Stevenson	John Bear's Tail
Ernest Black Hawk	Emma Bear's Tail
Herbert White Owl	Minnie Bear's Tail
Cora B. Bear	Leslie Mahto
Ethel Smith	Thomas Yellow Wolf
Belle Smith	Mrs. John Fredricks
Winnie Smith	John Fredricks
Mary D. Wheeler	Olive Wells
Cecilia Mason	Philip Atkins
Evelyn Gillette	Mamie Hunts Along
James Bull Snake	Mrs. William Deane
Nora Bull Snake	Mae Baker
Frank R. Fox, Sr.	Ernest Fox
Pauline C. Fox	Frank Fox, Jr.
Mary Fredericks	Ralph Wells, Jr.
Lucy Smith	Edna S. Atkins
Dorothy Moran	Margaret H. Baker
Samuel Newman, Jr.	George Good Bear
George Many Ribs	Mae Newman
Anna S. Gun	Sarah V. Smith
Mae Smith	Nora Baker

Justin Spotted Bear
Thad Mason
Walter Young Bear
Thelma Yellow Wolf
Mary D. Smith
Stella S. Bear
Mrs. Pearl Young Bear
Mrs. Mary Alice Burr
Oscar Burr
Charles Burr
Christina Old Mouse
David Young Bear
Robert Lincoln
Crow's Heart
Mrs. Zora Lincoln
Esther Lincoln
Mildred Bull
Susie Bull
Mrs. Ole Bull
William Hall
Frank Young Bear
Solomon Bird Bear
Oscar Whiteman
Jacob Clair Bird
Stephen Bird
Mrs. Fanny Bird
James Smith, Sr.
Mrs. Elizabeth Smith
Robert Bird Bear
Charles Smith
Eunice Smith
Mrs. Cora Bird Bear
Anthony Hale
Edward Black Hawk
Ruth Black Hawk
Eva B. Beaks
Sam White Owl
Melvin Johnson
Dora Starr
Otter H. Eagle
Mattie Grinnell
Ralph Little Owl
David Little Swallow
Gilbert Eagle
Iva Eagle
Mrs. Peter Starr
Mable Snow Bird
Frank Chase
Louisie Chase
Mrs. Little Owl
Mrs. Albert Little Owl
Mrs. Bessie M. Stone
Carl Whitman
Cora Young Bear
Nellie Price
Isaac Price
Mary Young Bear
Thomas White, Sr.
Rhoda E. White
Lena White
Levi Waters
Ben Hart
Fred Morsette
Lucille Fox
Agnes Fox
Hannah Fox
Nicholas Fox
Matt. Fox
Daniel H. Wolf
Walter Plenty Chief
Emma Plenty Chief
Harvey Hopkins, Sr.
Susie Hopkins
Albert White Calf
Eugene White, Sr.
George Howard
Anna Sitting Crow
Dorothy Deegan
Clyde Plenty Chief
Davis Painte
Pat H. Maluomie
Robert Painte
Igantius Winans, Sr.
Mrs. Ella P. Hopkins
Stephen Price
Lee Hall
Mrs. Robert Brown
Agnes Plenty Chief
Bessie Elk

Thomas Beaks
Frank Spotted Bear
Ralph Bird Bear
Evan Burr
Gertrude Burr
Ole Bull
Julia Bull
James H. Eagle
Jack Nagle
Herbert Sitting Crow
Mrs. Sitting Crow
Mary Sage
Millard Watkins
Lawrence Fox
Dora Fox
Margaret L. Swallow
Rose Fournier
Lorenzo Spotted Bear
Mrs. Lorenzo Spotted Bear
Margaret Blake
Mrs. Mary Lone Fight
Robert Rush
Philip Snow
Blanch Baker
Howard Mandan
William Wounded Face
Mrs. Julia Wounded Face
Mrs. Cora Whiteman
Flora Whiteman
Germane Walks
Lee Old Mouse
Iron Woman
John Yellow Wolf
Sam Badgun
George Young Bear
Elizebeth Badgun
Fannie F. Benson
Mrs. Melvin Johnson
Jessie Starr
Antelope Woman
Johnny Starr
Delancy Yellow Face
Edward Lockwood, Jr.
Edward Lockwood, Sr.
Mary Lockwood
Mrs. Delancy Yellow Face
Joe Eagle
Hester Eagle
Snow Bird
Little Owl
Mrs. August L. Soldier
Virginia M. Stone
Ernest M. Stone
Lillian Whitman
Martin Fox
Mrs. Martin Fox
Joseph Young Bear
Robert Fox
Johnny Fox
Fred Fox
Stephen Wash
George Lewis, Sr.
George Lewis, Jr.
Elenaor White Bear
Julia Red Bear
Abbie Shell
Mary L. Gillette
Dora Bear
Rose Hand
Georgina Reed
Hattie Waters
Mathilda Waters
Winona Hart
Mamie White Tail
Lottie Hosie
Henry Perkins
Crosby Beaks
Vincent Maluomie
Tony Perkins
Joe Fox
Dan Hopkins
George Painte
Nora Painte
Eli N. Perkins
Jessie R. Fox
Philip Starr
Philip Ross
Mr. Robert Brown
Lillian B. Brave
Charolette Killsthunder

Emmerine Chase
Adelia Good Bird
John B. Brave

Myra B. Howard
Elizebeth Montclair

This is to certify that every person who signed this petition is 21 or more years of age and an authentic copy of the original petition signed by the people of the Fort Berthold Reservation, State of North Dakota. May 7, 1941.

