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Statement to Commissioner of Indian Affairs by
John S. Boyden, General Counsel for the Hopi Tribe,
November 3, 1953, Keams Canyon, Arizona

Mr. Chairman, Mr. Commissioner, Guests and Friends:

Commissioner Emmons, as you are well aware, there are many of the Hopi people, each of whom could make this report to you with dignity and with great credit to their people. However, after a series of meetings in some of the villages, and with the Hopi Tribal Council, I have been requested to make this statement and I have further been instructed as to the subjects they desire to be covered. I shall endeavor to faithfully report their desires.

We were somewhat perturbed to learn from a radio newscast that our Tribal Council had refused to meet with you, particularly since our plans were then in rather feverish preparation with a view of attempting to cram into the short time you can be with us the many problems we so anxiously anticipate calling to your attention. Your presence has alleviated our apprehension and now we may place this false report in the same category as the altogether too many newspaper articles and reports of self-appointed benefactors who without hesitation purport to express the views of the Hopi people.

We wish we could truthfully say that all of our people are in accord and of one mind in regard to the multiple problems confronting us. Dissension, a good portion of which is not of our own making, has been characteristic of even our simplest endeavors. The limited transition from the old to the new which has taken place has been indeed painful, but nevertheless, just as certain as the inevitable in other realms of society. Many of our problems affect every Hopi Indian. Each has a definite interest in the ultimate solution of the Hopi land question. Livestock grazing outside of village holdings, trans-reservation roads beyond the village limits, oil, gas, and mineral development of tribal lands, -- all have many aspects which cannot be settled upon a village basis.

The Hopi Tribal Council is conscientiously attempting to avoid matters which may be settled by the villages, restricting its activities to those instances where conjoint action is required by the very nature of the problem presented. We are not aware of any great differences of our goals and aims, rather our opposition attacks our authority to act, even when we are in accord as to the desired result. Recently, your office recognized the Council and accepted it as the tribe's constitutional governing body. Whether such re-acceptance was in fact legally necessary is a matter that we are not now required to resolve. Those who opposed the council were invited to come forward with any constructive plans which might result in a more democratic representation of the Hopi people. We know the Hopi constitution is not perfect but it's the best constitution we have and by its terms it may be amended in a manner similar to that provided for the original adoption of the constitution.

We have conducted no letter-writing campaign, although we know the files of the Indian Office are replete with attacks upon the council, often embodying personal villification of members who happen to be currently representing one of the villages. We hope you will entertain no doubt as to our sincerity when we say that we want to confine our efforts and our labors to the personal advancement and general welfare of the Hopi people. Only time will tell whether such a noble desire can succeed or whether more thought should be given to political intrigue. We do not wish to imply that our every move is perfect and that none of our members have been impelled or motivated by personal prejudices. Our only claim is that as a whole the council works honestly, intelligently and diligently, and may I add, that it compares very favorably with many non-Indian city councils and boards of county commissioners.

Our political differences have, we think been inaccurately described, as a conflict between the traditional and the young progressives. Many traditional people actively support the council, and even a greater number have given words

of encouragement and appreciation. The bill of rights of the Hopi constitution provides, "All members of the tribe shall be free to worship in their own way, to speak and write their opinion, and to meet together." We respect that provision. We solicit your indulgence while we are being given an opportunity to prove our worth.

The Hopi villages were established in their present location prior to the time this territory was acquired by the United States Government. All authorities are not agreed as to the extent of the Hopi territory, either as to area or use, but it is well established historically that the rapidly expanding population of the Navajo coupled with a deadly small pox epidemic among the Hopi, favored Navajo expansion at the expense of the peaceful Hopi settlements. Since the Treaty of Guadalupe Hidalgo government archives reveal sympathy for the Hopi and his situation by many government agents who were in the territory early and recently. That sympathy has not been sufficient stimulus for Congress or the executive branch of our government to overcome the ever increasing pressure of the Navajo population numbering approximately 10,000 at the time of the roundup in old Ft. Sumner, and growing to a figure now probably exceeding 71,000. The Executive Order Reservation set up for the Hopi in 1862 was then intended to protect the Hopi country against further encroachment, a current solicitor's opinion to the contrary notwithstanding. A stock phrase employed in the executive order "and such other Indians as the Secretary of the Interior may see fit to settle thereon", also used in many treaties and executive orders by the government, has been given special significance in our case in order to justify a movement which now envelops the whole reservation, with the exception of District 6.

All settlements of grazing problems giving rise to the creation of the grazing districts meticulously avoided ultimate determination as to tribal jurisdiction. Our constitution gave authority to the tribe only over "the Hopi villages and such land as shall be determined by the Hopi Tribal Council in

agreement with the United States Government and the Navajo tribe, and such lands as may be added thereto in the future." The tribal council was authorized to negotiate with the proper official to reach such agreement and to accept it by a majority vote. This authority was given in 1936. Let us say, impassionately, and after opportunity to weigh our words, we do not feel that the Government has discharged its obligation in taking proper steps to commence negotiations for the settlement of this land problem.

The opinion of the Solicitor, with which we sharply disagree, granting the Navajos on the Hopi reservation a per capita interest in the minerals underlying the Hopi reservation is perhaps consistent with the previous recognition of grazing rights for the Navajo, but it does not require that these Navajos relinquish claim to the rights of their own reservation before they accept claims upon the Hopi reservation. This is a situation unique in our handling of the Indians for the Code of Federal Regulations and the courts have expressly prohibited other Indians from sharing in the benefits of two reservations.

