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[PUBLIC LAW 71—81ST CONGRESS]

[CHAPTER 138—1ST SESSION]

[H. R. 2632]

AN ACT

Making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1949, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations for the fiscal year ending June 30, 1949, and for other purposes, namely:

LEGISLATIVE BRANCH

SENATE

For payment to Vera C. Bushfield, widow of Harlan J. Bushfield, late a Senator from the State of South Dakota, \$12,500.

For payment to Alice W. Broughton, widow of J. Melville Broughton, late a Senator from the State of North Carolina, \$12,500.

OFFICE OF THE VICE PRESIDENT

For the expense allowance of the Vice President, fiscal year 1949, from January 20 to June 30, \$4,500.

ADMINISTRATIVE AND CLERICAL ASSISTANTS TO SENATORS

The appropriation for administrative and clerical assistants and messenger service for Senators contained in the Legislative Branch Appropriation Act, 1949, is made available for the employment of an additional clerk at the basic rate of \$1,500 per annum by each Senator from the States of California and Virginia, the population of said States having exceeded ten million and three million, respectively.

OFFICE OF SERGEANT AT ARMS AND DOCKKEEPER

Hereafter the basic annual rates of compensation for two clerks at \$3,480 each contained in the Legislative Branch Appropriation Act, 1949, shall be one at \$4,260 and one at \$2,700.

Commencing March 1, 1949, the appropriation for "Salaries of officers and employees of the Senate" contained in the Legislative Branch Appropriation Act, 1949, shall be available for the compensation of laborer in charge of private passage at \$2,280 basic per annum in lieu of laborer in charge of private passage at \$2,120.

CONTINGENT EXPENSES OF THE SENATE

Vice President's automobile: For an additional amount for "Vice President's automobile", fiscal year 1949, \$2,500.

Postage stamps: For additional amounts for postage stamps, for the following offices: Office of the Secretary, \$150; Office of the Sergeant at Arms, \$75; in all, fiscal year 1949, \$225.

Furniture: For an additional amount for furniture and repairs, fiscal year 1949, \$6,000.

Commencing January 20, 1949, the provisions of existing law relating to long-distance telephone calls for Senators shall be equally applicable to the Vice President of the United States.

The basic salary of the research assistant to the minority leader authorized by Senate Resolution Numbered 158, agreed to December 9, 1941, hereby is increased from \$6,000 to \$7,320 per annum.

Notwithstanding the provisions of the Treasury-Post Office Appropriation Act, 1949, the appropriation "Miscellaneous items, contingent expenses of the Senate", shall be available for purchase of new or used typewriters at prices which do not exceed prices established under the provisions of the Treasury-Post Office Appropriation Act, 1949.

HOUSE OF REPRESENTATIVES

For payment to Temple W. West, widow of Milton H. West, late a Representative from the State of Texas, \$12,500.

For payment to Lotti S. Delaney, widow of John J. Delaney, late a Representative from the State of New York, \$12,500.

For payment to Vera Bloom, daughter of Sol Bloom, late a Representative from the State of New York, \$12,500.

CONTINGENT EXPENSES OF THE HOUSE

Miscellaneous Items

Notwithstanding the provisions of the Treasury Department Appropriation Act, 1949, the appropriation for "Miscellaneous items" for the House of Representatives in the Legislative Branch Appropriation Act, 1949, shall be available for purchase of new or used typewriters at prices which do not exceed prices established under the provisions of the Treasury Department Appropriation Act, 1949.

JOINT COMMITTEE ON NONESSENTIAL FEDERAL EXPENDITURES

For an amount which is hereby authorized to enable the Joint Committee on Reduction of Nonessential Federal Expenditures to carry out the duties imposed upon it by section 601 of the Revenue Act of 1941 (55 Stat. 726), to remain available during the existence of the committee, \$20,000, to be disbursed by the Secretary of the Senate.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDING, SENATE AND HOUSE ROOFS AND CHAMBERS

Capitol Building: For an additional amount to enable the Architect of the Capitol to carry forward the improvements affecting the House Wing of the Capitol authorized by the Second Deficiency Appropriation Act of June 27, 1940 (54 Stat. 629), as amended by the Acts of June 8, 1942 (56 Stat. 342), and July 17, 1945 (59 Stat. 472), \$2,274,500. The Architect of the Capitol is authorized to enter into contracts, including cost-plus-a-fixed-fee contracts as approved by the

Special Committee on Reconstruction of House Roof and Skylights and Remodeling of House Chamber, and to make such other expenditures as may be necessary for the improvements affecting the House Wing of the Capitol authorized by such Acts, in such amounts as may be approved by the House committee appointed under section 1 of the Act of July 17, 1945, notwithstanding the provisions of section 2 of that Act: *Provided*, That the amounts so approved by such committee may be obligated in full prior to the actual appropriation thereof.

THE JUDICIARY

MISCELLANEOUS ITEMS OF EXPENSE

FEES OF JURORS

For an additional amount for "Fees of jurors", \$300,000.

GENERAL PROVISIONS

Notwithstanding the provisions of the Treasury Department Appropriation Act, 1949, appropriations in the Judiciary Appropriation Act, 1949, available for miscellaneous expenses or for salaries and expenses shall be available for purchase of new or used typewriters at prices which do not exceed prices established under the provisions of the Treasury Department Appropriation Act, 1949.

EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For an additional amount, fiscal year 1949, for "Compensation of the President" from January 20 to June 30, including an expense allowance at the rate of \$50,000 per annum, as authorized by Public Law 2, approved January 19, 1949, \$33,437.52.

OFFICE OF DEFENSE TRANSPORTATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$95,000; and the limitation under this head in the Supplemental Independent Offices Appropriation Act, 1949, on the amount available for travel expenses is increased from "\$54,000" to "\$65,000": *Provided*, That the appropriation under said head shall remain available until June 30, 1949: *Provided further*, That the sum of \$60,000 made available under said head exclusively for terminal leave payments shall be available for any of the purposes specified under said head.

INDEPENDENT OFFICES

DISPLACED PERSONS COMMISSION

For an additional amount for "Displaced Persons Commission", \$1,200,000; and the limitation under this head in the Second Deficiency Appropriation Act, 1948, on the purchase of passenger motor vehicles, is increased from "fifteen" to "thirty-five".

FEDERAL SECURITY AGENCY

BUREAU OF EMPLOYEES' COMPENSATION

Administrative Expenses, War Claims Act

For administrative expenses necessary for performing the duties imposed upon the Federal Security Administrator by the War Claims Act of 1948 (Public Law 896, approved July 3, 1948), \$35,000, to be derived from the war claims fund created by section 13 (a) of said Act and to be advanced to and consolidated with the appropriation for "Salaries and expenses" under the Bureau of Employees' Compensation in the Federal Security Agency Appropriation Act, 1949.

Employees' Compensation Fund

For an additional amount for "Employees' compensation fund", \$3,400,000.

SOCIAL SECURITY ADMINISTRATION

Grants to States for public assistance

For an additional amount for "Grants to States for public assistance", \$151,000,000.

Grants to States for Unemployment Compensation and Employment Service Administration

For an additional amount for "Grants to States for unemployment compensation and employment service administration", \$14,000,000, of which \$4,000,000 shall be available only upon determination by the Federal Security Administrator, with the approval of the Director of the Bureau of the Budget, that increased costs have resulted either from (1) increases in work load, or (2) increases in salaries of State employees, occurring after February 1, 1949.

FEDERAL WORKS AGENCY

PUBLIC BUILDINGS ADMINISTRATION

General Accounting Office Building, District of Columbia

The contract authority provided under this head in the Second Deficiency Appropriation Act, 1948, for the construction of a building for the use of the General Accounting Office, is increased in an amount not to exceed \$2,550,000 under the revised limit of cost of \$25,400,000.

BUREAU OF COMMUNITY FACILITIES

Maintenance and Operation of Schools

For an additional amount for "Maintenance and operation of schools", \$3,000,000; and the limitation under this head in the Second Deficiency Appropriation Act, 1948, on the amount available for administrative expenses, is increased from "\$100,000" to "\$137,500".

HOUSING AND HOME FINANCE AGENCY

FEDERAL HOUSING ADMINISTRATION

The amount made available under this head in the Government Corporations Appropriation Act, 1949, for administrative expenses of the Federal Housing Administration, is increased from "\$19,000,000" to "\$23,500,000"; and the sources of funds for such administrative expenses shall include the housing investment insurance fund created by the Housing Act of 1948.

HOUSING EXPEDITER

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses, Office of the Housing Expediter", \$4,800,000.

MOTOR CARRIER CLAIMS COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Motor Carrier Claims Commission established by the Act of July 2, 1948 (Public Law 880), including personal services in the District of Columbia, travel expenses, printing and binding, and services as authorized by section 15 of the Act of August 2, 1946 (5 U. S. C. 55a), \$50,000: *Provided*, That section 6 of the aforesaid Act of July 2, 1948, as amended, is further amended by striking out the words "nine months" and inserting in lieu thereof the words "fifteen months", and section 13 of said Act, as amended, is further amended by striking out the words "nine months' period" and inserting in lieu thereof the words "fifteen months' period".

NATIONAL CAPITAL HOUSING AUTHORITY

MAINTENANCE AND OPERATION OF PROPERTIES

For an additional amount for "Maintenance and operation of properties", \$3,300.

TENNESSEE VALLEY AUTHORITY

For an additional amount for "Tennessee Valley Authority", \$2,950,000, to remain available until expended; and the limitation under this head in title I of the Government Corporations Appropriation Act, 1949, on the amount available for capital expenditures, is increased from "\$21,689,000" to "\$24,639,000": *Provided*, That the limitation under this head in title II of the Government Corporations Appropriation Act, 1949, on the amount available for administrative and general expenses of the Corporation, is increased from "\$3,677,000" to "\$3,988,000", and the limitation therein on the use for such purposes of funds appropriated by title I of said Act is hereby repealed.

THE TAX COURT OF THE UNITED STATES

SALARIES AND EXPENSES

The limitation imposed by section 104 of the Independent Offices Appropriation Act, 1949, on the amount available for travel expenses under this head, is increased from "\$20,000" to "\$26,000".

UNITED STATES MARITIME COMMISSION

VESSEL OPERATING FUNCTIONS

Funds appropriated under this head in the Supplemental Independent Offices Appropriation Act, 1949, shall be available during the entire fiscal year: *Provided*, That the total obligations under this head for the fiscal year 1949 shall not exceed \$23,000,000.

VETERANS' ADMINISTRATION

NATIONAL SERVICE LIFE INSURANCE

For an additional amount for "National service life insurance", \$55,000,000, to remain available until expended.

SOLDIERS' AND SAILORS' CIVIL RELIEF

For an additional amount for "Soldiers' and sailors' civil relief", \$190,000, to remain available until expended.

VETERANS' MISCELLANEOUS BENEFITS

For an additional amount for "Veterans' miscellaneous benefits", \$44,189,000, to remain available until expended.

WAR ASSETS ADMINISTRATION

SALARIES AND EXPENSES, SPECIAL FUND

For an additional amount for "Salaries and expenses, War Assets Administration, special fund", \$13,250,000, to be derived from the special fund account in the Treasury as provided for in the First Deficiency Appropriation Act, 1946: *Provided*, That all funds appropriated under this head for the fiscal year 1949 shall be available during the entire fiscal year: *Provided further*, That notwithstanding the provisions of any other law, not to exceed \$1,000,000 of the proceeds of the disposal of surplus property or deductions from proceeds otherwise collectible as a result of the disposal of such property shall be available for such costs of renovation, restoration, rehabilitation, improvement, and repair of industrial facilities, as may be contracted for during the fiscal year 1949 if required for purposes of national defense or for the protection of the public or of private property from the effects of the operation of such facilities: *Provided further*, That the effective date for abolishing the office of the War Assets Administrator, terminating the existence of the War Assets Administration, and transferring to other Federal agencies its responsibility for disposal of property declared surplus prior to July 1, 1948, as prescribed by the Supplemental Independent Offices Appropriation Act, 1949, is hereby changed from "February 28, 1949", to "June 30, 1949", or such earlier date as may be established by legislation enacted during the first session of the Eighty-first Congress.

WAR CLAIMS COMMISSION

ADMINISTRATIVE EXPENSES

For expenses necessary for the War Claims Commission, including personal services in the District of Columbia; travel expenses; printing and binding; services as authorized by section 15 of the Act of August 2, 1946 (5 U. S. C. 55a); and advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; \$75,000, to be derived from the war claims fund created by section 13 (a) of the War Claims Act of 1948 (Public Law 896, approved July 3, 1948).

PAYMENT OF CLAIMS

For payment of claims, as authorized by the War Claims Act of 1948, from funds deposited in the Treasury to the credit of the war claims fund created by section 13 (a) of said Act, such sums as may be necessary, to be available to the Secretary of the Treasury for payment of claims under sections 4 (a), 4 (b) (2), 5 (e), 6 (b), and 7 of said Act to the payees named and in the amounts stated in certifications by the War Claims Commission and the Federal Security Administrator or their duly authorized representatives, which certifications shall be in lieu of any vouchers which might otherwise be required: *Provided*, That this appropriation shall not be available for administrative expenses.

DEPARTMENT OF AGRICULTURE

OFFICE OF INFORMATION

PRINTING AND BINDING

The limitation under this head in the Department of Agriculture Appropriation Act, 1949, on the amount which may be transferred to this appropriation from other appropriations of the Department of Agriculture, is increased from "\$145,000" to "\$170,500".

AGRICULTURAL RESEARCH ADMINISTRATION

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

Control of Emergency Outbreaks of Insects and Plant Diseases

For an additional amount for "Control of emergency outbreaks of insects and plant diseases", \$1,250,000.

PRODUCTION AND MARKETING ADMINISTRATION

CONSERVATION AND USE OF AGRICULTURAL LAND RESOURCES

For an additional amount for "Conservation and use of agricultural land resources", for formulating and carrying out programs under the Agricultural Adjustment Act of 1938, as amended, including cotton and wheat marketing quota programs, \$9,734,500; and the limitation under this head in the Department of Agriculture Appropriation Act, 1949, on the amount available during the fiscal year 1949 for salaries and other administrative expenses, is increased from

"\$24,500,000" to "\$34,234,500"; and the limitation under said head on the amount available for transfer to the appropriation account "Administrative expenses, section 392, Agricultural Adjustment Act of 1938", is increased from "\$7,000,000" to "\$8,284,000".

FARMERS' HOME ADMINISTRATION

LOANS TO FARMERS, PROPERTY DAMAGE

The funds appropriated under the head "Loans to farmers, 1948 flood damage", in the Second Deficiency Appropriation Act, 1948, shall remain available until June 30, 1950, in accordance with the terms and conditions specified under said head, to provide assistance to farmers whose property is destroyed or damaged as a result of floods, storms, or other natural calamity during the calendar years 1948 and 1949.

COMMODITY CREDIT CORPORATION

ADMINISTRATIVE EXPENSES, COMMODITY CREDIT CORPORATION

The limitation under this head in the Department of Agriculture Appropriation Act, 1949, on the amount available for administrative expenses of the Corporation, is increased from "\$7,575,000" to "\$10,814,700".

DEPARTMENT OF COMMERCE

OFFICE OF THE SECRETARY

VOLUNTARY AGREEMENTS

For an additional amount for "Voluntary agreements", \$190,000.

BUREAU OF THE CENSUS

CENSUS OF BUSINESS

For an additional amount for "Census of business", \$11,000,000, to remain available until December 31, 1951; and appropriations under this head shall be available for health service programs as authorized by law (5 U. S. C. 150), and for compensation of employees of the Department of Commerce and other departments and independent agencies of the Government who may be detailed for field work.

CIVIL AERONAUTICS ADMINISTRATION

CLAIMS, FEDERAL AIRPORT ACT

For reimbursement, in accordance with section 17 of the Federal Airport Act, as amended, to public agencies for necessary rehabilitation and repair to public airports damaged by Federal agencies, \$1,227,140, to remain available until June 30, 1953, as follows: Greensboro-High Point Airport, Greensboro, North Carolina, \$197,813; Buffalo Municipal Airport, Buffalo, New York, \$594,344; Nantucket Airport, Nantucket, Massachusetts, \$57,582; Detroit-Wayne Major Airport, Wayne County, Michigan, \$168,689; Adams Field, Little Rock Municipal Airport, Little Rock, Arkansas, \$187,072; and Galveston Municipal Airport, Galveston, Texas, \$21,640.

COAST AND GEODETIC SURVEY

SALARIES AND EXPENSES, FIELD

For an additional amount for "Salaries and expenses, field", \$366,000.

BUREAU OF FOREIGN AND DOMESTIC COMMERCE

EXPORT CONTROL

For an additional amount for "Export control", \$1,000,000; and limitations under this head in the Second Deficiency Appropriation Act, 1948, on amounts available for transfer to other appropriations are increased as follows: Bureau of Customs, from "\$1,350,000" to "\$1,500,000".

DEPARTMENT OF THE INTERIOR

OFFICE OF THE SECRETARY

EXPENSES, POWER TRANSMISSION FACILITIES

For an additional amount for "Expenses, power transmission facilities", \$131,000.

BONNEVILLE POWER ADMINISTRATION

CONSTRUCTION, OPERATION, AND MAINTENANCE

For an additional amount for "Construction, operation and maintenance, Bonneville power transmission system", \$6,047,800, to remain available until expended; and the limitation under this head in the Interior Department Appropriation Act, 1949, on expenses for operation and maintenance of the Bonneville transmission system, is increased from "\$3,231,800" to "\$3,521,600"; and the limitation under said head on force account activities is hereby amended to read as follows: " : *Provided further*, That not exceeding 12 per centum of any construction appropriations for the Bonneville Power Administration contained in this Act shall be available for construction work by force account, or on a hired-labor basis, except in case of emergencies, local in character, so declared by the Bonneville Power Administrator": *Provided*, That, in addition to the contract authorization contained under said head, the Administrator is authorized to contract in the fiscal year 1949 for materials, equipment, and services for power transmission facilities in an amount not in excess of \$1,452,200.

BUREAU OF INDIAN AFFAIRS

NAVAJO AND HOPI SERVICE

Agency Services

For an additional amount for "Agency services", \$1,000,000.

EDUCATION OF INDIANS

For an additional amount for "Education of Indians", \$50,000.

CONSERVATION OF HEALTH

For an additional amount for "Conservation of health", \$75,000.

WELFARE OF INDIANS

For an additional amount for "Welfare of Indians", \$400,000.

CONSTRUCTION, AND SO FORTH, BUILDINGS AND UTILITIES

For an additional amount under this head for the conversion of the Bushnell Army Hospital, Brigham City, Utah, for school purposes, \$3,750,000, and the limitation under "Construction, and so forth, Buildings and Utilities" in the Department of Interior Appropriation Act, 1949, on the amount which may be used for surveys and plans and administrative expenses, and so forth, is increased from "\$190,000" to "\$227,500".

ALASKA NATIVE SERVICE

Vessel Conversion

For expenses necessary in converting and outfitting a vessel for use as a service and supply ship by the Alaska Native Service, \$500,000, to remain available until expended.

PAYMENT TO CHOCTAW AND CHICKASAW NATIONS OF INDIANS, OKLAHOMA

For payment to the Choctaw and Chickasaw Nations of Indians in fulfillment of the terms of a contract between the United States of America and the said nations as authorized by the Act of June 28, 1944 (58 Stat. 483), and as ratified by the Act of June 24, 1948 (Public Law 754), \$8,359,000, of which not to exceed \$50,000 shall be available until expended for defraying the expenses, including printing and binding, of making the per capita payment authorized by the above Acts: *Provided*, That in addition to the per capita payment, the Secretary of the Interior, in his discretion, is authorized to distribute per capita to the enrolled members of the Choctaw and Chickasaw Nations, entitled under existing law to share in the funds of such tribes, or to their lawful heirs or devisees determined in the manner prescribed in section 4 of the aforesaid Act of June 24, 1948, any or all the funds held by the Government of the United States for the benefit of said tribes.

BUREAU OF RECLAMATION

FORCE ACCOUNT WORK

That part of the Interior Department Appropriation Act for 1949 which reads: "Not exceeding 8 per centum of the construction appropriation for any project under the Bureau of Reclamation contained in this Act shall be available for construction work by force account, or on a hired labor basis, except for projects or items the estimated construction cost of which does not exceed \$200,000, and only then in cases where the Bureau of Reclamation finds the lowest bids to be

excessive." is hereby repealed and in lieu thereof the following provision is hereby inserted: "Not exceeding 12 per centum of the construction appropriation for the Bureau of Reclamation for any project contained in this Act shall be available for construction work by force account and on a hired-labor basis; except that not to exceed \$500,000 may on approval of the Commissioner be expended for construction work by force account on any one project when the work is unsuitable for contract or when excessive bids are received; and except in cases of emergencies local in character, so declared by the Commissioner."