Floyd Montclair, Secretary,
Fort Berthold Americans, Inc.

Subscribed and sworn to before me this 7th day of May, 1941, at Elbowoods, McLean County, North Dakota.

Clara L. Vigen,
Notary Public.

(SEAL) My Commission expires December 4, 1946.

RESOLUTION

Extending support to the Sub-Committee of the Tribal Council for their opposition to the construction of a Dam near Garrison, North Dakota.

WHEREAS; The Joseph Young Hawk Post No. 253, The American Legion, Department of North Dakota, located at Elbowoods, North Dakota; and

WHEREAS; The membership of this Post is composed entirely of Indian boys who are enrolled members, residing and own land and properties within confines of the Fort Berthold Reservation; and

WHEREAS; The members of this Post are made up of Indian boys who have received honorable discharges after faithful fulfillment of their citizenship duties in the different branches of the Armed Forces of the United States in World War No. 1 and World War No. 2; and

WHEREAS; There are still 200 boys and girls from this Reservation who are still carrying on the fight against the enemies of our beloved country; and

WHEREAS; There is embodied in the proposed plan by the U. S. Army Engineers Corp, so-called Pick Plan to construct a Dam at Big Bend near Garrison, North Dakota; and

WHEREAS; Realizing the gravity and destructiveness of this plan to our homes, property, and our best land on the Reservation by inundation; and

WHEREAS; the Tribal Council, our governing body of the Fort Berthold Reservation, have prepared a "brief" in opposition to this proposed construction of the Dam. In this "brief" they gave forth their reasons opposing the project, and

NOW, THEREFORE, be it hereby resolved by the members of the Joseph Young Hawk Post, to voice their adverse disapproval of the proposed Garrison Dam.

We, further resolved to make known by this action, to the Sub-Committee of the Tribal Council that our loyal support in their fight against the powers of might.

Be it further resolved that a copy of this resolution be spread on our Official Records, and copies be presented to the Sub-Committee of the Tribal Council for their files, our Supt., C. H. Bertzel, our Dept. Commander, Lewis T. Orlady, 9th Dist. Deputy, Alf P. Ness, and to other interested parties.

Martin Cross, Post Commander.
Fred J. Wheeler, Vice-Commander.
Harvey Hopkins, Post Adjutant.
Wm. J. Dean, Post Finance Officer.
Clyde Plenty Chief, Post Chaplain.
Pat Malnournie, Post Sgt.-At-Arms.

MEMBERS— Tony Perkins, Burr Crow Breast, Mathew White Bear, Perry C. Ross, John W. Smith, Geo. Howard, Jr., Adrian Baker, Victor Mandan, Frank Birds Bill, Oscar Burr, Douglas Standish, Carl W. Sterud, Roy Crows Heart, Henry Perkins, George Lewis, Wm. Bears Tail, Frank Young Bear, Victor Mason, Don Little Owl, Lee Hall.

The following resolution, No. 2, duly passed by the National Congress of American Indians on November 17, 1944 at a National Convention held in Denver, Colorado.

RESOLUTION NO. 2

Requesting a Fair Consideration of the Rights and the Problems of the American Indians

WHEREAS, the National Congress of American Indians has as one of its purposes the protection of the rights and privileges of the Indians of the United States and their social and economic wellbeing, and

WHEREAS, it is generally known that the Indian Bureau, the Congress, and public opinion generally has, heretofore, ignored the fact that American Indians are citizens deserving of the rights and privileges granted under the Constitution of the United States, and

WHEREAS, there are thousands of Indians in the armed services of our Nation in fulfillment of their citizenship duties,

NOW, THEREFORE, BE IT RESOLVED, that the President of the United States, the Congress of the United States, the Interior Department and its several agencies, and the various State governments, be respectfully requested to give thought to the serious problems as well as the stalemated social and economic program confronting the American Indians—National Congress of American Indians.

FINALE

One day during the turbulent days on the American continent remarks of President Lincoln's Secretary of War now echo with the situation of Fort Berthold Indians of North Dakota. Secretary of War Stanton explained: "The Government never reforms an evil until the people demand it. Tell the good bishop that when he reaches the heart of the American people the Indians will be saved.

Therefore, it is time for the American people to rectify and remove bad state of affairs among the American Indians of the United States of America.

Twilling Store

We have served you for fifteen years with a reliable line of General Merchandise and are appreciative of your trade.

Elbowoods, North Dakota

Kvale Store

Meat - and - Groceries

Raub, North Dakota

AVERY MOTOR COMPANY

Chevrolet Sales and Service

Ivan Avery, Manager

Parshall, North Dakota

DAKOTA STATE JOURNAL  MINOT, NORTH DAKOTA