Particularly of late, we have felt that our own Superintendent has been handicapped by an Area Office attitude unfriendly to our position. A proposal by the Hopi Tribal Council that certain funds collected by the government under trader license regulations be placed at the disposal of the Tribal Council for the use of the Hopi people, with certain limitations, was concurred in and recommended by our Superintendent. The Washington office was not unfriendly and even made suggestions as to how this might be accomplished, but in the Area Office we were met by a recommendation by the Area Director proposing "that the Commissioner suggest to the non-council villages the circulation of a petition requesting the secretary to conduct a referendum on the question of abolishing the Hopi Constitution and By-laws in accordance with the provisions of that document."

This serious mistake was averted when the Washington office ruled "We will recognize the Hopi Council as the governing body of the tribe as a whole until

such time as that body is modified or changed through the wishes of the majority of the Hopi people from the different villages." And at this time the Hopi Tribal Council asks only for government by the majority.

Under the Navajo-Hopi Rehabilitation Act funds for loaning purposes were made available for Hopi Indians just as it was for Navajo Indians. The delay of three years in working out a satisfactory loan committee situation is exceedingly difficult for the Hopi to understand. And incidentally, in the rehabilitation act approved April 19, 1950, Congress recognized the Hopi Tribal Council requiring that it be kept informed and afforded opportunity to consider from their inception plans pertaining to the program authorized by the act. (Public Law 474, 81st Congress, Sec. 8)

The Tribal Council's application was declined and the Area Office even suggested that individual loan committees be established in each village, an impractical and nearly impossible recommendation. The Tribal Council not desiring to make an issue of the village question then cooperated fully in assisting to organize an independent loan committee.

A tribal member from Polacca applied for a loan to purchase and operate a freight and passenger line from Holbrook, Arizona, to Hotevilla village. This loan was approved by the Hopi loan committee and by the Superintendent. The franchise by the state had been arranged for purchase, the franchise by the Hopi tribe was a foregone conclusion. The area office simply referred the loan to the Navajo Tribal Council for a franchise and there that loan has rested to this day, although it was submitted on the 26th day of last August. After the Navajo tribe has been permitted to encircle the Hopi lands, is it any wonder that our people become confused when their own loans cannot be approved in the area office without the indulgence of the Navajo tribe in permitting a right-of-way over approximately 13 miles of government constructed and maintained highway to the nearest railroad point?

The Navajo Tribal Council now attempts to reach out and assert political jurisdiction on the Hopi Executive Order Reservation. That council in February of 1953 published a pamphlet entitled "Navajo Reservation Grazing Committees. Their Duties and Responsibilities." In Section 6 (b) on page 9, appears the following: "In Districts 3 and 7 some grazing permits have been issued to Hopi Indians. In these two districts, Navajos may acquire grazing permits from Navajos and Hopis, but Navajos may not sell permits to Hopis." Unless the Hopi people speak for themselves now, past experience has proven that further rights of the Hopi are being lost today.

An incident of similar character was the subject of our protest last April when we learned that the Navajo Tribe was collecting fees from traders upon the Hopi Executive Order Reservation outside of District 6, pursuant to its ordinance requiring payment of fees for the privilege of doing business upon the Navajo Reservation. Although it was referred by the Area Director to the Washington office on May 27, we have heard no word in reply to our protestations.

These facts are not reiterated with a view of simply criticizing the Bureau of Indian Affairs or any part thereof, but they are intended to give substance to a suggestion upon which most Hopi Indians agree that the office of the superintendent of the Navajo Reservation should not in fairness be held responsible for overseeing the activities of the Hopi people, even though such office be charged with a dual responsibility of superintendent and area director. The Hopi should not be subjected to the indignity of attempting to overcome the pressures exerted by a tribe over 17 times its size. The United States Government should have assumed the role of protecting the rights and property of both tribes, rather than allowing its administration to adopt the dubious policy of neglectful waiting.

Mr. Commissioner, the Hopi Tribal Council sees great need for continued road improvement. It is not adverse to any reasonable and practicable solution to the problem of educating the Hopi children, but it does want them properly

educated. You will find us cooperative and helpful in all plans reasonably calculated to make us free and independent. The great need of water development for culinary and irrigation purposes challenges the best efforts of us all. There is no substantial reason why electric power cannot become a part of the daily lives of the Hopi people. Matters of health including inadequate hospital facilities, understaffed and underfinanced, are not to be solved without teamwork of the highest order.

We want to be self-sustaining. The Hopi possesses a proud and enviable reputation for long hours of work and the development of skills comparing favorably with all classes on and off the reservations. If our people had adequate facilities and resources they would not be a problem to the Federal Government - they would be a sustaining component of our American population. We are not shying from responsibility. We simply plead for a voice in the shaping of policy affecting our future. We are not unfriendly to our neighbors, the Navajos, we only ask for justice in the defining of rights and privileges of grave interest to us both. In our humble opinion, the greatest determining factor in a fair termination of government supervision is the willingness with which the Government of the United States discharges its assumed responsibility of defining and protecting our rights under law.

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