GENERAL FUND

Construction

For additional amounts for "Construction", to remain available until expended, as follows:

Davis Dam project, Arizona-Nevada, \$4,750,000;
Colorado-Big Thompson project, Colorado, \$1,900,000;
Columbia Basin project, Washington, \$4,750,000.

Missouri River Basin

For an additional amount for "Missouri River Basin," reimbursable to the extent and as provided in the Act of December 22, 1944 (58 Stat. 887), \$4,800,000, to remain available until expended.

RECLAMATION FUND

The following sums are appropriated out of the reclamation fund created by the Act of June 17, 1902, as follows:

General Offices

Salaries and expenses (other than project offices)

For an additional amount for "Salaries and expenses (other than project offices)", \$260,000: *Provided*, That the limitation of \$7,800,000 contained in the first proviso under this head in the Interior Department Appropriation Act, 1949, is hereby increased to \$9,250,000: *Provided further*, That the limitation of \$48,000,000 contained in the fourth proviso under this head in said Act is hereby increased to \$54,500,000: *Provided further*, That the limitation of three thousand five hundred contained in the fifth proviso under this head in said Act is hereby increased to three thousand six hundred and twenty-five.

Construction

For additional amounts for "Construction", to remain available until expended, as follows:

Boise project, Idaho, Payette division, \$275,000;
Lewiston Orchards project, Idaho, \$325,000;
Provo River project, Utah, \$450,000, of which \$215,000 is for the payment of obligations incurred under authority provided under this head in the Interior Department Appropriation Act, 1948.

Operation and Maintenance

Colorado-Big Thompson project, Colorado

For an additional amount for "Colorado-Big Thompson project", from power revenues, \$52,000.

North Platte project, Nebraska-Wyoming

For an additional amount for "North Platte project, Nebraska-Wyoming", from power revenues, \$17,500.

Kendrick project, Wyoming

For an additional amount for "Kendrick project, Wyoming", from power revenues, \$131,000.

Emergency Fund

For establishing an emergency fund as authorized by the Act of June 26, 1948 (Public Law 790), \$1,000,000, to remain available until expended for the purposes specified in said Act.

NATIONAL MILITARY ESTABLISHMENT

DEPARTMENT OF THE ARMY—MILITARY FUNCTIONS

SECRETARY OF THE ARMY

EXPEDITING PRODUCTION

The sum of \$2,000,000 of the appropriation "Expediting production of equipment and supplies for national defense, fiscal years 1940-1946", shall remain available until June 30, 1949, for the payment of obligations incurred under contracts executed thereunder prior to July 1, 1946.

DEPARTMENT OF THE ARMY—CIVIL FUNCTIONS

CORPS OF ENGINEERS

Rivers and Harbors and Flood Control

The limitation under this head in the Civil Functions Appropriation Act, 1949, on the amount available for payment of salaries in the Office of the Chief of Engineers, is increased from "\$1,250,000" to "\$1,341,740".

Rivers and Harbors

Maintenance and improvement of existing river and harbor works

For an additional amount for "Maintenance and improvement of existing river and harbor works", \$10,500,000, to remain available until expended.

Flood Control

Flood control, general

For an additional amount for "Flood control, general", \$14,000,000, to remain available until expended.

Flood control, general (emergency fund)

For an additional amount for "Flood control, general (emergency fund)", as authorized by the Flood Control Act of 1948 (Public Law 858, approved June 30, 1948), \$10,000,000, to remain available until expended: *Provided*, That not to exceed \$500,000 shall be made available under the provisions of and for the purposes enumerated in section 205 of the above Act.

POST OFFICE DEPARTMENT

(Out of Postal Revenues)

FIELD SERVICE, POST OFFICE DEPARTMENT

OFFICE OF THE POSTMASTER GENERAL

Damage Claims

For an additional amount for "Damage claims", \$250,000.

OFFICE OF THE SECOND ASSISTANT POSTMASTER GENERAL

Railroad Transportation and Mail Messenger Service

For an additional amount for "Railroad transportation and mail messenger service", \$70,000,000.

Railway Mail Service, Travel Allowance

For an additional amount for "Railway mail service, travel allowance", \$2,727,000.

Foreign Air Mail Service

For an additional amount for "Foreign air mail service", \$17,000,000.

OFFICE OF THE FOURTH ASSISTANT POSTMASTER GENERAL

Vehicle Service

For an additional amount for "Vehicle service", \$13,000,000.

TREASURY DEPARTMENT

FISCAL SERVICE

BUREAU OF ACCOUNTS

Payment of Certified Claims

For an additional amount for "Payment of certified claims", \$2,300,000.

Refund of Moneys Erroneously Received and Covered

For an additional amount for "Refund of moneys erroneously received and covered", \$800,000.

BUREAU OF ENGRAVING AND PRINTING

SALARIES AND EXPENSES

For an additional amount, fiscal year 1949, for "Salaries and expenses", \$1,500,000.

BUREAU OF THE MINT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$250,000: *Provided*, That appropriations under this head for the fiscal year 1949 shall be available for paying wage increases effective from the date of approval by the Treasury Department.

TITLE II—CLAIMS FOR DAMAGES, AUDITED CLAIMS,
AND JUDGMENTS

For payment of claims for damages as settled and determined by departments and agencies in accord with law, audited claims certified to be due by the General Accounting Office, and judgments rendered against the United States by United States district courts and the United States Court of Claims, as set forth in Senate Documents Numbered 15 and 24, Eighty-first Congress, \$22,700,571.07, together with such amounts as may be necessary to pay interest (as and when specified in such judgments or in certain of the settlements of the General Accounting Office or provided by law) and such additional sums due to increases in rates of exchange as may be necessary to pay claims in foreign currency: *Provided*, That no judgment herein appropriated for shall be paid until it shall have become final and conclusive against the United States by failure of the parties to appeal or otherwise: *Provided further*, That, unless otherwise specifically required by law or by the judgment, payment of interest wherever appropriated for herein shall not continue for more than thirty days after the date of approval of this Act.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of any appropriation contained in this Act shall be used to pay the salary or wages of any person who engages in a strike against the Government of the United States or who is a member of an organization of Government employees that asserts the right to strike against the Government of the United States, or who advocates, or is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence: *Provided*, That for the purposes hereof an affidavit shall be considered prima facie evidence that the person making the affidavit has not contrary to the provisions of this section engaged in a strike against the Government of the United States, is not a member of an organization of Government employees that asserts the right to strike against the Government of the United States, or that such person does not advocate, and is not a member of an organization that advocates, the overthrow of the Government of the United States by force or violence: *Provided further*, That any person who engages in a strike against the Government of the United States or who is a

member of an organization of Government employees that asserts the right to strike against the Government of the United States, or who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States by force or violence and accepts employment the salary or wages for which are paid from any appropriation contained in this Act shall be guilty of a felony and, upon conviction, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penalty clause shall be in addition to, and not in substitution for, any other provisions of existing law.

SEC. 302. The appropriations and authority with respect to appropriations in this Act in whole or in part for the fiscal year 1949 shall be available from and including March 1, 1949, for the purposes respectively provided in such appropriations and authority. All obligations incurred during the period between March 1, 1949, and the date of the enactment of this Act in anticipation of such appropriations and authority are hereby ratified and confirmed if in accordance with the terms thereof.

SEC. 303. This Act may be cited as the "First Deficiency Appropriation Act, 1949".

Approved May 24, 1949.

LEASING OF THE SEGREGATED COAL DEPOSITS
OF THE
CHOCTAW AND CHICKASAW NATIONS IN OKLAHOMA

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54-561-
1918 price 40 per A
74-1925-30 per A

HEARINGS
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
SEVENTY-SEVENTH CONGRESS
SECOND SESSION

76

S. 1542

A BILL TO AUTHORIZE THE LEASING OF THE UNDEVELOPED
COAL AND ASPHALT DEPOSITS OF THE CHOCTAW AND
CHICKASAW NATIONS IN OKLAHOMA

FEBRUARY 2 AND 3, AND MARCH 3, 1942

Printed for the use of the Committee on Indian Affairs

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COMMITTEE ON INDIAN AFFAIRS

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CARL A. HATCH, New Mexico
JOSEPH C. O'MAHONEY, Wyoming
DENNIS CHAVEZ, New Mexico
BERKELEY L. BUNKER, Nevada
MON C. WALLGREN, Washington
ERNEST W. MCFARLAND, Arizona

ROBERT M. LA FOLLETTE, Jr., Wisconsin
HENRIK SHIPSTEAD, Minnesota
CHARLES L. McNARY, Oregon
WILLIAM LANGER, North Dakota
EUGENE D. MILLIKIN, Colorado

M. E. POOL, *Clerk*

JOYCETTE JONES, *Assistant Clerk*

SUBCOMMITTEE ON SENATE RESOLUTION 79

ELMER THOMAS, Oklahoma, *Chairman*

BURTON K. WHEELER, Montana
DENNIS CHAVEZ, New Mexico

HENRIK SHIPSTEAD, Minnesota

ALBERT A. GRORUD, *Special Assistant*

II

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III

LEASING OF UNDEVELOPED COAL AND ASPHALT DE-
POSITS OF CHOCTAW AND CHICKASAW NATIONS IN
OKLAHOMA

MONDAY, FEBRUARY 2, 1942

UNITED STATES SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, D. C.

The committee met, pursuant to call, at 10:30 a. m., in room 424, Senate Office Building, Senator Elmer Thomas of Oklahoma (chairman) presiding.

Present: Senators Thomas of Oklahoma (chairman), Chavez, Langer, Millikin, Bunker, Wallgren, Shipstead, McNary, Bulow, McFarland, and Wheeler were present either in person or by proxy, and Albert A. Grorud, special assistant to the committee.

Also present: William Zimmerman, Jr., Assistant Commissioner, Bureau of Indian Affairs; W. B. Greenwood, chief administrative officer, Bureau of Indian Affairs; William A. Durant, principal chief of the Choctaw Nation; Floyd E. Maytubby, governor of the Chickasaw Nation; William D. Stigler, attorney for the Choctaw Nation; Lynn Adams, special attorney for the Chickasaw Nation; Neil Johnson, Chickasaw Tribe; and Grady Lewis, Esq., attorney at law, a member of the Choctaw Tribe by blood.

The CHAIRMAN. This particular meeting was called at the request of representatives of the Choctaw and Chickasaw Tribes in Oklahoma to consider a bill which has been pending before the Congress and before the committee for some time. On a former occasion it was brought up for consideration but, because of objection made by one member of the Choctaw Tribe, it was put over. The bill is S. 1542, entitled "A bill to authorize the leasing of the undeveloped coal and asphalt deposits of the Choctaw and Chickasaw Nations in Oklahoma."

At this point I will ask that a copy of the bill be included in the hearing.

(S. 1542 is here printed in full as follows:)

[S. 1542, 77th Cong., 1st sess.]

A BILL To authorize the leasing of the undeveloped coal and asphalt deposits of the Choctaw and Chickasaw Nations in Oklahoma

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he hereby is, authorized to lease any of the unsold and undeveloped coal and asphalt deposits of the Choctaw and Chickasaw Nations in Oklahoma, in accordance with the terms of the Act of April 21, 1932 (47 Stat. 88), and under such rules and regulations as he may prescribe. Leases made under this Act shall not extend beyond September 25, 1967, and no lease shall contain more than nine hundred and sixty acres.

SEC. 2. That the rate of royalty in coal leases made under this Act shall not be less than 10 cents per ton on all coal mined, including what is commonly known as slack: *Provided*, That such leases shall require the mining of a minimum of one thousand tons during the first and second years from the date of approval of the lease by the Secretary of the Interior, three thousand tons the third year, five thousand tons the fourth year, and fifteen thousand tons the fifth and each succeeding year thereafter, or the payment of royalty thereon the same as if the coal had actually been mined: *Provided further*, That the lessee shall pay annually as advance royalty, beginning with the date of approval of the lease by the Secretary of the Interior, on each lease the sum of \$100 for the first and second years, \$300 for the third year, and \$500 for the fourth and each year thereafter. The advance royalty paid for any year may be credited on the royalty becoming due on coal mined during the year for which said advance royalty has been paid but shall not be credited on royalty on coal mined in any previous or subsequent year.

SEC. 3. That the rate of royalty in asphalt leases made under this Act shall not be less than 15 cents per ton on all crude asphalt mined: *Provided*, That such leases shall require the mining of a minimum of ten thousand tons the first year after date of approval of the lease and fifteen thousand tons each year thereafter, or the payment of royalty thereon the same as if the asphalt had been mined: *Provided further*, That the lessee shall pay annually as advanced royalty, beginning with the date of approval of the lease by the Secretary of the Interior, on each lease the sum of \$500 in advance for each year. The advance royalty paid for any year may be credited on the royalty becoming due on asphalt mined during the year for which said advance royalty has been paid but shall not be credited on royalty on asphalt mined in any previous or subsequent year.

The CHAIRMAN. On S. 1542 the departments have made reports. As I understand it, the report of the Interior Department is favorable, and there is also no objection on the part of the Budget Bureau. I will ask that a copy of the Secretary's report be inserted in the record.

(The report of the Secretary of the Interior is here printed in full as follows:)

DEPARTMENT OF THE INTERIOR,
Washington July 14, 1941.

HON. ELMER THOMAS,
Chairman, Committee on Indian Affairs,
United States Senate.

MY DEAR SENATOR THOMAS: Further reference is made to your request for a report on S. 1542, a bill to authorize the leasing of the undeveloped coal and asphalt deposits of the Choctaw and Chickasaw Nations of Oklahoma.

I recommend that S. 1542 be enacted, if amended as hereinafter suggested.

The act of April 21, 1932 (47 Stat. 88), authorizes the Secretary of the Interior to lease "any developed tract of unsold coal and asphalt deposits of the Choctaw and Chickasaw Nations." There is no authority for the leasing of undeveloped tracts of coal lands except that granted by the act of June 26, 1934 (48 Stat. 1240), and the act of April 21, 1932, *supra*. The former act authorizes the leasing of small undeveloped tracts where they adjoin developed tracts and are needed by the operator in further developing an existing mine. The latter act contains a provision which authorizes the Secretary of the Interior to add not to exceed 640 acres to any developed lease where it is shown that such addition is necessary for the successful operation of the lease. If enacted, S. 1542 will grant authority for the leasing of any of the remaining coal and asphalt deposits of the Choctaw and Chickasaw Nations which cannot be leased under existing law.

The coal and asphalt deposits underlying a considerable area belonging to the Choctaw and Chickasaw Indians were reserved to these tribes. The development of oil and gas in Oklahoma has resulted in a reduced demand for coal and a reduced income to the Indians from the lease and sale of coal deposits. The Indians are anxious not to miss any opportunity to dispose of any of these deposits. They have requested, and the mining trustee of the Choctaw and Chickasaw Nations has recommended, the enactment of legislation to authorize the leasing of the undeveloped deposits. The demand for leases on the tracts which would be affected by the proposed bill has increased slightly in the past few months and because of the present world conditions further increases are quite likely to occur. For this reason, I feel that the request of the Indians for this legisla-

tion should be respected and therefore recommend that the legislation receive favorable consideration.

The last sentence of the first section provides that leases shall not be made under this act to extend beyond September 25, 1967. The act of April 21, 1932, authorizes leases to extend to September 25, 1947. In order that leases may be made for similar periods on developed and undeveloped tracts, it is recommended that the last sentence of section 1 be stricken and that the following be inserted: "Leases executed in accordance with this authority shall not contain more than 960 acres. Leases made under this act and the act of April 21, 1932, may be made for any term of years, not to extend beyond September 25, 1967."

The Bureau of the Budget has advised me that there is no objection to the presentation of this report to the Congress.

Sincerely yours,

HAROLD L. ICKES,
Secretary of the Interior.

The CHAIRMAN. There is in the files a letter from the Acting Secretary of the Interior, which appears to be an answer to the objections submitted by Mr. Grady Lewis, who appeared before the committee on one occasion and offered some objections. This letter appears to be an answer to those objections.

Without objection, the pertinent correspondence which is in the files will be made a part of the record.

(The correspondence referred to by the chairman is as follows:)

DEPARTMENT OF THE INTERIOR,
Washington, August 22, 1941.

HON. ELMER THOMAS,
Chairman, Committee on Indian Affairs,
United States Senate.

MY DEAR SENATOR THOMAS: There is returned herewith the letter from Mr. Grady Lewis transmitted with your letter of July 23, with the request that I report concerning the apparent difference in the views of this Department and of Mr. Lewis.

By letter of July 14, I reported favorably on S. 1542, a bill to authorize the leasing of the undeveloped coal lands of the Choctaw and Chickasaw Indians. Mr. Lewis is opposed to the proposed legislation for reasons set forth in his letter. Those reasons will be discussed.

Mr. Lewis reviews the history of the disposal of the coal deposits. As indicated by him, the Indians feel that the Government has failed to live up to its duty to dispose of the coal deposits under the 1902 agreement. They have a claim against the Government arising out of this failure now pending before the Court of Claims. As the matter appears to be before a proper tribunal, it is felt that this Department should leave the matter to the decision of that tribunal.

Mr. Lewis states that the further leasing of the coal deposits would postpone the date on which a final settlement of the affairs of the tribes could be effected in case the coal deposits are purchased by the United States as authorized by pending legislation (H. R. 2655). Mr. Lewis is mistaken as to the effect the legislation would have if enacted. It would authorize the purchase by the United States of all the coal deposits of these tribes. In cases where the deposits are under lease, the unmined coal would be appraised and purchased along with the coal not under lease. After the purchase is consummated, the royalties accruing under the leases would be paid into the Treasury of the United States instead of to the Indians and thus would offer no obstacle to the termination of the tribal governments.

Mr. Lewis challenges the statement made in my report of July 14 to the effect that the Indians favor the legislation authorizing the leasing of the coal deposits. He states that he does not believe the matter has been taken up with the majority of the individual members of the two tribes. This Department has for many years dealt with the tribes through the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation. The principal chief of the Choctaw Nation and the former governor of the Chickasaw Nation requested the enactment of legislation authorizing the leasing of the undeveloped coal deposits. The present governor has done nothing to indicate that he is of a different opinion. The Choctaw Nation, of which Mr. Lewis is a member, has an advisory council.

There is enclosed a signed copy of a resolution of that council favoring the proposed legislation. If Mr. Lewis feels that a general election should be held he should submit a request for such action to the proper officials of the Choctaw Nation.

There is no disagreement between Mr. Lewis and this Department over the fact that the demand for leases of the segregated coal deposits has been very small considering the acreage of deposits available. Mr. Lewis, however, expresses doubt that the demand for leases has increased slightly in recent months, as stated in my report. Unfortunately, figures showing the acreage leased during each year since 1932 are not readily available. My statement was based upon the fact that more inquiries concerning leases are now being received and that a larger tonnage of coal was mined last winter prior to the general strike among coal miners than during a similar period in any other recent coal-mining season. This is believed to be due to the increased industrial activity and to the fact that the city of St. Louis now has a smoke ordinance. The Choctaw and Chickasaw coal deposits meet the requirements of the smoke ordinance and more coal is being shipped to St. Louis from this area.

Even with the slight increase in demand for coal it must be admitted that the leases and permits now in effect net only a small return to the Indians. It is my contention that the Indians are better off to have this small return than not to lease any of the lands and to have no income from the coal deposits. It should be remembered in this connection that with considerable regularity efforts have been made since about 1915 to have the Federal Government purchase the coal deposits and hold them until a market develops. If, as Mr. Lewis appears to think should have been done, the leasing of the coal deposits had been suspended since 1932, the total receipts from leases which the Indians would have lost would amount to a substantial sum.

To put it briefly, I was, and remain, of the opinion that the Indians would be better off to continue leasing the coal deposits and receiving small sums as they have done in recent years, than to stop all leasing and income therefrom until such time as a sale of all of the deposits can be consummated.

Sincerely yours,

JOHN J. DEMPSEY,
Acting Secretary of the Interior.

WASHINGTON, D. C., July 23, 1941.

HON. ELMER THOMAS,
*Chairman, Committee on Indian Affairs,
United States Senate, Washington, D. C.*

MY DEAR SENATOR THOMAS: Through the courtesy of your committee, I have been supplied with a copy of a letter of the Secretary of the Interior, under date of July 14, 1941, reporting on S. 1542. I am grateful in the receipt of such communication.

The Secretary's report fairly reflects the efficacy of the statutes now in force relating to leasing of these coal and asphalt deposits.

At the time of the enactment of the 1932 statute (47 Stat. 88), all of the leases on coal deposits had expired, by their own terms, and there was no authority for the making of new leases. Representatives of the coal operators wished legislation permitting them to make new leases. Tribal officials opposed such proposal upon the ground and for the reason that to enter into a new program of general leasing would postpone any hope of settlement of tribal affairs for the life of the new leases. As a compromise and to enable the operators to save their machinery and to finish exploiting coal veins already exposed, while at the same time limiting operation to such exposed veins and for a period of not to exceed 15 years, the 1932 act was agreed upon and at the request of all concerned, passed by the Congress.

The Secretary states that the Indians are anxious not to miss an opportunity to dispose of these coal deposits. That is a true statement. The Indians have been trying for approximately 40 years to get the Government to do what it agreed to do relative to these deposits under the terms of the supplemental agreement, ratified September 25, 1902, wherein the Government of the United States agreed to sell coal lands within 3 years from that date and to pay the money to the tribes per capita. Every device known has been invoked by the Indians from that day to this seeking at least a partial compliance with that provision of the treaty. The most recent effort has been one to have the Government take the deposits at their present appraised value—barely 10 percent of what it was at the time of the making of the agreement—and to hold the deposits for the Government as a conservation measure. This proposal, like all the rest, has failed of enactment and has received but indifferent support from the Department of the Interior.

The Secretary's letter further recites that "they," meaning the Indians, "have requested * * * the enactment of legislation to authorize the leasing of undeveloped deposits." It is respectfully suggested that the committee request the Secretary to submit additional information as to just who has requested such legislation. This suggestion is made for the reason that in the first place, there is no way for the Indians to express themselves except by individual letters; in the second place, there are some 27,000 members of these two tribes, and if a majority of them have expressed their wishes on this legislation, it would be interesting to know how it was done; and finally, Mr. Chairman, as a member of the Choctaw Tribe who opposes this proposed legislation, I challenge the accuracy of the statement.

I confidently assert that any support given this proposed legislation is the support of the mining trustee, augmented by other tribal officials. I charge that there is not an individual member of either of the tribes who has requested the passage of this bill other than the tribal officials, unless it be a committee appointed by the tribal officials. I further assert that on the contrary every single member of either tribe, when acquainted with the fact that the enactment of this legislation will tend to postpone the day of final settlement of tribal affairs, will oppose such enactment.

The report of the Secretary further recites that the demand for leases on the tracts has increased "slightly" in the past few months. Facts and figures showing the demand for leases in this area were submitted to your committee during the last session of Congress when a similar bill was proposed. These figures show a negligible interest in operating these already partially developed areas. It would seem that the committee should be entitled to know the actual number of applications now pending and the total number that have been submitted since the enactment of the 1932 law. It would further serve the committee if figures were supplied by the Secretary showing how many of the operators have abandoned their leases, taken since the 1932 act became effective and how many of them have proved themselves financially unable to complete their contracts. It is therefore respectfully requested that this information be asked of the Secretary, for the benefit of the committee.

Could the information above suggested be submitted to the committee, I feel sure it would be helpful in a determination of the merits of this proposed bill.

Yours very respectfully,

GRADY LEWIS.

OKMULGEE, OKLA., May 28, 1941.

In re: Senate bill 1542.

The Honorable CHAIRMAN OF THE INDIAN COMMITTEE
OF THE UNITED STATES SENATE,
Washington, D. C.

DEAR SIR: I respectfully desire to lodge my objection to Senate bill 1542. As a member of a commission representing the Chickasaw Indian Tribe I assisted in drafting and on March 1, 1902, signed the supplemental agreement No. 32, Statute 641, which was on the 1st day of July 1902, adopted by Congress and later on September 25, was adopted and approved by a vote of the Choctaw-Chickasaw Tribes of Indians.

This agreement (a contract) provided for the sale of the coal and asphalt deposits within 3 years of this approval. This clause was intended for the purpose of divesting the tribes of the great responsibility and expense of operation and to close up the affairs of the two tribes. We have insisted on numerous occasions that this provision be carried out. Time has proven conclusively that our judgment was correct as this property has declined immeasurably in value with the advent of modern fuels to the great detriment of the coal industry. There is absolutely so little demand for coal at this time with little hope for improvement in the future so I deem it would be a grave blunder to encumber these properties with leases as such encumbrances are undesirable especially from the investor's standpoint. If such legislation should be passed and adopted by Congress, it would certainly inspire the most vigorous criticism of the policies of the Department and the integrity of our great Government would be very much shaken.

Please allow me to emphasize that such legislation would be unjust, unfair, and a flagrant violation of the sacredness of a treaty stipulation (a contract) and unconstitutional. I see no good reason for this legislation being considered.

Yours sincerely,

BEN H. COLBERT.

ANTLERS, OKLA., August 29, 1941.

Senator ELMER THOMAS,
Chairman, Committee on Indian Affairs, Washington, D. C.

DEAR SENATOR THOMAS: I do not believe that we should lease our coal lands again. And I wish to protest the passage of Senate bill 1542. I am a Choctaw-Chickasaw by birth and am very anxious for a final settlement of our affairs.

Very truly yours,

Mrs. RUTH NASH BRANSON,
Roll No. 4706.

ANTLERS, OKLA., August 30, 1941.

Senator ELMER THOMAS,
Chairman, Committee on Indian Affairs., Washington, D. C.

DEAR SENATOR THOMAS: I do not believe that we should lease our coal lands again. And I wish to protest the passage of Senate bill 1542.

I am a Choctaw by birth and I am very anxious for a final settlement of our affairs.

Very truly yours,

Mrs. RONALD PATTEN,
Route 1, Roll No. 4810.

LEE & ALLEN,
Idabel, Okla., August 1, 1941.

Hon. ELMER THOMAS,
United States Senator, Washington, D. C.

DEAR SENATOR THOMAS: I understand that a bill known as the coal and asphalt leasing bill is now before Congress and that the bill covers the coal land of the Choctaw Indians. I am a full-blood member of the Choctaw Tribe of Indians and if you will send me a copy of this bill immediately, I will appreciate it.

I will not express my opinion until I have seen the bill. I am,

Very truly yours,

ROBERT E. LEE.

OKLAHOMA HISTORICAL SOCIETY,
Oklahoma City, Okla., July 30, 1941.

Senator ELMER THOMAS,
Washington, D. C.

Dear SENATOR THOMAS: Will you kindly send me a copy of the bill you introduced recommending that our Choctaw and Chickasaw coal lands have the leases renewed?

I have heard that the Indian Department has endorsed the movement. I have not seen it in print.

It occurs to me the coal will be of greater value now under the existing situation and conditions than for some time. Then again that will have a tendency to prolong the winding up of our tribal affairs longer also.

Since you introduced the bill much time has elapsed to change the outlook of affairs. I would like to ask you what you think of the bill at this time.

With best wishes I am,

Sincerely,

CZARINA C. CONLAN.

ATOKA, OKLA., July 30, 1941.

Hon. ELMER THOMAS,
United States Senator,
Washington, D. C.

DEAR SIR AND FRIEND: I will drop you a few lines today, and I'll send you a copy of a bill. Mr. Grady Lewis, eleventh floor, Bowen Building, Washington, D. C., sent this bill to Mr. Gilbert Daney, to Atoka, so Mr. Daney told me to write you, so I want you to hold this bill, don't approve till you hear from me, you hold it. The reason why I said this is Coleman Cole Pushmatah Indian Club is call meeting August 6, 1941, Double Spring church, so after this meeting is over, you hear from me again before 15th of August.

Yours truly,

LEWIS W. ARMSTRONG.

The Secretary of the Interior has reported to the Senate committee that the Choctaws and Chickasaws "have requested and the mining trustee of the Choctaw and Chickasaw Nation has recommended" the enactment of legislation authorizing the leasing of the undeveloped area of the segregated coal deposits. The Secretary then recommended that such leases under such legislation may be made to extend until September 1967.

If this bill becomes law, it will mean the throwing open of all of the coal lands for a new program of leasing for an additional 25 years. It will also mean that any chance we have to sell these deposits to the Government will be accordingly lessened and further that the possibility of getting a "final settlement" of the tribal affairs will be extended an additional 25 years.

If you oppose the passage of a bill that would make possible these things, you should write at once a letter to Senator Elmer Thomas, chairman of the Committee on Indian Affairs, Washington, D. C., and protest the passage of bill No. S. 1542 in your letter, be sure to give your reasons for protesting the passage of this bill.

ANTLERS, OKLA., August 4, 1941.

Senator ELMER THOMAS,
Chairman, Committee on Indian Affairs,
Washington, D. C.

DEAR SENATOR THOMAS: I am a member of the Choctaw Tribe of Indians. I understand there is a bill introduced that is now before your committee to authorize making of coal leases until 1967 on the segregated coal lands.

I am opposed to the passage of this bill. When we made the agreement with the Government in 1902 the Government agreed to sell this coal for us within 3 years and to divide the money per capita. The Government has never done this, and we have waited 40 years for a final settlement of our tribal affairs. Now someone wants to open a new program of leasing for 25 more years. If this is done it will be at least 25 more years before we can get final settlement.

I think, if the Government of the United States wanted to be fair at all with the Indians the Government would buy the land from the Indians at its present appraised value and let us have the final settlement we are entitled to.

This bill ought to be defeated for another reason, there is no demand by responsible coal operators for these leases. The operators have had authority to lease partly developed tracts since 1932, and they don't want to lease even those. So if any leases would be made under the new law it would simply result in our having lawsuits to try to collect what little royalty we might be entitled to.

I hope, as my Senator, you will oppose this bill.

Yours very truly,

SILAS E. COLE.

OKLAHOMA CITY.

Senator ELMER THOMAS,
Washington, D. C.

DEAR SIR: I am a Choctaw Indian by blood, roll No. 11022, and hold an undivided interest in the tribal estate, whatever it may be. I am advised that a bill is now pending in Congress providing for the leasing (or releasing) of the coal and asphalt properties belonging to the Choctaw and Chickasaw Indians, and I beg to advise you that I am opposed to such legislation.

It was provided long ago that the tribal estate be wound up, and the residue of properties be converted into cash and paid out to the individual allottees. I wish to assure you that the people want these provisions carried out. We want the tribal government dissolved and such waste discontinued. I am a widow and have three children to support and need my proportionate share of these properties now. Kindly give this bill your immediate attention.

Thanking you for this and other favors, I am,

Very respectfully,

KATHLEEN HUNTER.

OKLAHOMA CITY, OKLA., June 2, 1941.

The Honorable CLERK, COMMITTEE ON INDIAN AFFAIRS,
United States Senate, Washington, D. C.

SIR: I am advised that our tribal officials of the Choctaw Tribe of Indians of Oklahoma have again caused to be introduced in the Senate a bill, S. 1542, providing for the leasing or releasing of the segregated coal and asphalt properties belonging to the Choctaw and Chickasaw Indians of Oklahoma.

As a member of the Choctaw Tribe of Indians, Choc by blood, roll No. 4912, I solemnly protest against the passage of the above-described bill, and beg that the committee disregard all representations made in behalf of such measure by whoever appears in behalf of our tribal officials.

In the first place, such legislation is contrary to all agreements and accommodations made with the Choctaw Tribe of Indians, and is in violation of the faith reposed in the Government by these people. Such legislation would tend to break down the morale of our Choctaws and create a feeling of discontent throughout this Indian community.

In the second place, the introduction of bill S. 1542 was done for no other purpose than to prolong the tribal government and keep these Choctaws on the waiting list until the crack of doom. The sooner tribal properties are disposed of, the proceeds thereof paid out per capita by the Government, or disposed of in a manner profitable to the Choctaws, the sooner will our people become happy and well-disposed citizens of the country.

There is now pending in the House of Representatives a bill introduced by Congressman Cartwright, of Oklahoma, disposing of these tribal properties. We are in favor of Mr. Cartwright's bill, and respectfully ask that the same be given due consideration when presented to the Senate committee for action.

The Choctaw people regard the continuation of the tribal government as a useless ornament, costly to these Indian people, and the sooner disposed of by the Government the better will be the outcome from a financial standpoint to all concerned.

Respectfully submitted.

VICTOR M. LOCKE, JR.

SAND SPRINGS, OKLA., July 1, 1941.

Senator ELMER THOMAS,
Chairman, Committee on Indian Affairs,
Washington, D. C.

DEAR SIR: I notice that under Senate bill 1542 it is proposed to throw open for leasing all the segregated coal and asphalt deposits of the Choctaw and Chickasaw Nations covering a 25-year period.

If this bill is enacted and becomes a law, naturally it defers the final settlement with these tribes for at least 25 more years. The Indian Department has been a political football during our past history. The administration of the department has consumed the funds which might have been available, and the enactment of this law would just mean an extension of the practice now in force, which I do not feel there is any necessity for.

It is quite true there are Indians in the Choctaw and Chickasaw Tribes who may not be able to properly take care of themselves; but I can't see, under our present method of handling, that anything is being done for them.

I am personally opposed to this bill.

Respectfully,

I. P. NELSON.

W. E. MCGOWAN REAL ESTATE CO.,
McAlester, Okla., June 10, 1941.

HON. ELMER THOMAS,
United States Senator,
Washington, D. C.

DEAR ELMER: I understand that there is an agitation or either a bill to be introduced in the United States Congress relative to the coal and asphalt land in the Choctaw Nation of Oklahoma.

Under no condition the coal lands should not be leased again. The only thing that is being realized from the revenue now is a few people who are holding office, and what lease money from the production of the coal from mother earth

goes to them for their salaries and the Choctaw Indians, of which my wife is one, gets nothing at all, and I believe it would be a fatal mistake to lease the coal lands at this time.

I think they ought to be sold, and the Government should buy it and pay the cash to the Indians, and let it be divided among them during their lifetime; and I certainly hope that you will see as I do and use every effort at your command to keep it from being leased again.

I understand they wanted to lease it for 30 years, which would be a crime to the Choctaw Nation. This is the universal sentiment of all the Indians and intermarried Indians and all the white people in the Choctaw Nation.

Urging you again to not let such a bill be passed, I am,

Very respectfully,

W. E. MCGOWAN.

ARDMORE, OKLA., June 16, 1941.

Senator ELMER THOMAS,
Washington, D. C.

DEAR SENATOR: By request of a number of Choctaws and Chickasaws, I am writing you in regard to the bill you have introduced in Congress to lease 960 acres of coal land for 20 years at 10 cents per ton royalty. They are asking you to withdraw your coal bill; they don't think it feasible at the present time to lease any more coal land; they want to sell all of their coal lands and not lease any more of their coal lands. They prefer selling it to the Government, or some large corporation at a fair and equitable price—the Government preferable—and all moneys received paid out as a per capita payment to the Choctaws and Chickasaws. Quite a number of Choctaws and Chickasaws are badly in need of their money.

Thanking you for a hasty reply, I am,

Yours truly,

WALTER COLBERT,
Director, Oklahoma Cotton Cooperative Association.

ANTLERS, OKLA., June 12, 1941.

Senator ELMER THOMAS,
Washington, D. C.

DEAR SENATOR THOMAS: I protest against the passage of Senate bill 1542. We, the Chickasaws and the Choctaws, have looked to the United States Government to fulfill its agreement to buy these deposits of coal and asphalt from us.

We are loyal citizens of the United States. We need the money more today than ever before. So many of our people are facing dire poverty and all the woes that condition can bring.

Very respectfully,

Mrs. H. C. NASH.

ANTLERS, OKLA., June 13, 1941.

Senator ELMER THOMAS,
Washington, D. C.

DEAR SENATOR THOMAS: It has been brought to my attention that the Choctaw Indians' coal land is up for lease again. I would like for it to go on record showing opposition, and I think if a poll was taken you would find the majority of the Choctaws would rather see a final settlement and not pay all we have out in salaries to a few employees who are a very little benefit, if any, to our tribe.

As a whole, not many of us are able to secure work in the department, even though we have been placed on the eligible civil-service list. Even our hospital is limited to half-breeds or more, and the remainder of us have to seek hospitalization elsewhere.

I would appreciate it if you would give this your careful consideration.

Sincerely,

ELIZABETH NELSON.

OKLAHOMA CITY, OKLA., August 14, 1941.

Hon. ELMER THOMAS,
Washington, D. C.

DEAR SENATOR: I am a Choctaw Indian by blood, roll No. 11019, and hold an undivided interest in the tribal estate, whatever it may be. I am advised that a bill is now pending in Congress providing for the leasing (or releasing) of the coal and asphalt properties belonging to the Choctaw and Chickasaw Indians, and I beg to advise you that I am opposed to such legislation.

It was provided long ago that the tribal estate be wound up, and the residue of properties be converted into cash and paid out to the individual allottees. I wish to assure you that these people want these provisions carried out. They want the tribal government dissolved and such waste discontinued. I am a widow, and I need my proportionate share of these properties while I am living.

Respectfully,

AMELIA HARRIS.

CHICKASHA, OKLA., August 5, 1941.

Hon. ELMER THOMAS,
Chairman, Indian Affairs Committee,
United States Senate, Washington, D. C.

DEAR SENATOR THOMAS: Thank you very kindly for your answer of July 30 to my letter of July 22.

There are rumors to the effect that the Government has so ingeniously arranged the sale of our coal and asphalt lands that it will not sell—persons will not bid on it; which I do not believe. In just what manner were these coal lands advertised for sale? Why wouldn't it sell? And what are the chances for its sale at this time?

There will be several more letters that I will want to write on this treaty question.

Sincerely yours,

BEN HAMPTON.

OKLAHOMA CITY, OKLA., June 2, 1941.

COMMITTEE ON INDIAN AFFAIRS,
United States Senate,
Washington, D. C.

GENTLEMEN: It has been brought to my attention that this committee has up for its consideration Senate bill S. 1542, which deals with the matter of releasing of the segregated coal lands of the Choctaw Nation.

As an enrolled member of the Choctaw Nation, I am making this protest to the passage of this bill, and also to the consideration of any such action by this committee. There is no question that these lands are of a great value, but due to the methods of their operation over the last 20 years, they have never been of any value to the Choctaw Nation, and have been nothing but an unnecessary expense both to the Choctaw Nation and also to the Federal Government. Consequently, any favorable action taken by this committee on the bill would only result in a continuation of the present unsatisfactory and unprofitable state of affairs.

Would it not be better to let the coal deposits remain untouched pending the outcome of present litigation than to have them released at this time, and thus preclude any possibility of an early settlement of the entire matter?

Respectfully submitted for the consideration of the committee.

Very truly yours,

L. H. HILSEWECK.

The CHAIRMAN. I think, first, we should hear from the Department, to the end that the committee may be given an idea as to the coal lands and how they are being handled; and then I would like to have the Department's viewpoint.

Senator CHAVEZ. Do we have any witnesses appearing against the bill?

The CHAIRMAN. If anyone appears against the bill he will be given an opportunity to be heard. I do not know whether anyone against the bill is present at this time or not.

You may proceed, Mr. Zimmerman.

STATEMENT OF WILLIAM ZIMMERMAN, JR., ASSISTANT COMMISSIONER OF INDIAN AFFAIRS, WASHINGTON, D. C.

Mr. ZIMMERMAN. Mr. Chairman and gentlemen of the committee, this is a matter which has been before your committee on a number of occasions. The purpose of the bill is to provide for a more orderly development, through leases of the unsold portion of the coal deposits that belong to the Choctaw and Chickasaw Nations. Those deposits are administered by the Department. The Department has an employee or trustee in charge. That employee is an Indian who has been there for many years.

The Department, as its report shows, is in favor of this legislation. I suggest, Mr. Chairman, that inasmuch as the principal chief and the governor are here, accompanied by their counsel, and as they are parties in interest, they be allowed to speak.

The CHAIRMAN. They will be heard before the hearings are concluded. I think we would like to have, Mr. Zimmerman, if we can get it, some foundation for this bill; for example, how many acres of coal lands are embraced within the so-called Choctaw and Chickasaw Indian Reservations in Oklahoma.

Mr. ZIMMERMAN. I do not know that I can answer that question, offhand, Mr. Chairman.

The CHAIRMAN. Perhaps there is someone present, interested in this bill, who can answer that question.

Mr. MAYTUBBY. There are 378,117.8 acres.

The CHAIRMAN. Of that number how many acres are now being leased, if you know?

Mr. MAYTUBBY. Under departmental leases there are 13,829 acres, and under departmental permits there are 17,382 acres.

The CHAIRMAN. What is the difference between land under a permit and land under lease?

Mr. MAYTUBBY. I would like to have Mr. Stigler answer that question.

Mr. STIGLER. A lease of course is given for a definite length of time, 15 years. A permit is given only for a year at a time. The purpose of the permit is to allow the tribes to give authority to work over coal land that has already been worked. In other words, where land has already been worked and coal extracted therefrom, a permit is issued only for a year at a time.

Senator CHAVEZ. How much acreage have the Choctaws with reference to the leases and permits? I think the gentleman said 138,000 acres, all together?

Mr. STIGLER. Approximately 378,000 acres.

Senator CHAVEZ. That is the total of all Indian land?

Mr. STIGLER. Yes, sir.

Senator CHAVEZ. How much for the Choctaws?

Mr. STIGLER. They own three-fourths of it; the Chickasaws own one-fourth.

Senator CHAVEZ. Would the provisions of the lease, so far as the money that they are going to get, differ from the present method of leasing the lands?

Mr. STIGLER. It would increase, naturally, because of this fact: Under present or existing law the tribes have no authority whatsoever to make a virgin lease. The only lease we are allowed to make, under the existing law and under the Department's rules and regulations, is a lease where one already owns a lease adjacent and contiguous to that particular lease which is desired; and for that reason we are here asking for authority to make leases on virgin coal lands.

Senator CHAVEZ. Do you have any idea how much of the acreage is subject to asphalt production?

Mr. STIGLER. Yes, sir. In round figures, 3,000 acres, if I recall correctly.

Senator CHAVEZ. Did prior bills contain provisions with reference to asphalt, or only with reference to coal?

Mr. STIGLER. There are only five tracts of asphalt, if I remember the figures correctly, and there is only one of those that is under operation now.

Senator CHAVEZ. Do they get as much money under the present method of operation as they would under this bill?

Mr. STIGLER. Yes, sir. There has been very little operation from an asphalt standpoint.

Senator CHAVEZ. Is there any likelihood of future operations that would necessitate the passage of this bill?

Mr. STIGLER. Insofar as asphalt is concerned, I am unable to state; but insofar as the demand for coal is concerned, I would say "Yes," because there has been an increased demand for new leases; I mean by that, leases on virgin coal lands which we cannot lease under the present law.

Senator CHAVEZ. May I say, Mr. Chairman, that you know the unwritten rule of the committee, that we generally feel that the Senator from the individual State in question knows more about the conditions there than a Senator from another State. I have not received any objections whatsoever to the coal features of the bill, but for some reason or another I have received several telephone calls objecting strenuously to the asphalt end of it. I do not know what there is to it. I hope something develops during the hearing.

The CHAIRMAN. We will try to develop the facts as best we can.

How many Indians, Mr. Stigler, are in the two tribes, the Chickasaws and Choctaws generally?

Mr. STIGLER. In round numbers, Mr. Chairman, there are 20,000 Choctaws and 6,000 Chickasaws.

The CHAIRMAN. Does that account for the division of interest? That is, the 20,000 Choctaws have a three-fourths interest, and the 6,000 Chickasaws have only a one-fourth interest. Is that the way that derived, or is that by treaty or stipulation?

Mr. STIGLER. The Department of the Interior set that division years and years back, and it has been reaffirmed by our courts. The distribution of funds has been on a one-fourth and three-fourths basis.

The CHAIRMAN. You stated a while ago that the total acreage was something like 378,117. Is it not a fact that in the disposition of the surface lands the mineral rights were reserved to the two tribes?

Mr. STIGLER. That is correct.

The CHAIRMAN. So you have all the mineral rights, whatever they are, whatever they embrace?

Mr. STIGLER. Yes.

The CHAIRMAN. Have surveys and tests demonstrated that this land contains coal?

Mr. STIGLER. Yes, sir.

The CHAIRMAN. Has all of the land been tested in one way or another to determine whether or not it has coal?

Mr. STIGLER. Practically all of this has been, Mr. Chairman. I might add that these coal deposits lie in six counties in the southeastern part of the State. The length is about 125 miles and the width is from 5 to 15 miles. The deposits are located principally in six counties in the southeastern part of the State.

The CHAIRMAN. How long has coal been mined in that area, if you know?

Mr. STIGLER. Ever since they began, of course, under the act of 1898.

The CHAIRMAN. How much coal has been taken from these lands?

Mr. STIGLER. That would be a very difficult thing for me to tell, Mr. Chairman. The only thing I can say is this, to give the committee some idea, that on an annual basis I have statistics here showing what was mined for the year ending June 30, 1941. For that year there were mined 305,202.10 tons of coal on leasing and mining permits; and the royalty collected amounted to \$35,305.81.

The CHAIRMAN. How much royalty do the tribes receive?

Mr. STIGLER. Ten cents a ton on mine run, and 15 cents on permits.

The CHAIRMAN. How does that compare with the royalty for the mining of coal in other reservations throughout the country?

Mr. STIGLER. I am unable to answer that question, because I just do not have any way of knowing.

The CHAIRMAN. Let me ask Mr. Zimmerman.

Do you have coal on other Indian reserves throughout the United States?

Mr. ZIMMERMAN. Yes, Senator; but there is not very much in commercial production. Most of it is consumed locally either by the agency or by the Indians. Very little of it is in commercial production.

The CHAIRMAN. How was this 10 cents per ton arrived at?

Mr. ZIMMERMAN. That figure was set a long time ago; I do not know.

The CHAIRMAN. It has not been changed in recent years?

Mr. ZIMMERMAN. No, sir.

The CHAIRMAN. What does the coal sell for at the mine, if you know?

Mr. ZIMMERMAN. I do not know, sir.

The CHAIRMAN. Do you know, Mr. Stigler?

Mr. STIGLER. No, sir.

Mr. DURANT. Originally the Indians themselves leased that coal land and got 12½ cents a ton for the coal, and we turned it over to the Government, then, and they took charge of it, and they fixed the rate at 8 cents. But about 4 years ago, after I was made Chief, the rate was raised to 10 cents.

Senator CHAVEZ. But the Indians have obtained as much as 12½ cents?

Mr. DURANT. They paid the Indians 12½ cents, and we turned it over to the Government.

Senator CHAVEZ. Have you any figures in the Department, Mr. Zimmerman, as to the royalty that the Navajos receive in connection with the production of commercial coal?

Mr. ZIMMERMAN. We have such figures, but I do not have them in mind.

Senator CHAVEZ. I wish you would bring that before the committee.

Mr. ZIMMERMAN. Very well, Senator.

(The matter referred to is as follows:)

FEBRUARY 27, 1942.

HON. ELMER THOMAS,
Chairman, Committee on Indian Affairs,
United States Senate.

MY DEAR MR. CHAIRMAN: During the course of the hearings before your committee on S. 1542, a bill to authorize the leasing of undeveloped coal and asphalt deposits of the Choctaw and Chickasaw Nations of Oklahoma, Senator Chavez requested that your committee be given certain information about coal mining on the Navajo Reservation.

During the fiscal year 1941, the total tonnage of coal mined on the Navajo Reservation was 34,931, divided as follows:

Coal mined from Government-operated mines:	Tons
Used by schools, agency, medical, etc.....	29, 289
Sold to private traders, missions, etc.....	882

No royalty collected on coal from Government-operated mines.

Coal mined from Indian-operated mines:	
Sold to schools, agency, medical, etc.....	1, 518
Sold to private buyers on and off reservation.....	3, 242

Total.....	34, 931
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Royalty collected at the rate of 10 cents per ton, \$262.88.

Sincerely yours,

WILLIAM ZIMMERMAN, JR.,
Assistant Commissioner.

Senator CHAVEZ. Mr. Stigler, has an estimate ever been made as to the amount of coal contained in these 378,000 acres of coal lands in these two reservations? *Has thinking of Pueblo Res.*

Mr. STIGLER. If there has been, I do not know it, Senator. There probably has. But may I say this at this point, in order to give the committee a kind of an idea with reference to the tonnage and the royalty, that these figures that I have here are for only the years 1940 and 1941, and they show for the year 1940 a total tonnage of 296,917.27 tons, and for that year \$33,637.79 was received by the two tribes.

For 1941 there were 305,202.10 tons mined, and the tribes received \$35,305.81 for that.

That shows in itself that for those 2 years there was an increase in the production of our coal; and I might also add at this point that our coal lands are about the only remaining assets that the two tribes have.

The CHAIRMAN. At some place I have either heard or seen an estimate made by someone who was alleged to be competent to make an estimate, that those lands contain over a billion tons of coal. I wonder if anyone present knows whether or not that is an estimate that has any foundation.

Do you know about that, Mr. Lewis?

Mr. LEWIS. It is 2,000,000,000.

The CHAIRMAN. On what is that based?

Mr. LEWIS. It is based upon a survey made by a man by the name of Cameron who was sent down by the Department in 1918. It is known as the Cameron survey. It is official, and the Indian Office has those figures. I think 1,900,000,000 is the correct figure.

The CHAIRMAN. Has any estimate been made as to the amount that has been mined?

Mr. LEWIS. No sir. The only way those figures are kept is like the figures that Mr. Stigler showed you—from year to year; but, so far as I know, the figures have never been totaled.

The CHAIRMAN. I do not know how you would like to present the matter to the committee; but, Mr. Stigler, inasmuch as you have the floor, you may proceed and make your statement, and then we will call on the other representatives.

Mr. STIGLER. Mr. Durant, the principal chief, is here and I should prefer to have him make his statement first.

Senator MILLIKIN. I notice in the record that there is a suggestion that the pending bill would disparage a claim which is pending to require the United States to purchase these lands. I hope that in the development of the subject there will be some development of that point.

Mr. STIGLER. I will be glad to discuss that.

STATEMENT OF WILLIAM A. DURANT, PRINCIPAL CHIEF OF THE CHOCTAW NATION

The CHAIRMAN. I will say for the witness, Mr. William Durant, that he is now the principal chief of the Choctaw Nations, which is the larger group of the two. Mr. Durant has been very active in public affairs, not only for his tribe, but for the State, for many years. He has served as a member of the Legislature of Oklahoma and, at one time, was Speaker, I know, for one term, and perhaps longer. I speak from personal knowledge, because I served with him in the legislature.

You may proceed, Mr. Durant.

Mr. DURANT. Mr. Chairman and gentlemen of the committee, the bill which you are considering now was originally written by the coal-mining trustee of the Choctaw and Chickasaw Nations, who is very familiar with the operations down there. It was written at my request. After he wrote it I submitted it to the advisory council of the Choctaw Nation, and they had a hearing and consideration of it in a regular session and passed it, and then a copy of that bill was sent to the Muskogee office, to the superintendent of the Five Civilized Tribes, and it was from there sent through the Interior Department to the Commissioner of Indian Affairs, and a copy of the bill, I think, was at that time sent to Senator Thomas, who is the chairman of this committee.

Under the practice here, the Department considered the bill, or the bill, after it was introduced here, was sent to the Department for a report, and you have here a report from the Department.

I make this statement because the bill was not hurriedly written. It was not written by somebody who did not know the facts and the

history of that coal business down there, because he had been connected with the operation of it for a good while.

The bill that you are considering and that we are asking you to pass is changed hardly at all from the original bill written by the coal-mining trustee, the one passed by the Choctaw advisory council. There is some objection to the bill because of the way in which it was written, the method in which it was passed by the advisory council and the way it was brought here to you.

The Choctaw Nation had their own constitutional government that they operated under for about 75 years. Before they gave it up to become a state of this Union they had the same kind of government there, a representative government, that you have here. The Members of the House and the Members of the Senate are the representatives of the United States, these 130 millions of people; and it is left to you, in your judgment, through a vote of the majority, to decide what is best and what ought to be done.

There is a tendency to try to socialize this Government of ours and to say that we ought to submit every question of whatever nature that is going to affect the general welfare and affect the people of the United States, to the vote of the people generally; in other words, the initiative and referendum.

We had that same kind of an idea in the Choctaw Nation. When the State of Oklahoma was admitted it was thought that we ought to put a clause in the constitution providing for the initiative and referendum, and we adopted it. But in approving that, in the operation of it we fixed it so that certain officers and the legislature had control of it. It is just an impossibility, under our system of government, to have that kind of legislation passed.

Senator LANGER. Would you mind telling us how the legislature can control the people on an initiative and referendum vote?

Mr. DURANT. We have got some stop-gaps down there.

Senator LANGER. I would like to know how it is done.

Mr. DURANT. It is a political matter. Legislation of that kind has to be adopted by the people through a vote. The petition has first got to be passed by the secretary of state. Hence the Governor has control of it.

Senator LANGER. But how?

Mr. DURANT. It has to be submitted to a vote of the people. It is not submitted at a general election, but submitted at a special election.

Senator CHAVEZ. And the legislature determines whether it should be submitted or not?

Mr. DURANT. The legislature fixed it so that there are two officers, and one or the other can specify which election it shall go to.

Senator LANGER. But after a majority of the people vote on it it is final, is it not?

Mr. DURANT. Certainly; it is the law. But the method is where they control it.

Senator LANGER. The Governor and the secretary of State control the time of the election?

Mr. DURANT. If we have it at a special election the people vote directly on that question. If we have it at a general election, they do not know what they are voting on, and you cannot control the vote. On a special election you can control the vote.

Senator CHAVEZ. Irrespective of the methods arrived at, with respect to the merits of this bill you think it is a good bill?

Mr. DURANT. Yes, sir; it is a good bill, absolutely.

Senator CHAVEZ. Would it be an improvement over the present method?

Mr. DURANT. We just do not have any method. In 1932 you abandoned this lease business, by some act of Congress, and we cannot make leases now.

Senator CHAVEZ. Under the provisions of the bill do you feel that the Indians are amply protected?

Mr. DURANT. Yes, sir; they are amply protected.

Senator CHAVEZ. What about the price they are to get for their coal?

Mr. DURANT. We want them to get 10 cents a ton.

Senator CHAVEZ. Do you think that is fair, as compared with the prices that they are getting now?

Mr. DURANT. I think so.

Senator CHAVEZ. What about the asphalt?

Mr. DURANT. We have not much asphalt left, sir. We sold practically half of it, ore more than that, and it has been paid for. The asphalt that we have left is right adjacent to the private owners of the asphalt.

Senator CHAVEZ. Who are the present private owners?

Mr. DURANT. I do not recall all of them, but the Southern Asphalt Co. is one of them.

Senator CHAVEZ. What about the United States Asphalt Co.? I understand that there are three large operators in asphalt in Oklahoma, the Southern, the Oklahoma Rock Asphalt Co., and the United States Asphalt Co., which presumably is the largest concern. Do those two, outside of the Southern, have any property in this area?

Mr. DURANT. I could not answer that question. I just knew that the Southern had some. I do not know what the other two companies may have.

Senator LANGER. What does the coal sell for at the mine?

Mr. DURANT. I do not recall the price.

Senator LANGER. What does the asphalt sell for?

Mr. DURANT. I would have to look at some record to answer that.

Senator LANGER. In our State we have lignite coal, and we get much more than 10 cents a ton for it. I was just wondering.

Mr. DURANT. When the Choctaws made this contract themselves for the mining of this coal they got 12½ cents a ton. Then we turned our property over to the Government and they reduced it to 8 cents. That was done under Secretary of the Interior Hitchcock; he reduced it to 8 cents. Of course we objected very strenuously.

Senator CHAVEZ. Is the price for the asphalt a fair price?

Mr. DURANT. The royalty, you mean?

Senator CHAVEZ. Yes.

Mr. DURANT. I think it is about the best we have been able to get.

Senator CHAVEZ. Generally it retails for about \$10 a ton. On contract work I know some bids were made at that figure.

Mr. DURANT. Asphalt sells pretty high. The great trouble about it is the transportation of it. It does not cost very much right at the mine, but by the time you transport it you have added to the price.

That is where the big price comes in. Of course, the Rock Asphalt Co. has got to compete with the Barbour Asphalt Co., which sells liquid asphalt. The Southern Asphalt Co. has got the rock and asphalt mixed together and you can roll it on a road or pavement. The Barbour Asphalt Co's product has got to have the rock and sand mixed in it.

Senator CHAVEZ. Do you think that the only company that will bid for those leases will be the Southern Asphalt Co.?

Mr. DURANT. I don't know about leasing this asphalt, whether we can or not. But there may be some leasing.

Senator MILLIKIN. I would like to ask if anyone here knows what is the royalty rate on coal and asphalt that would compete with the coal and asphalt leased under this bill. Does anybody know that?

Mr. STIGLER. I can tell you what the coal royalty is. It is around 25 cents a ton. But I do not know what the asphalt royalty is.

Senator MILLIKIN. Are the coal deposits part of the general formation that this bill applies to?

Mr. STIGLER. It is the best grade of coal. In my county we have the highest test coal in our State. It is recognized as such.

Senator MILLIKIN. Is the lesser royalty rate provided in the bill designed to reflect the difference in the quality of the coal?

Mr. STIGLER. Not necessarily. But if I may add, in connection with what Mr. Durant said a moment ago, when the tribe leased this coal they got 12½ cents a ton royalty, and then some 5 years ago the rate dropped down to 8 cents a ton, but after he was appointed chief he got it raised to 10 cents a ton. It is still 10 cents, and they do not want it to be less than 10 cents a ton.

The CHAIRMAN. Are there any further questions at this particular point? If not, you may proceed, Mr. Durant.

Mr. DURANT. I was discussing the way the bill was drawn.

Now, as to the necessity for this coal: after, I think, 1932, when all this virgin coal was not permitted to be leased, of course there was not so much of a demand for coal. Oil and gas were competitors, and there was not so much coal sold. But in the last few years there has developed a pretty good market down there for coal.

Senator LANGER. Is this deep mining or strip mining?

Mr. DURANT. We have different depths of coal mining. We have the deep coal and the shallow coal, and then some strip mining. The city of St. Louis passed an ordinance which requires them to burn smokeless coal. In the eastern part of Oklahoma and the western part of Arkansas—the coal is divided by the State line there—there is a lot of smokeless coal. We used to ship that coal up to Minnesota and Wisconsin. But the city of St. Louis has passed an ordinance requiring the use of smokeless coal, and it is using a great deal of it. The Frisco Railroad, through the Government, has authority to ship that coal at a fixed rate, and it makes a pretty good market for it. So we have been shipping last year quite a bit of that type of coal to St. Louis to be used in that city in the operation of their industries, instead of using the Illinois coal. In that way quite a demand has been created.

Down in east Texas they have some mineral ores, and there is a demand for a lot of slack coal in connection with them; and a man who used to be a big coal operator, who lives in McAlester, and a group of his associates had an opportunity to make a contract to

furnish coal to those industries in Texas, and that group wants to either lease or buy some of this coal. They have made application to lease it. They want to lease 3,000 acres and they can use some of the smokeless coal and some of the regular coal. We have that opportunity now and we would like to have authority to lease it.

I have a letter here from Mr. Hampton Tucker, who is the coal-mining trustee. I asked him some questions and requested that he answer them in the form of a letter, and he did so. I asked him about the demand for coal, and in this letter he answered that question. I will not take your time to read it, but I will file it and make it a part of my statement, with your permission.

The CHAIRMAN. Without objection, the letter from the coal-mining trustee will be made a part of Mr. Durant's remarks.

(The letter referred to and submitted by the witness is here printed in full as follows:)

DEPARTMENT OF THE INTERIOR,
MINING TRUSTEE FOR CHOCTAW AND CHICKASAW NATIONS,
McAlester, Okla., January 30, 1942.

HON. WILLIAM A. DURANT,
Principal Chief of the Choctaw Nation,
Tuskahoma, Okla.

DEAR CHIEF: Answering your inquiring about the possibility of leasing additional coal deposits, if the pending coal bill should be passed, you are advised as follows:

The coal deposits of the Choctaw and Chickasaw Nations are within the Choctaw Nation and amount to a total of 378,117.08 acres, classified as follows:

	Acres
Unsold and unleased.....	350, 214. 93
Operated under departmental leases.....	11, 479. 60
Operated under departmental permits.....	16, 502. 55
Total.....	378, 197. 08

As shown by the above statement, only a small percentage of the tribal coal is now under lease. This is because of the fact that under existing law the Secretary of the Interior may lease only the developed tracts of the segregated coal; that is, tracts which were leased and were operated under leases which have expired. In other words, he may not lease any of the virgin coal.

Due to the many new defense projects being started in the southwest and due to the general upswing in business, there has been a general demand for coal leases throughout the entire field. Of course, practically all desirable coal tracts which are subject to lease under existing law are now leased, and the only way the demand for these new leases can be met is the passage of the coal bill which is now pending before Congress.

Mr. J. G. Puterbaugh, of McAlester, Okla., represents a group of businessmen from Texas, who are interested in leasing or purchasing a large number of coal tracts in this field, the output of mines operated on such leases to be used in proposed steel mills in Texas. Mr. Puterbaugh states that for the requirements of these steel mills approximately 3,000 acres in the McAlester-Wilburton field would be necessary, and about 3,000 acres in the eastern part of the field where the smokeless coal is produced, would be necessary.

Numerous other inquiries have been received as to whether or not leases may be had on unleased portions of the segregated coal deposits. These inquiries have been made as to leases in both the Coalgate-McAlester-Wilburton area as well as leases in the eastern part of the field where the smokeless coal is produced.

It is thought that the new shell and powder plant, now being erected at Choteau, Okla., will use a substantial tonnage which will be shipped from mines operating in this field. Numerous other defense projects in Oklahoma, Arkansas, and Texas will also create a new market for the tribal coal.

In May 1940 a new market was created for the smokeless coal which is produced in the eastern part of our field, because of the fact that the city of St. Louis, Mo. passed an ordinance requiring the use of smokeless coal by its citizens and industries, as well as by the railroads operating within its limits.

It has been found that our eastern Oklahoma coal and that of western Arkansas are able to meet the requirements of the St. Louis antismoke ordinance. It is estimated that during the coming year St. Louis will take not less than 1,500,000 tons of coal from these two fields, and that about one-half of such tonnage will come from eastern Oklahoma mines. Several other larger cities in the Middle West and Southwest are considering the passage of antismoke ordinances similar to that passed by the city of St. Louis. Operators who have been benefiting by this new market, and who will benefit in the future, are those in Haskell and Le Flore Counties, in the eastern portion of the field. There are large areas of virgin tribal coal in these counties which are very desirable for the reason that these deposits are what is rated in the market as a smokeless coal. These areas are not now subject to lease, but many operators have indicated their desire to lease these deposits if the law should be amended so as to permit such leasing.

As stated, due to the many new defense projects being started in Oklahoma, Missouri, Arkansas, and Texas, and due to the general upswing in business, there has been a general demand for new coal leases throughout the entire field. Of course, practically all desirable coal tracts which are subject to lease under existing law are now leased, and the only way the demand for these new leases can be met is by the passage of the coal bill which is now pending before Congress.

Respectfully submitted.

HAMPTON TUCKER,
Mining Trustee.

The CHAIRMAN. Did I correctly understand you to say that there is no law authorizing the leasing of any additional coal lands?

Mr. DURANT. There is no law that allows us to lease virgin coal lands, that is, coal that has never been leased or operated. You can lease some contiguous territory. We have our hands tied and we cannot make those contracts. We feel that since you have established the powder plant at Choteau there is going to be a demand for this coal down there, and if we can have the right to make some of these leases we have a chance to sell that coal and get some royalty out of it.

As I mentioned awhile ago about that operation down in Texas, it is a new enterprise. This world changes. Business conditions change. You can pass a law that will be good today, and in the next 2 or 3 years it is absolutely of no value and it has got to be amended. That is why we have a Congress and a State legislature—so we can change these laws. If there are conditions that ought to be changed, we have this kind of a government to do it. That is why we are asking this change. We have now an opportunity to lease some of this coal land. Oil and gas took the market away from coal; there was not so much coal used, and of course there was mighty little demand for leasing. But we are confident that now we can make some new leases profitably, and I think the Indians are entitled to their legitimate royalty.

Senator CHAVEZ. It might be legitimate, but is it fair if you can get 25 cents a ton elsewhere?

Mr. DURANT. I do not think we can get that under present existing conditions. We have got to have a regular system of making contracts.

Senator CHAVEZ. I can see lots of difference, as far as revenue is concerned, if the tribe leases its coal lands at 10 cents a ton, and right adjoining them someone else is leasing other lands for 25 cents a ton.

Mr. DURANT. It is under the control of the United States Government, and the business is handled by the Interior Department, and they have certain rules and regulations. They make them applicable to all.

Senator CHAVEZ. They figured it at 8 cents, to your detriment.

Mr. DURANT. Yes; but I got it raised.

Senator CHAVEZ. And I think you should be complimented.

Mr. DURANT. I do not want to go back over a political fight. I mention the fact of the difference in the royalties, but I do not introduce anything at this time about that.

Senator CHAVEZ. You do not have to introduce that. There is testimony before the committee already that some coal is being leased for 25 cents a ton.

Mr. DURANT. I think that is probably true.

Senator CHAVEZ. And this by law is 10 cents a ton. Of course you might get 25 cents. This is only the minimum, I understand.

Mr. DURANT. We cannot change the law. We cannot change the rules of the Department. We have got to go by them.

Senator CHAVEZ. But the rules will be based upon the amount that we place in this bill.

Mr. DURANT. Yes; that is true. But you have to leave a little flexibility there, and I am going to let the Department control that. If you go to fix an absolutely ironclad price that is not flexible, we get into some trouble. Somebody is going to get hurt, and we could not dispose of our coal at all. I am perfectly willing that the matter be left with the Department to handle. I do not think they will make any mistakes about it.

Senator CHAVEZ. Did I understand you to say a little while ago that there was very little demand for leasing of the asphalt lands?

Mr. DURANT. I do not think there is much demand for it.

Senator CHAVEZ. Then what is the necessity for inserting it in the present bill?

Mr. DURANT. We would like to have the right to lease them if conditions should arise. We do not have to have it, but we would like to have the privilege of doing it if the condition should arise. We would hate to come back here and go through all this trouble and delay to you people to have that done. If it is put in the bill it will not do any harm; it will not hurt anybody by leaving it in the bill.

Senator MILLIKIN. I would like to ask the same question as to the going royalty rate on asphalt on privately owned lands. Does anyone know about that?

The CHAIRMAN. Does anyone know about the rate of royalty in asphalt land leases in the Chickasaw and Choctaw Reservations? Are there any asphalt lands being leased at the present time?

Mr. LEWIS. There are none. All the asphalt produced is owned by the companies themselves.

Senator MILLIKIN. Then of course there is no royalty rate.

Mr. LEWIS. No, sir.

Senator CHAVEZ. Do you know what companies own the adjoining land to the asphalt deposits of the Indians?

Mr. LEWIS. Well, you see, Senator Chavez, the asphalt deposits are not contiguous to the coal deposits necessarily. The coal deposits are usually more in the east part of the State, and the asphalt deposits are farther south and west.

Senator CHAVEZ. But I understood that there were some companies that owned some lands adjoining the Indian asphalt deposits. Am I correct?

Mr. LEWIS. Yes. The asphalt deposits that are owned by private corporations were bought from the Indians, and the Indians continue to hold deposits that are contiguous to those that are being operated by private companies.

Senator CHAVEZ. How many private companies are there?

Mr. LEWIS. I don't think there are over two or three. I think perhaps there are three.

Senator CHAVEZ. What are they?

Mr. LEWIS. I will have to refresh my mind about that. The United States Co. is one, and the Western Asphalt and Paving Co. is another, and there is a third one the name of which I do not call to mind right now.

Mr. DURANT. The Southern.

Mr. LEWIS. Yes; that is right.

Mr. DURANT. That is where we sold most of the land.

Mr. LEWIS. And that is where most of the asphalt production is.

Senator LANGER. Can you tell us what the going rate for coal is at the mine?

Mr. LEWIS. Per ton?

Senator LANGER. Yes.

Mr. LEWIS. Around 6½ or 7½.

Senator LANGER. Dollars?

Mr. LEWIS. Yes, sir.

Senator LANGER. Do you mean to say they only get 10 cents out of that?

Mr. LEWIS. That is right.

Senator LANGER. They get 25 cents a ton in North Dakota, and we sell the coal at the mine for about \$1.75.

Mr. LEWIS. Of course the Senator will understand that our coal down there grades from a very low grade bituminous to an ordinary anthracite; so there is a large variation in price at the mouth of the mine.

Mr. DURANT. Mr. Chairman, I notice in your statement that you said you were introducing the report of the Acting Secretary, and I would like to adopt it as part of my statement.

The CHAIRMAN. It will be found in the first part of the hearings.

Senator CHAVEZ. Is there any other report from the Acting Secretary, aside from his letter of August 22 in answer to Mr. Lewis' former letter?

The CHAIRMAN. Mr. Lewis will make a statement later, and you can interrogate him.

Senator CHAVEZ. The Secretary himself approves the bill; does he not?

The CHAIRMAN. I understand so.

Senator MILLIKIN. Does anyone here know what the asphalt companies set up as their cost charge against the raw asphalt?

Mr. LEWIS. If the Senator addresses that inquiry to me, I do not know. I might say this to the Senator, that it became a subject of inquiry in the Oklahoma Legislature back in 1929 when I was a member of that body, and we could not find out at the time. They were selling it to the State for highway use at about \$6.50 a ton, and I complained bitterly then that the Choctaws and Chickasaws had mountains of it that they would be glad to sell to them for 10 cents a ton. But we never could learn what it cost them to produce it.

Senator MILLIKIN. There always is an amortization charge in connection with a privately owned and operated deposit. It would be very interesting to know what they set up on their own books as the cost.

Mr. LEWIS. We thought so at the time, but we were unable to get any satisfactory figures.

Mr. DURANT. Senator, I have a copy of a resolution passed by the Choctaw Tribe and I would like to file it as part of my statement.

The CHAIRMAN. Without objection, the resolution passed by the advisory council representing the Choctaw Nation will be included in the hearing.

Does it represent the Chickasaw Nation as well as the Choctaw Nation?

Mr. DURANT. No, sir.

(The resolution referred to and submitted by the witness will be found at the end of his statement.)

The CHAIRMAN. Does that complete your statement?

Mr. DURANT. Just one more word, Mr. Chairman. I think that that resolution is a fair representation of those people. The council members are from the different counties and they represent the Indians, just as the Congress represents the people of the United States. If the Government requires us to have a referendum vote we cannot get a fair expression on a question of that kind in that way. We have no way of doing it down there through our election machinery. Those men represent communities in each county, and it is a rule of the Department that everything that is done down there that affects those people's property should have a resolution by the council endorsing it. Resolutions are passed by that body on everything. If we want some money to spend on a certain thing the council recommends it and it must be done by resolution.

Senator LANGER. How many are on the council?

Mr. DURANT. Eleven. There is one from each county.

Senator LANGER. With further reference to the election matter you were talking about awhile ago, you have only 26,000 Indians?

Mr. DURANT. Six thousand in one tribe and 20,000 in the other.

Senator LANGER. I assume there are 4 or 5 in a family, so you would only have 5,000 or 6,000. What is the objection to letting those Indians vote?

Mr. DURANT. Who is going to pay the expense?

Senator LANGER. In our State they vote whether they want to come under the Howard-Wheeler Act or whether they do not want to.

Mr. DURANT. We are scattered so much that it is practically impossible to get a popular vote. The Choctaws are scattered all over the United States. Of course the majority of them are in those counties in our State; but we cannot spend a dime of our money without asking Congress. I have got to come to you and ask you to set aside a certain amount of money. We have no officers or anybody to control the election. There is no one to report to to see whether it is right or wrong. We destroyed our election machinery and the control we had when we gave up our government.

Senator LANGER. The Indians own this coal, do they not?

Mr. DURANT. Yes, sir; they own the coal.

Senator LANGER. Why can they not say how much they want to get for it when they sell it?

Mr. DURANT. You fix the price of property we buy; you fix the price of property we sell. We do not have anything to do with it. Some years ago I was in the House down there and dealt with public ques-

tions of this kind for a long time, and my experience has been that you have got to have someone to represent you with the Government.

The CHAIRMAN. We thank you for your statement, Mr. Durant.

(The resolution referred to and submitted by the witness is here printed in full as follows:)

RESOLUTION FOR SALE OF TRIBAL COAL AND ASPHALT DEPOSITS—No. 8

Whereas the Choctaw and Chickasaw Tribes of Indians in Oklahoma are the joint owners of 376,757.08 acres of coal deposits, of which 348,256.68 acres are unleased and 12,597.28 acres are under leases which expire September 25, 1947, and 15,903.12 acres are leased under permits which are for a term of 1 year only, which coal deposits are situated in Atoka, Coal, Pittsburg, Latimer, LeFlore, and Haskell Counties, Okla.; and

Whereas said tribes also own 3,040 acres of asphalt deposits, of which 960 acres, are under lease which expires September 25, 1947, and 2,080 acres are not leased, all of which deposits are situated in Pushmataha, Murray, and Carter Counties, Okla.; and

Whereas the United States Government has appraised said coal and asphalt deposits at \$10,041,029.67; and

Whereas each member of the Choctaw and Chickasaw Tribes owns an equal undivided interest in said coal and asphalt deposits; and

Whereas the lands of said tribes have been allotted and each member is now required to pay taxes to the State of Oklahoma; and

Whereas practically all other property jointly owned by said tribes has been sold and the proceeds divided equally among them; and

Whereas the only property owned jointly by them is said coal and asphalt deposits; and

Whereas the Government offered these deposits for public sale in 1918, 1919, 1920, and 1925, and has also sold a few tracts at the appraised value at private sale since the last public sale in 1925, and after said efforts to sell the same, there remains unsold at this time 376,757.08 acres of coal deposits and 3,040 acres of asphalt deposits; and

Whereas it is the desire of the Choctaw Tribe of Indians that the coal and asphalt property be sold and the proceeds disposed of as hereinafter provided: Now, therefore, be it

Resolved by the Choctaw Advisory Council, assembled in regular session at Muskogee, Okla., on February 12, 1941, that the United States Government be respectfully requested to purchase said coal and asphalt deposits and pay to said tribes not less than the present appraised value, namely, \$10,041,029.67, and that one-half of said amount be paid per capita immediately to the Choctaw and Chickasaw Tribes of Indians under existing law and that the other one-half thereof be used by the Government for rehabilitation purposes among the Choctaw and Chickasaw Indians.

That upon the passage and approval of legislation authorizing the purchase of said coal and asphalt deposits at not less than said appraised value and upon the depositing of said sum in the Treasury of the United States to the credit of the Choctaw and Chickasaw Nations, the principal chief of the Choctaw Nation join the Governor of the Chickasaw Nation in executing a proper instrument conveying to the United States Government all the right, title, and interest of said tribes in said coal and asphalt deposits.

Be it further resolved, That in the event it will not be possible to bring about a sale of the foregoing property to the United States Government at an early date, then the Secretary of the Interior is hereby respectfully requested to cause the following legislation to be enacted:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he hereby is, authorized to lease any of the unsold and undeveloped coal and asphalt deposits of the Choctaw and Chickasaw Nations in Oklahoma, in accordance with the terms of the Act of April 21, 1932 (47 Stat. 88), except as otherwise provided herein, and under such rules and regulations as he may prescribe. Leases made under this Act may be for any term not exceed to fifteen years.

"SEC. 2. That the rate of royalty in coal leases made under this Act shall not be less than ten cents per ton on all coal mined, including what is commonly known as slack: *Provided*, That such leases shall require the mining of a minimum of one thousand tons each year the first and second years after approval

of the lease, three thousand tons the third year, five thousand tons the fourth year, and fifteen thousand tons the fifth and each succeeding year thereafter, or the payment of royalty thereon the same as if the coal had actually been mined: *Provided further*, That the lessees shall pay as advance royalty on each lease the sum of \$100 each year for the first and second years, \$300 for the third year, and \$500 for the fourth and each year thereafter. The advance royalty paid for any year may be credited on the royalty becoming due on coal mined during the year for which said advance royalty has been paid, but shall not be credited on royalty on coal mined in any previous or subsequent year.

"SEC. 3. That the rate of royalty in asphalt leases made under this Act shall not be less than fifteen cents per ton on all crude asphalt mined: *Provided*, That such leases shall require the mining of a minimum of ten thousand tons the first year after approval of the lease and fifteen thousand tons each year thereafter, or the payment of royalty thereon the same as if the asphalt had been mined: *Provided further*, That the lessee shall pay as advance royalty on each lease the sum of \$500 in advance for each year. The advance royalty paid for any year may be credited on the royalty becoming due on asphalt mined during the year for which said advance royalty had been paid but shall not be credited on royalty on asphalt mined in any previous or subsequent year.

"SEC. 4. That the Act of April 21, 1932 (47 Stat. 88), is hereby amended to provide that leases made thereunder may be for any term not to exceed fifteen years."

JAMES CULBERSON,
Chairman of Resolutions Committee.
GEORGE W. SCOTT,
Member.
CHAS. J. TOWNSEND,
Member.
T. W. HOOSTON,
Chairman of Choctaw Advisory Council.
SAM L. RIDDLE,
Secretary of Choctaw Advisory Council.

Approved.
Attest:

STATEMENT OF FLOYD E. MAYTUBBY, GOVERNOR, CHICKASAW TRIBE OF INDIANS

The CHAIRMAN. For the record, will you please give your full name?

Mr. MAYTUBBY. Floyd E. Maytubby.

The CHAIRMAN. What position do you hold in the Chickasaw Tribe in Oklahoma?

Mr. MAYTUBBY. I am governor of the Chickasaw Tribe of Indians.

The CHAIRMAN. You are a member of that tribe of Indians?

Mr. MAYTUBBY. Yes, sir.

The CHAIRMAN. How long have you been governor?

Mr. MAYTUBBY. Since October 1939.

The CHAIRMAN. You may proceed to make your statement in support of this bill that is pending before the committee.

Mr. MAYTUBBY. I shall have to mention one or two things that have already been covered by Chief Durant here.

In the matter of the amount of acreage, that we now own, 378,000 acres—that is, coal lands—departmental leases cover 13,829 acres, and under departmental permits there are 17,382 acres.

Under the present law, as was brought out, we have not been permitted to lease virgin coal lands, and the result of that is that from 25,000 to 30,000 acres, which also includes the annual permits, is all the coal lands we have been able to lease. Of course, in the last few years the production of coal has dropped off, due to the fact that oil has been discovered and used in many places where coal formerly was used. But under this last report here, which I have, which has been

compiled by the coal trustee, there has been an increase in coal production during the last fiscal year, and under the annual permits there have been several acres more that have been leased.

Now, under this present emergency, and since this bill has come up, it, I believe, furnishes a possibility for the Chickasaw and Choctaw Nations to increase their income substantially under this bill.

I believe one of the Senators asked about the 10 cents a ton. Under this bill, as I understand it, the minimum amount of royalty is 10 cents. That does not set a maximum amount for which we could lease this coal land. Under the present leases, while there are only from 27,000 to 30,000 acres under lease, in the last fiscal year it has averaged a minimum of about \$35,000 a year. That amounts to a little over a dollar an acre.

Under the present law, we have had to hold out about 350,000 acres of virgin coal lands. At the rate of about \$1.20 an acre, it would have furnished the tribe something like a half million dollars a year income if we had been able to lease the balance of the mines and get the same production that we had under this minimum of 27,000 acres.

Up until about 1925 the production of coal was much larger than it has been since 1925. Twenty years of the maximum amount of production, I figure, would have furnished the tribe something like \$17,000,000 income, if, of course, all the lands had been leased.

Of course, we realize that 10 cents a ton is a small amount to get for royalty, but in developing these virgin coal lands it costs, I am told, something like \$25,000 for equipment before they are ready to begin mining. I know that at the time the allotments were made to the Chickasaws and Choctaws in Oklahoma, we had to put our allotments out free for about 10 years without getting any return on them, so that we would be able to take care of the amount of improvements and have somebody else get the land ready, because we had no money to develop the land.

The same thing results in the leasing of virgin coal lands. We had to set a minimum amount so we could lease these lands. I know that 25 cents usually is the amount of royalty that is paid under coal leases, but that is only on developed mines.

Under these permits which run for 1 year, that is, as I understand it, permission to go in on developed mines and take out whatever is left of the coal, and we get 15 cents a ton royalty.

But I am told that it is a dangerous way to lease these lands, because the coal is not properly mined, and it has caused a great many crevices and holes above the virgin coal mines where seepage of water might destroy hundreds of thousands of acres of good coal lands that are now not under lease.

I believe that is all I have to say.

The CHAIRMAN. Governor Maytubby asks permission to introduce in the record as part of his statement a copy of a resolution passed by the business organization representing the Chickasaw Tribal Council or Association.

Is that correct, Governor Maytubby?

Mr. MAYTUBBY. Yes, sir.

The CHAIRMAN. Without objection, the resolution will be incorporated in the record at this point.

(The resolution referred to is as follows:)

Session of the executive committee of the Chickasaw Tribal Protective Association, assembled at Tishomingo in the county of Johnston and State of Oklahoma, on the 15th day of December A. D. 1941

RESOLUTION NO. 2

Whereas we are again permitted to enjoy the privilege of meeting together as an executive committee, in the name of the Chickasaw Tribal Protective Association, and on behalf of the Chickasaw Nation of Indians in the State of Oklahoma, and under the authority of Hon. Floyd E. Maytubby, governor of the Chickasaw Nation; and

Whereas we have had the report of the condition of the affairs of the Chickasaw Nation from our governor, and especially as to the state and condition of our segregated coal and asphalt lands; and are informed by him that it would be for the best interests of the tribe to have the undeveloped coal and asphalt lands leased again for development and in order that we may have continuous operation of a larger area of those lands and thus enjoy larger receipts from their productivity in the future; and

Whereas, under present war conditions in the world and the demands of the Government of the United States, for the production of various war supplies for immediate use, and the prospective demand for coal for that purpose, we are of the opinion that it would be wise for us to ask the chairmen of the Indian Affairs Committees of the House of Representatives and of the Senate of the United States Congress, and the Secretary of the Interior of the United States, to cause to be prepared and presented a suitable measure for the leasing of the undeveloped coal and asphalt lands of the Chickasaw and Choctaw Indians in Oklahoma, for the purpose of authorizing the leasing of any undeveloped area of such lands not now under lease, with a view of protecting the best interests of such tribes, with a provision that a minimum rental per annum be paid on the acreage involved, whether being developed or not. Therefore, be it

Resolved, That, we, the executive committee of the Chickasaw Tribal Protective Association, for and on behalf of the people of the Chickasaw Nation of Indians in Oklahoma, do hereby respectfully request the chairmen of the Indian Affairs Committees of the House and of the Senate of the Congress of the United States, and the Secretary of the Interior of the United States, to cause to be prepared and presented before the House and Senate of the United States Congress, a suitable bill authorizing the leasing of the undeveloped coal and asphalt segregated lands of the Chickasaws and Choctaws in the State of Oklahoma, having in view at all times the best interests of the two tribes therein and with a minimum rental provided whether being developed or not.

Upon ample consideration and discussion and due presentation thereof, this resolution is adopted by unanimous vote of the members of the executive committee of the Chickasaw Tribal Protective Association, in session at Tishomingo in the county of Johnston, and State of Oklahoma, on this 15th day of December A. D. 1941.

In testimony whereof, witness the signatures of the chairman and secretary of the executive committee, the day and year last above written.

FRANKLIN BOURLAND, *Chairman*.

Attest:

JACKSON McCARTY, *Secretary*.

The CHAIRMAN. Governor Maytubby, do you wish to include in the record the statement from the coal administrator relative to the amount of coal produced and the data submitted in connection with his report?

Mr. MAYTUBBY. Yes, sir.

The CHAIRMAN. Without objection, this report, then, will be included in the record at this point.

(The report referred to is as follows:)

McALESTER, OKLA., August 6, 1941.

Mr. A. W. LANDMAN,

*Superintendent for the Five Civilized Tribes,
Muskogee, Okla.*

DEAR SIR: I have the honor to respectfully submit my report for the fiscal year ended June 30, 1941.

Yours truly,

HAMPTON TUCKER, *Mining Trustee*.

TRIBAL COAL DEPOSITS

The coal deposits of the Choctaw and Chickasaw Tribes are within the Choctaw Nation and amount to a total of approximately 378,117.08 acres, classified as follows:

	Acres
Unsold and unleased.....	346,904.39
Operated under departmental leases.....	13,829.94
Operated under departmental permits.....	17,382.55
Total.....	378,117.08

These deposits extend from the northeast corner to the southwest corner of the old Choctaw Nation. In area they are about 125 miles in length and vary in width from 5 to 15 miles. They lie in six counties of the State, namely, Atoka, Coal, Pittsburg, Latimer, Le Flore, and Haskell.

In visiting the mines of the several companies to check their output, it is necessary to go to Coalgate, in the extreme southwestern part of the field; to points near McAlester and Wilburton in the central part; to Poteau, Panama, Bokoshe, Williams, Heavener, and other points in the extreme eastern part of Oklahoma; and to Fort Smith, Ark., where one company keeps its mining records.

TRIBAL ASPHALT DEPOSITS

The tribal asphalt deposits consist of five tracts, aggregating 3,040 acres. One unleased tract, containing 960 acres, is in the Choctaw Nation, and one leased and three unleased tracts are in the Chickasaw Nation. The leased tract is near Sulphur, in Murray County, and contains 960 acres, the lessee being the Southern Rock Asphalt Co., an Oklahoma corporation, of Oklahoma City, Okla.

TOTAL COAL AND ASPHALT DEPOSITS

In other words, the tribal coal and asphalt deposits amount to a total of 381,157.08 acres, as follows:

	Acres
Coal.....	378,117.08
Asphalt.....	3,040.00
Total.....	381,157.08

INSPECTION OF MINING RECORDS

For the purpose of ascertaining the amount of coal mined each month by the several individuals and companies operating mines upon the tribal coal deposits, I visit their mines or offices each month and examine their mining records, pursuant to the regulations of the Department. The results of such examinations are shown in quarterly reports which I make to the superintendent for the Five Civilized Tribes. These reports show by months the coal mines (1) by each individual and company on departmental leases, and (2) by the holders of mining permits approved by the Department. Under the regulations of the Department royalty remittances are made monthly under oath by the operators direct to said superintendent, at Muskogee, Okla., who checks such remittances with my quarterly reports to determine whether or not proper royalties are paid by the several operators.

The statistical tables on the following pages show generally the present status of the coal and asphalt deposits.

APPROVED COAL LEASES IN EFFECT

Fourteen coal leases, embracing 13,829.94 acres, were in effect June 30, 1941. The names of the lessees, the acreage of each lease, and the district in which the deposits are located are shown in the following statement:

Name of lessee	Number leases	Acreage	District
Banner Coal Co.....	1	1,600.00	McAlester.
Cameron Coal Co.....	1	2,210.00	McCurtain-Massey.
Cobb, Earl.....	1	960.00	Do.
Hetherington Coal Co.....	1	840.00	Do.
Koener Coal Corporation.....	1	840.00	Do.
Kistler, Ralph P.....	1	940.00	Do.
Messina, Louis.....	1	1,600.00	McAlester.
Mullen, William P.....	1	960.00	Do.
Paris Purity Coal Co.....	1	544.78	Howe-Poteau.
Paschall, Leroy.....	1	895.16	McCurtain-Massey.
Paul Rees Coal Co.....	1	940.00	Do.
Sugar Creek Coal Co.†.....	1	200.00	Howe-Poteau.
Terry Bros.....	1	1,080.00	McAlester.
Turnipseed Coal Mining Co.....	1	220.00	Howe-Poteau.
Totals.....	14	13,829.94	

† Successor to Lee Taylor by departmental approval of May 5, 1941.

COAL LEASES APPROVED

Four coal leases, covering 3,384.78 acres, were approved during the year. The names of the lessees, the number of leases granted each lessee, the acres contained in each lease, and the date of approval thereof are shown in the following statement:

Name of lessee	Number leases	Acreage	Date of approval
Cobb, Earl.....	1	960.00	Aug. 21, 1940
Kistler, Ralph P.....	1	940.00	May 12, 1941
Paris Purity Coal Co.....	1	544.78	July 8, 1940
Paul Rees Coal Co.....	1	940.00	Apr. 4, 1941
Total.....	4	3,384.78	

ASPHALT LEASES APPROVED

No asphalt lease was approved during the year.

COAL MINING PERMITS IN EFFECT

Twenty coal-mining permits, containing 17,382.55 acres, were in effect on June 30, 1941. The names of the permittees, the acreage of each permit, and the district where the deposits are located are shown in the following statement:

Name of permittee	Number permits	Acreage	District
Alderson-McAlester Coal Co.....	1	800.00	McAlester.
Baskin & Stubblefield.....	1	440.00	Do.
Bernardi, John and Tony.....	1	558.22	Do.
Burger, Claude, et al.....	1	3,090.00	Wilburton.
Cleland, Arch.....	1	960.00	Lehigh-Ardmore.
Collins Coal Co.....	1	915.82	McAlester.
Dawes Bros.....	1	35.00	Howe-Poteau.
Gore-Hoover Coal Co.....	1	960.00	Wilburton.
Hilling, J. B.....	1	955.02	Do.
Homer, J. R.....	1	960.00	McAlester.
Hodgens, Raymond.....	1	680.00	Do.
Jones (Tom) Coal Co.....	1	880.00	Lehigh-Ardmore.
Krisner, Mathias.....	1	560.00	McCurtain-Massey.
Noel, E. H.....	1	1,360.00	Lehigh-Ardmore.
Peters, Matt, et al.....	1	600.00	Do.
Rees, Paul.....	1	635.99	McCurtain-Massey.
Traughber, G. S.....	1	160.00	McAlester.
Williams, Frank S., et al.....	1	912.50	Do.
Winters, Charlie, et al.....	1	960.00	Howe-Poteau.
Yalch, Frank J., et al.....	1	960.00	Lehigh-Ardmore.
Total.....	20	17,382.55	

Mining permits are granted under section 7 of the act of April 21, 1932 (47 Stat. 88), and cover worked-over areas of coal left by the operators of expired leases. Since they are granted for a term of only 1 year, new investigations and reports are required on each permit each year. Accordingly, mining permits really require more time and attention than regular departmental leases, but they enable the tribes to receive from worked-over coal areas royalties they would not otherwise realize.

NEW COAL-MINING PERMITS APPROVED DURING YEAR

The following statement shows that two new coal-mining permits, covering 1,560 acres, were approved during the year:

Name of permittee	Permits	Acreage	Date of approval
Peters, Matt, et al.....	1	600	June 19, 1941.
Winters, Charlie, et al.....	1	960	May 23, 1941.
Totals.....	2	1,560	

ASPHALT LEASES IN EFFECT

Only one asphalt lease is in effect, namely, that of the Southern Rock Asphalt Co., approved July 11, 1935, covering 960 acres of asphalt deposits in Murray County, Okla.

NO ASPHALT DEPOSITS SOLD

No asphalt deposits were sold during the year.

COAL DEPOSITS SOLD

Eighty acres of the coal deposits were sold, described as NW $\frac{1}{4}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$ sec. 26, T. 7 N., R. 25 E. They were part of unleased tract 69 in the Howe-Poteau district. The purchasers were V. P. and J. S. Sorrels, of Poteau, Okla., who paid therefor a total of \$4,800, or \$60 an acre, which is twice the 1925 or last appraisalment thereof. The sale was approved May 29, 1941, whereupon the whole amount was paid.

ROYALTY ON COAL AND ASPHALT

The royalty on coal mined under leases is 10 cents a ton, and that on coal mined under mining permits is 15 cents a ton. The royalty on asphalt is 15 cents a ton on crude asphalt.

COAL OUTPUT DURING YEAR UNDER LEASES

The following statement shows the coal mined by each operator under departmental leases during the year and the royalty paid thereon at 10 cents a ton.

Name of operator	Coal mined (tons)	Royalty paid	Name of operator	Coal mined (tons)	Royalty paid
Banner Coal Co.....	26,733.00	\$2,673.30	Paschall, Leroy.....	1,095.00	\$109.50
Cameron Coal Co.....	10,459.95	1,046.00	Paul Ross Coal Co.....	0	0.00
Cobb, Earl.....	16,143.05	1,614.31	Sugar Creek Coal Co. ¹	307.00	46.05
Hetherington Coal Co.....	8,329.00	832.90	Taylor, Lee ²	1,350.80	202.62
Keener Coal Corporation.....	64,786.89	6,478.67	Terry Bros.....	24,641.91	2,464.21
Kistler, Ralph P.....	0	0.00	Turnipseed, J. F., Coal Mining Co. ²	16,617.00	2,492.55
Messina, Louis.....	30,907.45	3,090.78			
Mullen, William P.....	10,907.00	1,090.70	Total.....	214,715.05	22,385.29
Paris Purity Coal Co.....	2,437.00	243.70			

¹ Lease under act of June 26, 1934; royalty at 15 cents a ton.

² Lease assigned to Sugar Creek Coal Co. by departmental approval of May 5, 1941.

COAL OUTPUT DURING YEAR UNDER MINING PERMITS

The coal mined during the year under departmental mining permits and the royalty paid thereon by each permittee at 15 cents a ton are shown in the following statement:

Name of operator	Coal mined (tons)	Royalty paid	Name of operator	Coal mined (tons)	Royalty paid
Alderson-McAlester Coal Co.....	5,386.00	\$807.90	Hodgens, Raymond.....	707.00	\$106.05
Baskin & Stubblefield.....	476.00	71.40	Jones (Tom) Coal Co.....	2,388.25	358.24
Bernardi, John & Tony.....	3,095.00	464.25	Krisher, Mathias.....	8,620.00	1,293.00
Barger, Claude, et al.....	1,316.00	197.40	Noel, E. H.....	2,151.00	322.65
Cleland, Arch.....	2,420.00	363.00	Peters, Matt, et al.....	0	0.00
Cobb, Earl.....	1,755.30	263.30	Rees, Paul.....	13,051.00	1,905.10
Collins Coal Co.....	6,447.00	967.05	Traughber, G. S.....	2,358.00	353.70
Dawes Bros.....	3,853.50	578.03	Williams, Frank S., et al.....	4,244.00	636.60
Gore-Hoover Coal Co.....	14,130.00	2,119.50	Winters, Charlie, et al.....	97.00	14.55
Hilling, J. B.....	1,704.00	255.60	Yalch, Frank J., et al.....	2,239.00	335.85
Homer, J. H.....	3,754.00	563.10	Total.....	80,192.05	11,376.27

¹ Royalty at 10 cents a ton.

COAL MINED IN TRESPASS

During the year the sum of \$1,544.25 was collected as royalty on tribal coal mined in trespass. This represents 10,295 tons, at 15 cents. An explanation of the trespass is hereinafter made.

TOTAL AMOUNT OF COAL MINED

The foregoing statements show that 305,202.10 tons of coal were mined during the year on leases and mining permits, and in trespass, the royalty collected amounting to \$35,305.81, as follows:

	Tonnage	Royalty
On leases.....	214,715.05	\$22,385.29
On permits.....	80,192.05	11,376.27
In trespass.....	10,295.00	1,544.25
Total.....	305,202.10	35,305.81

COMPARISON

Compared with the tonnage and royalty for last year, the tonnage and royalty for this year show an increase of 8,284.83 tons, and \$1,618.02 royalty, notwithstanding the strike hereinafter referred to. The following statement shows the comparison of the 2 years:

	Tonnage	Royalty
1941.....	305,202.10	\$35,305.81
1940.....	296,917.27	33,687.79
Increase.....	8,284.83	1,618.02

ASPHALT MINED

No asphalt was mined during the year, but the Southern Rock Asphalt Co., the holder of the only departmental asphalt lease we have paid, the minimum tonnage royalty of \$2,150 for the sixth year of the lease.

3,000 tons per acre - 80 ft
 240,000 / 10 ft
 24,000,000

AMOUNTS PAID ON PURCHASED COAL TRACTS

The following statement shows the amounts paid during the year on purchased coal tracts:

Purchaser	Tract	District	Acres	Principal paid	Interest paid	Total paid
Sorrels, V. P. & J. S. ¹	68	Howe-Poteau	960	\$7,200.00	\$354.95	\$7,554.95
Do. ²	(3)	do	80	4,800.00		4,800.00
Gaines Creek Coal Co. ³	29A	McAlester	160	364.06		364.06
Total	3		1,200	12,364.06	354.95	12,719.01

¹ Final payment.

² First and final payment.

³ 80 acres of tract 69.

AMOUNT DUE ON PURCHASED COAL TRACT

The only amount now unpaid on a purchased coal tract is \$1,683.65, which is the balance on tract 38B in the McAlester district, purchased December 11, 1918, by the Kali-Inla Coal Co. for \$21,420. Controversy over payment of this balance has been pending in the Department for several years. The question involved is commonly known as interim royalties; that is, royalties accruing on coal mined between the date of purchase of the tract on December 11, 1918, and August 29, 1919, when the Secretary of the Interior approved the sale. The tribes contend that such royalties should be paid; the coal company insists that it does not owe them. Final action has been held in abeyance until the Court of Claims should pass on the case of trustees of the estate of the Choctaw, Oklahoma & Gulf Railroad Company versus United States, since it also involves the question of interim royalties. The latter case was decided in favor of the tribes on May 5, 1941. Therefore, we should be able to collect said balance of \$1,683.65 at an early date.

A. P. GUNTHER CASE

In my last annual report I referred to the suit of the tribes against A. P. Gunther for \$6,196.41 for royalty on coal mined during the years of 1927, 1928, and 1929, and the first 6 months of 1930. The tribes recovered judgment in the United States Court for the Eastern District of Oklahoma on July 27, 1939, for the amount sued for, with interest at 6 percent per annum from June 25, 1930. The surety on Mr. Gunther's bond, the American Surety Co. of New York, appealed the case to the tenth circuit court of appeals, which affirmed the lower court. No appeal was taken from the latter decision. The judgment and interest amounted to \$10,006.72, which was paid and placed to the credit of the tribes on December 4, 1940.

RECAPITULATION OF AMOUNTS RECEIVED ON ACCOUNT OF COAL AND ASPHALT PROPERTY DURING YEAR

During the year the amounts received from various sources on account of the coal and asphalt property aggregated \$60,939.94, as follows:

Royalty on coal mined on leases	\$22,385.29
Royalty on coal mined on permits	11,376.27
Amounts received on purchased coal tracts:	
Principal	\$12,364.06
Interest	354.95
	12,719.01
Amount of minimum royalty paid on its lease by the Southern Rock Asphalt Co. for sixth year	2,250.00
Amount paid by Steward and Beutelschies on coal mined in trespass	1,544.25
Balance of minimum royalty paid by W. P. Mullen for sixth year of lease	138.20
Advanced royalty forfeited by Paris Purity Coal Co. for failure to mine required tonnage during first year of lease	256.30
Advanced royalty forfeited by Lee Taylor for failure to mine required tonnage for fourth year of lease	263.90
Payment of judgment against A. P. Gunther, principal and interest	10,006.72
Grand total	60,939.94

TRESPASS MINING

It is necessary to make frequent inspections of the coal crop at various points throughout the coal field to prevent persons from illegally mining coal. During the year such inspections have been made regularly.

In May last we settled a trespass case which occurred near Bokoshe, Okla. Parties holding leases and operating two mines on fee coal belonging to John S. Steward and Frank Beutelschies extended their mines into portions of unleased segregated coal tract No. 62, near that town, in the McCurtain-Massey district. At my request both mines were surveyed to determine the extent of the trespass. The mine maps furnished as a result of the survey showed that 10,295 tons of tribal coal had been illegally mined. The case was settled by Steward and Beutelschies paying royalty on such trespass coal at 15 cents a ton, amounting to \$1,544.25.

Such trespass mining was immediately discontinued, and it is believed that at this time there is no trespassing on the tribal coal.

STRIKE

A strike, which prevailed in the Oklahoma coal field from April 1, last, was settled last July. While it lasted all the larger mines in the segregated coal area were closed. Some time in April some of the smaller operators resumed work by payment of the old wage scale, with the understanding that, when the new scale should be agreed upon, they would pay their employees on the basis of the new scale from April 1. Practically all of our lessees resumed operations in July, and the prospects are very favorable for a large output for all our mines during the coming season.

WISTER DAM AND RESERVOIR PROJECT

In my last annual report I referred to the fact that the Federal Government, in its plans for flood control of the Arkansas River Basin in Oklahoma and Arkansas, is contemplating the construction of a dam and reservoir near the town of Wister, in Le Flore County, Okla., locally known as the Wister Dam and Reservoir. The proposed dam will be located on the Poteau River, about 2 miles southeast of Wister, and will ultimately back up the water as far west as the town of Fanshawe, which is about 12 miles west of the proposed dam. According to our estimate the proposed project will take 12 tracts, or 11,312 acres, of the tribal coal deposits. The United States engineers, with headquarters at Tulsa, Okla., estimate that 10,025 acres will be affected thereby.

In the early part of 1940 they appraised said 10,025 acres at \$96,592.50 or \$9.63 an acre. They estimated that the water in the reservoir will so badly damage 515 acres thereof that the coal therein will have no value and appraise the coal in said 515 acres at \$6,302.50. They further estimated that the remaining 9,510 acres will be worth \$64,380. Deducting the latter amount from the \$96,592.50, the net damage to our coal deposits will be only \$32,212.50, according to their estimate.

The lower Hartshorne bed of coal, which is about 4 feet thick, with a dip of about 35 degrees to the north, outcrops along the extreme southern boundary of each tract. Our contention is that the water in the reservoir will ultimately overflow the coal crop in the extreme southern portion of each tract. Some tracts may be inundated more than others. However, overflow water on the coal crop or in the immediate vicinity thereof will prevent the opening and operation of slope mines along the crop. Moreover, the deeper or more distant coal in the several tracts could be mined only by shafts which, on account of the dip of the coal, would be so expensive as to be practically prohibitive.

Our further contention is that, when the dam is completed and the reservoir is full of water, the coal in all the tracts will be so damaged that it cannot be profitably operated and therefore will not be salable.

Moreover, the 11,312 acres are a solid body of virgin or undeveloped coal, and are the most valuable body of coal the tribes have. Eleven of the tracts are traversed by the Rock Island Railroad. The Frisco Railroad runs through three of them and is in close proximity to the other eight tracts.

After the United States engineers had completed their appraisement they held a public hearing on the matter at Poteau, Okla., on August 23, 1940, for the purpose of ascertaining the attitude of all parties concerning the construction of the proposed dam.

Tribal officials attended the hearing and insisted that the appraisement of the United States engineers was entirely too low and unsatisfactory to the tribes.

They filed with the engineers a statement of their views in the matter and a protest against the appraisal, insisting that the tribes should be paid for the 11,312 acres of coal deposits the appraised value placed thereon by the Secretary of the Interior in 1918, amounting to \$438,133.90.

STATEMENT OF LYNN ADAMS, SPECIAL ATTORNEY, CHICKASAW TRIBE OF INDIANS, OKLAHOMA CITY, OKLA.

The CHAIRMAN. For the record, please state your full name.

Mr. ADAMS. My name is Lynn Adams. I live in Oklahoma City.

The CHAIRMAN. What is your business?

Mr. ADAMS. I am an attorney.

The CHAIRMAN. What connection have you with the Chickasaw Tribe of Indians?

Mr. ADAMS. I have been serving as special attorney under a contract with the governor, approved by the President.

The CHAIRMAN. You are not a member of any of the tribes?

Mr. ADAMS. I am not.

The CHAIRMAN. You may proceed.

Mr. ADAMS. Mr. Chairman, I am interested in this question only from a legal standpoint. The governor has told you that his nation is interested in the leasing of virgin lands.

As to whether or not under the present statute they would have authority to do so, I have carefully examined all the appropriate statutes now existing and, in my opinion, they do not have and the Secretary of the Interior does not have authority to lease undeveloped coal lands. It will require the passage of this bill or a similar bill before they can lease those lands.

The CHAIRMAN. This bill, then, is not intended to interfere with or change the procedure in the leasing of lands that are now being developed; is that correct?

Mr. ADAMS. The bill as now drawn follows the same procedure or takes the procedure that is now used for the leasing of developed coal lands and applies it to the leasing of undeveloped coal lands.

The CHAIRMAN. At the present time the Department has power to release or modify the leases of developed coal land?

Mr. ADAMS. That is true.

The CHAIRMAN. But on what may be termed undeveloped land, virgin territory, you hold that the Department has no power to make leases covering the development of those lands for operational purposes?

Mr. ADAMS. That is right; no, sir.

Senator MILLIKIN. I should like to ask what royalty is being obtained from the lands which you already have leased on coal.

Mr. ADAMS. My information is 10 cents a ton.

The CHAIRMAN. Are there further questions? If not, we thank you, Mr. Adams.

Mr. Stigler, have you an additional statement you wish to make?

Mr. STIGLER. Mr. Johnson, a member of the Oklahoma Chickasaw Tribe, is here and would like to make a very short statement, if it is agreeable.

I cannot add very much to what has already been said, but I understood that Mr. Lewis would appear in opposition, and I should like to have the privilege of closing the hearing after he makes his statement, if I may, please.

The CHAIRMAN. Well it is the policy of the committee to hear those interested to the fullest extent, and that policy will be followed.

STATEMENT OF NEIL JOHNSON, MEMBER, CHICKASAW TRIBE OF INDIANS, NORMAN, OKLA.

Mr. JOHNSON. Senator, I have no statement to make other than has already been made, so I do not think it is necessary to take up your time.

The CHAIRMAN. For the record, give your full name.

Mr. JOHNSON. Neil Johnson. I live at Norman, Okla.

The CHAIRMAN. Are you a member of the Chickasaw Tribe of Indians?

Mr. JOHNSON. Yes.

The CHAIRMAN. Then you are directly interested in the proceedings before this committee?

Mr. JOHNSON. Yes, sir.

The CHAIRMAN. And in the operation and management of your tribal property?

Mr. JOHNSON. Yes, sir.

The CHAIRMAN. Would you mind answering whether or not you think this bill should be passed?

Mr. JOHNSON. Well, I think it should; yes, sir. I think they should have a right to lease those virgin lands.

The way it is now, of course, we members of the Chickasaw Tribe do not get anything out of our lands or out of our deposits, and I was asking the attorney here, Why limit the sizes of the leases?

I notice that under this bill it is provided that no lease shall contain more than 960 acres. Irrespective of the monopoly feature, it seems to me that if a person could operate successfully and profitably to the tribe more than 960 acres, there is no reason for even limiting the amount that a single operator might handle.

The CHAIRMAN. I will say in answer to your implied question that this amendment was made obviously to conform to the report of the Secretary of the Interior, which is found in his letter of July 14, 1941. The next to the last paragraph of his letter reads as follows:

Leases executed in accordance with this authority shall not contain more than 960 acres. Leases made under this act and the act of April 21, 1932, may be made for any term of years, not to extend beyond September 25, 1967.

That is the suggestion made by the Secretary, and I presume the amendment is suggested to harmonize the bill with the Secretary's suggestion.

Mr. ADAMS. Well, no doubt the Secretary was afraid some operator would come in there and get a large acreage and get a monopoly; but with as much coal land as we have there, it would appear to me that we might be able to operate more than 960 acres. That is the only suggestion I make.

Senator MILLIKIN. Mr. Chairman, does it appear in the record what the coal content is per acre?

The CHAIRMAN. Does anyone present know what the coal content rate is, or can anyone give us any information about the coal content rate?

Mr. JOHNSON. That has all been geologized, and that information is available. They either have it here or have it in the Geologic

Survey at the University of Oklahoma. I am sure that that whole area has been geologized.

Senator MILLIKIN. Obviously that would have a bearing on the lease.

The CHAIRMAN. I understand that those lands have been drilled either for coal or for oil and that when they drilled, they kept a record of the drilling.

Mr. JOHNSON. Yes, sir.

The CHAIRMAN. The Department knows the depth of the coal at the various points in this proven territory.

Mr. JOHNSON. They know the depth, the width, and the length of that deposit through there.

Mr. LEWIS. May I suggest that it was core drilled for the purpose of determining the depth of the veins, and that report is with the United States Geological Survey here. That is the Cameron survey that I referred to awhile ago in response to the chairman's inquiry.

The CHAIRMAN. Does anyone present have anything further to say in support of the bill?

If not, I understand that Mr. Lewis is here to make some suggestions which might be construed to be antagonistic to its passage. I am not sure if that is correct.

STATEMENT OF GRADY LEWIS, WASHINGTON, D. C.

The CHAIRMAN. Mr. Lewis, please state your full name for the record.

Mr. LEWIS. My name is Grady Lewis.

The CHAIRMAN. Where do you live?

Mr. LEWIS. My home is in Oklahoma City; in Washington at the present time. I have been in Washington for the past couple of years, keeping my family here, so I guess it is my home.

The CHAIRMAN. Are you a member of the Choctaw Tribe of Indians?

Mr. LEWIS. I am a member of the Choctaw Tribe of Indians, by blood.

The CHAIRMAN. At one time you served as their national attorney?

Mr. LEWIS. Yes, sir; that is correct.

The CHAIRMAN. How long did you serve as their national attorney?

Mr. LEWIS. Three years.

The CHAIRMAN. You have residence in Oklahoma on this reservation, and your service as national attorney has given you an opportunity to learn a very large amount of information and facts relative to this bill?

Mr. LEWIS. I feel that that is the case, Mr. Chairman. I might say that I have also represented, and am now representing the tribe in special litigation in the Court of Claims over a period of 10 years or so, and I am, I feel, more or less familiar with all those things.

The CHAIRMAN. You may proceed, then.

Mr. LEWIS. Thank you. I feel that the most important thing in connection with this proposed piece of legislation is the matter of policy that the Congress is called upon to adopt in connection with these coal deposits. To bring that clearly to the committee's attention, it is going to be necessary for me to review just a little of the history of these two tribes in dealing with the Government in connection with these coal deposits.

As the committee knows, all of the lands belonging to the Choctaw and Chickasaw Tribes of Indians were owned by them in common, the Choctaws owning a three-fourths undivided interest and the Chickasaws a one-fourth undivided interest. That situation has obtained since 1837, at the time of the removal of the Chickasaws to the west, where the Choctaws already were, and was confirmed by treaty in 1855 and finally by governmental administration and supervision.

Now, upon the advent or the coming of the Dawes Commission, the Commission appointed by Congress to make arrangements for the taking of these tribal-owned lands in severalty by the tribal membership, there had been some coal production by individual members of the tribe, but not on a big scale. There had, however, been some production.

When the tribes were approached relative to abandoning their tribal form of government and to accept lands in severalty, looking to the formation subsequently of the State of Oklahoma, they said, "What is to be done with these coal lands? We don't think one member of the tribe should go out and have an opportunity to allot coal land that we know is very valuable."

The Government emissaries said, "We will do this: We will make a survey of those lands that have coal deposits and segregate them from allotment, but hold them in common as tribal lands. After allotment the coal deposits will be sold, and the money from those deposits will be divided per capita among the tribal membership, so that each person receiving an allotment of land will have money to improve it."

I call the committee's attention to Governor Maytubby's statement awhile ago when he said that after the Indians received the allotment, many times they had to farm them out for 10 years to get the improvements made. That was the situation, and that was the situation the Indians were trying to avoid at the time they agreed to accept the Government's proposition.

The result of that was that by two treaties, the last one being made in 1902, the Government solemnly promised that it would sell those coal lands within 3 years from the date of the ratification of that treaty, which is commonly termed and known by the Indians as the "supplemental agreement." That agreement was ratified on September 25, 1902, and that would have given the Government until September 25, 1905, to have disposed of those coal deposits and divided the money per capita among the tribal membership. Obviously, those coal lands have not yet been sold.

The CHAIRMAN. Could the lands have been sold during those 3 years?

Mr. LEWIS. Yes, sir. That is what I was coming to.

From 1898, which was the time of the making of the first treaty, there were a number of leases made, all of which were for 30-year periods. That will become pertinent in a few moments.

The Department of the Interior seized upon the idea, within a year after the ratification of the treaty of 1902, that they did not want to sell the coal lands and asked for some kind of legislation to permit an extended leasing program. That act was passed, I believe, in August or June of 1904—anyhow, during that year.

So, through one maneuver or another, the coal lands have gradually been carried on for the 40 years. Now, there was authority for the sale of all of the lands or any part of them, and there is now. There is no legislation necessary to effect the sale of these deposits.

As time rocked on, some considerable deposits were sold precisely as those asphalt deposits were sold. By experience we have learned that when any operator comes in there who is financially solvent, instead of buying a lease, he buys the fee, as the asphalt companies have done in the case Senator Chavez was inquiring about. So, today every ton of asphalt produced in Oklahoma is produced by private companies.

The same situation grew up as to the coal. The Santa Fe Railroad was operating through that country, and so was the Rock Island. Instead of their buying coal from our operators, they bought the deposits from us—literally thousands of acres.

In that connection, the figures now show 378,000 acres plus in this deposit. Originally there were 450,000 acres. So, that is a further answer to the chairman's question as to whether or not this land can be sold. There have been almost 100,000 acres of it sold now.

Of course, as the railroads owned their own coal and they were big buyers from the lessors of the tribes, the tribal revenues started going down, and then about that time oil and gas were discovered.

From around 1915 to 1917 and on, except for a slight pick-up during the last war, the income from those coal deposits has gone down and down and down, and the Indians have continuously clamored for a sale of those lands, and I daresay—and I challenge any member of these tribal organizations to disprove it—that any one member of the 27,000 of the two tribes, if you could talk to one of them 5 minutes, will say, "When are we going to get a final settlement of these affairs?" If they can find one who will not ask that question, I will withdraw any opposition to this bill. There is just not one. That is what they want, and what they have wanted for 40 long years.

In 1932, that being exactly 30 years from the time of the supplemental agreement, all leases being limited to 30 years expired. At that time it happened that I was the tribal attorney. As tribal attorney, I took the position, and so did the other tribal officers, that it was our duty to try to do what the tribal membership wanted done and what the Government had agreed to do 30 years before. The leasing program had proved an utter failure over a period of 30 years. We had received no revenues. We had not been able to close our tribal estate. We were still paying a bunch of hirelings on the pay roll, of which I was one. We felt that the sooner we quit traveling along with the small number of mines being operated and started to work to try to sell the deposits, the better off we were going to be.

Now, the coal companies came back with this, as is the wont of miners throughout the world: If you cut us off now, we have our investments made. We have property and machinery set up here in partially developed areas, and here is a mine with a vein of coal. If we pull out of here, the hole is going to fill with water and it will result in great loss to us and to the tribe, because we will lose our machinery.

As a consequence, this 1932 act, that Mr. Adams has mentioned to the committee, was drawn between the tribal officials, the Interior Department, and the coal operators.

We said, "All right. We will agree that you may have a lease to go in there upon partially developed acreage, and where the vein has been exposed so far, those deposits may be exhausted. But we are not going to agree that you may go out here in virgin territory and open up a new lease program. We are going to insist that it be limited to a period of 15 years upon those that we do agree to"; and that is the legislation. The attorney is quite correct in saying that he has read that bill and that that is what it says. That is precisely what it says, and it was deliberately drawn that way. It was a matter of policy of the Indian Office at that time and was the policy adopted by this committee and by the Congress when it adopted the bill.

There was a similar bill here in 1939, trying to do exactly what is being done now. At that time there was a letter of inquiry addressed to the Indian Office from this committee, requesting information as to how many leases had been made under the 1932 act and how many requests for leases had been made. That letter is here somewhere. I just this morning got in from Oklahoma and have not had an opportunity to try to locate it yet. But this is the substance of it. There are not now, with those 13,000 acres shown, as many as 20 operators in that entire field—that is, on leases. My recollection is that 13 is the number.

Now, as to these permits, I want to call the committee's attention to them, proving my point. By reason of the fact that there are no operators who can go in there and who want to finish those partially developed mines, the Department has tried to get some little bit of operation down there and has gone to letting these permits. The attorney could have gone further and told you that there is absolutely no authority on earth for letting those permits, for those are what we call dog-hole operations, and you Senators who are familiar with those operations know precisely what that means. Some little fly-by-night fellow who has a scoop goes out and digs this up and gives 15 cents a ton for it. That is what those permits are. During this entire time the tribes have not received one penny. I mean there has been no distribution of any per capita payment to the tribes at all since 1928, at which time there was a \$10 per capita payment attempted to have been paid to the Choctaws. So, this information about revenue to the tribes is rather a misleading statement. That has reference to the tribal officials. All of those moneys are going in to pay some tribal officials' salaries or for some experimental goat-raising or sheep-raising proposition down there, that the tribe does not participate in or know anything about.

Just to keep the record straight about that, the tribes have not got any money from their coal deposits since 1928. Indeed, we did carry on our tribal schools for a while, but in 1931 we finally succeeded in unloading them on the Government, because we did not have enough money to pay to keep them up. So, the Government is now operating our tribal schools.

Let me review some of the other incidents that have happened during this period. In 1912 it became so apparent that the Government was never going to do anything to sell these coal deposits that even the tribal officials conceived a notion to try to negotiate some scheme themselves whereby they might make sale of them. They employed a man by the name of J. F. McMurray to go out and try to find a buyer. He did. He found a buyer who offered to pay \$30,000,000 for those de-

posits. He had a contract with the tribal officials for 10 percent of the sale price. The terms of that contract, I think, were rather liberal, of course, but, at any rate, the terms of that contract were called to the attention of this committee. Hearings were had upon it, and the committee expressed great indignation—with propriety, I must say—about the size of the fee, but the late Senator La Follette made a very impassioned talk and said that here was a vast estate that belonged to these Indian people; that it was a shame to just throw it away; and that those deposits were worth anywhere from \$100,000,000 to \$1,000,000,000, and that they ought to be kept for the posterity of these Indians—be handed down to their children and to their children's children.

All right. The present price value of the deposits today is a little better than \$9,000,000—and there are no bidders.

Senator MILLIKIN. Is that of the deposits or of the land?

Mr. LEWIS. Of the deposits, Senator Millikin.

I might say that as the pressure of the white influence grew, we had the same thing happen there that happens everywhere else. They wanted surface rights, and there has been an endeavor every time to sell surface rights.

Senator MILLIKIN. What does the surface right sell for when it sells?

Mr. LEWIS. Not very much. Of course, there has not been any selling, I should say, in any amount since 1918 or 1919. A good lot of the surface right, of course, is rather rough, while some of it has brought a fair price.

Senator CHAVEZ. What do they use it for? Grazing?

Mr. LEWIS. And little towns have grown up, and farms.

Mr. STIGLER. And timber land, too.

Mr. LEWIS. Some timber land, but not a great deal of it, has coal underneath.

The CHAIRMAN. It is now after 12 o'clock. We have an appropriation bill coming up on the Senate floor, and I think most Senators will want to be there. Without objection, we will take a recess until 10:30 tomorrow morning, at which time you will be given a chance to complete your statement, Mr. Lewis. At that time, also, we will hear the statements of any others who desire to be heard.

In addition, there are some bills that are not controversial, and we will take those up tomorrow, too.

We will take a recess until 10:30 tomorrow morning.

(At 12:03 p. m. a recess was taken until Tuesday, February 3, 1942, at 10:30 a. m.)

LEASING OF UNDEVELOPED COAL AND ASPHALT DEPOSITS OF CHOCTAW AND CHICKASAW NATIONS IN OKLAHOMA

TUESDAY, FEBRUARY 3, 1942

UNITED STATES SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, D. C.

The committee met, pursuant to adjournment on February 2, at 10:30 a. m., in room 424 Senate Office Building, Senator Elmer Thomas of Oklahoma (chairman) presiding.

Present: Senators Thomas of Oklahoma (chairman), Chavez, McFarland, Bunker, Millikin, Langer, McNary, Wallgren, Bulow, Shipstead, and Wheeler were present either in person or by proxy, and Albert A. Grorud, special assistant to the committee.

Also present: William Zimmerman, Jr., Assistant Commissioner, Bureau of Indian Affairs, W. B. Greenwood, Chief Administrative Officer, Bureau of Indian Affairs, William A. Durant, principal chief of the Choctaw Nation, Floyd E. Maytubby, governor of the Chickasaw Nation, William D. Stigler, attorney for the Choctaw Nation, Neil Johnson, special attorney for the Chickasaw Nation, and Grady Lewis, Esq., attorney at law, a member of the Choctaw Nation by blood.

The CHAIRMAN. The committee will be in order.

When we recessed on yesterday, Mr. Lewis was addressing the committee relative to the merits of the bill under consideration, S. 1542, so we will proceed with Mr. Lewis' statement.

STATEMENT OF GRADY LEWIS, WASHINGTON, D. C.—Resumed

Mr. LEWIS. Mr. Chairman and members of the committee, when the committee recessed on yesterday, I had just completed making the statement that in about 1912 we had an opportunity to sell these coal deposits for \$30,000,000 and that the late Senator La Follette objected very strenuously to our doing that, the first reason being that the attorney fee that was agreed to be paid to the man who found a purchaser was too high, and the second reason being that he felt that this property ought to be kept by the tribes as a permanent estate for the heirs of the tribal membership.

Now, here let me digress for one moment to clarify for the committee just what is meant by the tribal membership. That question was asked two or three times yesterday by members of the committee, and they were told that there were approximately 20,000 Choctaws and 6,000 Chickasaws. That was true as of March 4, 1906. Obviously, literally thousands of those people who were then alive are

now dead, and they have left thousands and thousands and thousands of heirs; how many, we do not know.

Senator CHAVEZ. Was that the last roll?

Mr. LEWIS. That was the roll that was approved by the Congress as of March 4, 1906. All children born to any of those enrolled members since that time are not enrolled, of course, and do not show on this roll.

Senator MILLIKIN. Would the last census show that?

Mr. LEWIS. Not necessarily, Senator; it might.

To show the difficulty that has been had, I mentioned the fact that in 1928 there was attempted to be made a \$10 payment to the Choctaws. I used the word "attempted" advisedly. There were over 7,000 known heirs of the Choctaws alone whom the Department of the Interior has not yet been able to locate, and they are still holding that \$70,000 down there. That, of course, must come about over a period of years where such an estate is so held.

That brings this situation more clearly to the committee's attention. That this coal deposit is the remnant of an estate owned by these people. The courts have held that this is an ancestral estate, and we inherited it from our forefathers precisely as you would inherit the family homestead. We have gone ahead and reared children, grandchildren, and great-grandchildren, and this property still remains intact. If this thing goes on for another 40 years as it has for the last 40 years, it will cost more to locate the heirs to make distribution to them than the distributees' share would amount to when they are found.

For that reason, if for no other reason, the Chickasaw and Choctaw people want to get out of the coal business once and for all. It has never been a profitable venture for them, and it has gone on interminably. They want to quit the coal business.

The question was asked yesterday by members of the committee whether or not 10 cents or 12½ cents a ton was a fair royalty. Frankly, that is a cheap royalty, and it is a very cheap royalty for the reason that Mr. Maytubby gave you. Coal operators do not want to operate in that field. You have to offer them some inducement to get them there. He told you that.

The whole matter has boiled itself down to this: If we go into a new program of leasing, we will never be able to stop. We want to quit, take our losses, and call it a day. If those deposits are going to stay there forever, all well and good. The Government will inherit them some time, I suppose, by escheat, but we are not making any money out of it. There is not a dime of profit that goes actually to the tribal membership.

Senator CHAVEZ. What has happened to the money that has heretofore been received from leases and permits?

Mr. LEWIS. Supposedly it has gone into the treasury. Actually it goes into the United States Treasury, and it cannot be taken out of the Treasury except by Act of Congress. Now, the Indian Office comes along from year to year and has that appropriated to pay the salaries of our tribal officials. As I mentioned to the committee yesterday, for a time we did have some money left on hand in the treasury with which we were able to support one or two orphan schools down there that the tribe had established years ago.

Senator CHAVEZ. Do you know what the annual amount of salaries paid is?

Mr. LEWIS. Yes, I do. The two chiefs draw \$3,000 a year apiece, and \$2,500 for contingent expenses; the attorneys, \$5,000 apiece, and \$2,500 contingent expenses.

Senator CHAVEZ. Attorney or attorneys?

Mr. LEWIS. Attorneys.

Senator CHAVEZ. How many are there?

Mr. LEWIS. Two. I do not know that that is Mr. Adams' contract, but that is authorized under that general provision of the statute.

Senator CHAVEZ. What about the coal trustee?

Mr. LEWIS. I do not know what the present contract of the coal trustee calls for. They are made from year to year. I do not examine those contracts each year, but I am telling you what they ordinarily are—\$4,000 and, I believe, \$2,500 for expenses.

Senator CHAVEZ. Do you know more or less the total expenditures that are made that way yearly?

Mr. LEWIS. Oh, \$25,000 or \$30,000, I should say.

Senator CHAVEZ. I think there was some evidence to the effect that the receipts were around \$35,000.

Mr. LEWIS. Yes, sir; that is correct.

Senator CHAVEZ. And \$25,000 to \$30,000 net for expenses?

Mr. LEWIS. That is about right. Those figures I have given you would have to be totaled; my arithmetic is not too good.

Senator CHAVEZ. The Indian gets a report?

Mr. LEWIS. Well, sometimes; yes, sir.

Senator CHAVEZ. The rank and file gets a report?

Mr. LEWIS. Yes, sir.

The next thing to which I want to direct the attention of the committee is the fact that there is no demand. There has been placed in the record, I think—if not, I should like it put in—the report of the Secretary on the fact that the Indians want this legislation. I had occasion to see a copy of that report of the Secretary that was filed here some time last summer, and I wrote a letter to the committee. In my letter to this committee I challenged the truthfulness of that statement and asserted that, upon the contrary, the Indians did not want this bill and that, in the first place, the Secretary had no way of knowing whether or not the Indians wanted it.

Senator CHAVEZ. Let me interrupt you, if I may.

Mr. LEWIS. Yes, sir.

Senator CHAVEZ. There was some truth to the statement made by Chief Durant that as a necessity and under our system of government there have to be officials?

Mr. LEWIS. True.

Senator CHAVEZ. I do not know how they are selected, but according to their way of doing things they have those officials, and they have acted?

Mr. LEWIS. Yes, sir. I want to come to that, if the Senator will permit me.

Senator CHAVEZ. Yes.

Mr. LEWIS. The Secretary answered, saying that the officials of the tribe had recommended that to the tribal council—that they both have joint resolutions adopted. Those tribal councils are wholly

unofficial, and they are appointed by the chiefs themselves. Of course, they are subject to removal by the chiefs at pleasure.

So, you see, Senator, that is how we got the appellation, "Civilized Tribes." We have learned how to operate our tribes as you folks have told us to do. If a man does not agree with us, we tell him that he is fired, and we put in somebody who does agree with us.

I make the bold challenge that the Chickasaws in this instance have never had a meeting. I know that the secretary of the committee has never been present. It happens that my wife is on the committee, and I know that she has never been notified in her life. That is the way these committees operate. The Choctaw committee operates in the same way. If that is the expression of 27,000 or 28,000 Indians down there, then the committee has it before them.

But outside of that, and squarely in keeping with my charges in my letter, there is no Indian who, when advised of the effect of this legislation, that it is going to necessitate the carrying on of this tribal estate for another 25 to 50 years, will favor this legislation. There is no earthly way for us to close our tribal estate if that is to be done.

The suggestion was made that there is now a demand for coal. Chief Durant mentioned the fact that there was a man by the name of Puterbaugh who wanted to lease 3,000 acres. That sounds like a large amount until you remember that there are about 350,000 or 375,000 acres; then it is small potatoes. It so happens that this man Puterbaugh down there has a lease that I as attorney am helping his lawyer to get canceled from operation. Mr. Puterbaugh does not want to buy. The chief did not deliberately misstate that; he was uninformed.

Mr. Puterbaugh is representing some people to whom the Government lends big money, and it is conceivably possible that that selfsame group, or some group like that, will buy these deposits. The Assistant Commissioner of Indian Affairs knows that I myself have been negotiating with the people whom Puterbaugh represents for a period of over 3 months.

I know of the discussion with the Secretary of the Interior, the Under Secretary, and the Commissioner of Indian Affairs in an attempt to get that group of folks to buy these deposits. It is not a lease they want; it is a sale. That is a sale that the Indians ought to have. It is one that now could be had if we can stay out of this incessant leasing program that we have hung around our necks every time some move is made somewhere to try to unload these coal deposits.

Those are the full circumstances under which these properties are now held. It was interesting to note the figures that Governor Maytubby gave to the committee yesterday. He went ahead and explained that despite the fact, as he said, we were only getting 10 cents a ton, by reason of the fact that there are 30,000 acres under lease and they are getting about \$30,000 a year for this, that that made a dollar a ton. By like figuring, if we leased the whole thing out, we would get one-half million dollars a year. I know that the Governor sells cemetery lots and life insurance, but that statement smacks of lightning-rod salesmanship. It is conceded here that there is no way to get more than 10 cents a ton, because the Department fixed the amount in the leases. While the governor bases his proposition upon \$1.20 a ton. Those are the facts.

There are in the files here letters from many people. There is one from Walter Colbert, for example, who is a member of the Chickasaw Tribal Council, appointed and ignored, who protests the enactment of this bill. He is the head of the Cotton Growers' Association of Oklahoma, and has been for many years. He is the sort of citizen who protests. He is the only Republican to have been elected sheriff of Craig County in the Third District.

Senator LANGER. What did you say his name was?

Mr. LEWIS. Walter Colbert.

There is likewise in the files here a letter from Ben Colbert, who was the personal secretary and private attendant of Col. Theodore Roosevelt, when he took his Rough Riders to Cuba, and was United States marshal of the old Indian Territory. He opposes.

There is a letter from Mrs. Conlan, who is curator of the State historical society and is one of the most intelligent and learned women in the State of Oklahoma. Her letter opposing enactment is in the file.

There is also a letter from Victor M. Locke, Jr., who was chief of the Choctaws and superintendent of the Five Civilized Tribes, and who knows more about Indian affairs than any other man in Oklahoma. He has sent a very bitter letter of protest against the enactment of this bill.

There are scores of others who have written in, protesting enactment of the bill. I mention this because the chairman of this committee knows every one of those people whom I have named, and they are the class of people who oppose this particular piece of legislation. It cannot possibly gain us anything by its enactment. The tribal membership will not gain one cent from it. There will be no distribution of any tribal funds by reason of it. There is no demand for the law.

In this connection, let me say this: Mr. Stigler, the attorney, will tell you that there is not a single, solitary coal lease down there that has been in operation, that amounts to anything, that we have not had litigation over in the last 15 years. Every man who goes in there to operate on that stuff goes broke. You have to sue his bondsman to try to collect for tonnage taken out under the leases. Mr. Stigler knows that. He has been in constant litigation, as I was before him. He has been in it himself ever since he has been in as tribal attorney, trying to collect for coal already dug.

The CHAIRMAN. Why do those lessees go back?

Mr. LEWIS. There are two reasons, Senator. There is no demand for the coal, in the first place. It just cannot be produced in competition with oil and gas.

Senator CHAVEZ. Has not the necessity in St. Louis for the type of coal you produce in Oklahoma—that is, the smokeless coal—created a little extra demand?

Mr. LEWIS. Not that is appreciable, and for this very reason: This man Puterbaugh has opened up some mines in southwest Missouri, where he can scoop the top off the ground and have a producing mine.

Senator CHAVEZ. What is being developed in Texas?

Mr. LEWIS. Those are the same ones that this man Puterbaugh is acting as representative for. We are now competing in the matter

of transportation—whether or not we can get our coal down to the people in east Texas cheaper than the people in Birmingham, who are competing with us. They have a water haul and a cheaper freight rate; so that is the competition we have to meet.

Senator CHAVEZ. What is the other reason? You said that there were two reasons.

Mr. LEWIS. The first is that. The second, I was going to say, is our inaccessibility. Distances are so great in our country, Senator. Freight rates are prohibitive to points where we can find markets to which to ship the coal.

Moreover, we have trouble with labor. We had it this last spring. While there was no trouble with the coal miners in that area, yet when the miners in West Virginia and Pennsylvania walked out, they walked out on us down there, too, and any number of operators are now unable to produce their minimum tonnage requirements by reason of the fact that a strike came along which their labor folks had never called at all.

That has been a very depressing thing. At any rate, the result has been that there is no operator down there who has made any money; they have all gone broke. In the case of this particular lease that I am asking the Department to cancel—and the Department concedes it—the man over the past 3 years has done everything he can with modern equipment but has lost over \$28,000 in attempting to operate it.

Senator MILLIKIN. At the present time, is there any responsible coal producer who seeks a lease of these lands?

Mr. LEWIS. None that I know of, except the one whom Chief Durant said yesterday wanted 3,000 acres.

Let me call this to the Senators' attention. You will recall that from 1898 to 1932 all this area could have been leased if there had been any demand for it. That was when coal was an important fuel item. It was not leased then.

Senator MILLIKIN. You have mentioned that there was a time when the land might have been sold. Is there any responsible purchaser who would buy the lands at this time or who would make a bid for them?

Mr. LEWIS. To say whether there is or is not, I will say, no, there is not any right now, except this, Senator: The amazing thing about it is that we have had a number of bills introduced in the Congress from time to time attempting to sell these deposits to the Government, we feeling that the Government had, at least, a moral obligation to take this dead cat off our hands that they stuck us with in 1902. When we ask for a report, the United States Geological Survey will come along and say, "Yes, we think we ought to take it," but the other branch of the Interior Department will come along and say, "No, no; we hardly think so." So, we have been sort of whipped between the two posts there.

Now, we do think this: That with the advent of new industries that are being Government-financed—for example, the Sheffield Steel Co., of Kansas City, Mo., was loaned \$22,500,000 about a month ago to develop an iron-ore deposit in Cass County, east Texas, a place where we have a chance to compete—we know that they have to have a source of fuel. We have that.

There is another organization that is headed up by a group of financiers from Texas who are preparing to develop a vast area in Cherokee County, Tex. They are asking for \$175,000,000. I do not know whether or not they are going to get it, but they are going to get some of it, I feel quite certain.

We feel—I say "we"; I feel and some of the rest of us who would like to get out of the coal business feel—that here is a golden opportunity for us to unload these coal lands on some of these folks if we could get a little bit of Government help, because the Government is lending the money, and if the Government would say, "We have some wards ourselves up here who own these deposits"—if we could get the least bit of help, we feel it could be sold to an organization of that kind. We cannot sell if we go in here on a program of flat leasing. Common sense will tell you that you are not going to sell deposits with overhanging leases on them to strangers. That is our position. That is the position of those who are in opposition to this measure. We do not want to stay in the coal business. We want to quit the coal business. It has been unprofitable, and our estate has dwindled from a vast amount to an amount that is nothing. Our people have grown from a few to many, many thousands, and if we try to make distribution, we are going to have a hard time.

The Chairman. You made a statement a while ago that the Government stuck you with coal deposits. What did you mean by that?

Mr. LEWIS. The Government under solemn treaty—solemn as far as the Indians were concerned—in 1902 told us that if we would adopt their program of taking our lands in severalty down there, they would segregate those 450,000 acres of coal land, and then within 3 years from the time we would ratify this agreement, the Government would undertake itself, at its own expense, to sell our coal lands and to divide the proceeds of those deposits among us per capita.

The Indians complained. They said, "We don't want to take these lands in severalty. We have lived here forever this way, and we are happy. We haven't any money; we have never had any need for it. If you are going to confine me to 160 acres of land, and I live in McCurtain County, and may get my land in Jefferson County, 300 miles away, I have got to go out on it. I haven't a dollar. I can't fence it. I haven't any machinery or farm tools at all."

So, they did not want to do that, and the Indians were just refusing to go along under the Government's program.

The Government said, "If you will do this, we will segregate these coal lands and sell them for you, because they have a ready cash value. We will divide the proceeds, and then each member will have money with which to buy his own improvements."

That was what I meant when I said that the Government saddled those lands off on us.

Instead of doing that, it was less than a year and a half before the Secretary of the Interior was here asking legislation so that they could start a program to take them off the market and carry them on for 40 years.

The Secretary of the Interior himself went down and visited the coal fields. Hearings were held, and the Indians all protested, saying, "We want to go through with this agreement as we have said."

The fruits of that failure on the part of the Government have been this: In 1908, you will recall, Senator Owen was elected to the Senate upon one plank, and one alone, as far as the east side of the State was concerned: "The restrictions must be removed." He came to the Senate upon the proposition that by reason of the failure of the Government to sell those coal lands, something had to be done, so that the Indians could improve their property, so that they could sell off 40 acres and improve the other 120. That is really the genesis of the act of 1908, whereby every Indian of eastern Oklahoma was robbed as a consequence.

A further fact has been sociological. We have all sat down there for 40 years waiting for our patrimony, thinking, "some day they are going to sell; then we shall all be rich." As a consequence, we have a bunch of worthless Indians down there waiting for the day when they will get their inheritance for this coal. It has been a bad influence upon us. If the whole thing would have fallen through the earth, the Chickasaws and Choctaws would have been better off. To saddle us with it for another 25 years would be just deplorable.

The CHAIRMAN. There has been considerable said about the royalty of 10 cents a ton, and a suggestion was made that in private industry the royalty would in some instances be 25 cents a ton. Is it not a fact that you are not able to lease this at even 10 cents a ton?

Mr. LEWIS. We cannot lease it at 10 cents a ton. We certainly could not get more. In that connection, let me say that the 12½ cents they used to get was for screened coal. There are no offers at 10 cents, so obviously we could not get 25 cents.

The CHAIRMAN. There was another statement made yesterday that was, I think, incorrect. Someone testified that coal was selling for \$6 or \$7 a ton. That must have been better quality coal, because the light plants by mine run coal, as I understand it, for around a dollar a ton.

Mr. LEWIS. No, sir. I think you are mistaken. I think your information is in error on that. I think I am the one who made the statement that the coal sells for \$6 or \$7 a ton. I explained to the committee that our coal was graded. It runs from very low-grade bituminous to almost anthracite. The only place that I know of where a light plant is buying any of that coal is over at Harrah. They are buying slack, and that is a dollar a ton.

The CHAIRMAN. Well, it was my information that the light plants used a cheaper grade of coal.

Mr. LEWIS. Yes, sir; that is slack.

The CHAIRMAN. That is the screenings out of pure coal, but it is in smaller nuggets.

Mr. LEWIS. It is dust.

Senator CHAVEZ. Is there any coal around Harrah?

Mr. LEWIS. No, sir, there is none, Senator.

The CHAIRMAN. Now, to summarize your testimony: Suppose Congress were to appoint you as trustee to handle these coal lands—were to put them all under your charge and give you carte blanche to deal with them. What would you do with them for the best interests of the Indian?

Mr. LEWIS. I would do one of two things. I would sell them if I could. If I could not, then as soon as these present leases ran out, I would just let them stay there. They are not going to be hurt.

The veins that have not exposed have been there for a million years. They can stay there for a hundred more years. The only harm that is ever done is when a vein is exposed and water is allowed to get in there and ruin the coal.

The CHAIRMAN. The testimony shows that there is no particular demand at the present time to lease them at 10 cents a ton.

Mr. LEWIS. That is right.

The CHAIRMAN. The testimony shows that the mines that are under lease are not being worked very much.

Mr. LEWIS. That is right.

The CHAIRMAN. So, I think we are justified in the conclusion that the coal lands now are not worth very much and that if you sold them you would not get very much for them.

Mr. LEWIS. That is true.

The CHAIRMAN. Let us take another aspect of the case. I am only making suggestions for consideration.

I think the oil experts will agree that in time our oil deposits will be a thing of the past. No one knows how much oil we have, but many of the fields that have been discovered have gone dry; others are down to what they call the stripper status, which means that the wells are producing less than a barrel a day, and finally they run out entirely.

It is a fact that the oil companies are now doing research work to see if they can make oil and gasoline out of shale or low-grade oil-bearing rock, such as they have out in Utah. So, as far as I can see, the time will come, though I hope it will be a long way off, but it might come very soon, when our oil deposits will be depleted. It is known that you can make oil and gasoline out of coal. It is a little more expensive then by drilling for it at the present time.

So, if the Indians should keep these deposits, the time may come before very long when they would have increased value; is that not a fact?

Mr. LEWIS. That is true, Senator, and that observation has been made over a period of the last 40 years. That is precisely the same observation Senator La Follette made before this committee in 1912.

But this must be borne in mind: In the first place, as I say, in 1906 there were 26,000 of those people, but heaven knows how many there are now. So, if you are going to wait another 50 or 75 years to come into the real worth of these coal deposits, we are not going to be able to find out who owns them. That is the first thing.

The second thing is that we adopted the program of the United States in 1898 to wind up our tribal affairs and get rid of them. Now, we want to go through with that program. We do not want to stay in existence as a tribe forever. We want to forget these tribal affairs and get them out of the way. That is the argument we have made to let the Government have these coal lands. We expect the United States Government to stay in existence forever. Let the Government take this and gain the profit. We are perfectly willing to forego that if we can get our money for it.

What the chairman says is absolutely correct, but it is not a feasible program for the Choctaws and Chickasaws to adopt, because we want to quit and wind up our tribal affairs so that we can get what our forefathers left us and spend it.

Senator CHAVEZ. And take your chances like any other citizen?

Mr. LEWIS. Precisely. I do not think there is any doubt that a coal deposit in the next hundred years will be worth just fabulous sums, but by that time surely the Choctaws' and Chickasaws' tribal affairs will have worn themselves out, even with the Indian Office.

The CHAIRMAN. Are we justified in the conclusion that you will not be interested in the fabulous value of these coal mines a hundred years hence?

Mr. LEWIS. That is a rather violent assumption, Senator; but yes, I will agree to that.

Senator MILLIKIN. Mr. Chairman, may I ask the witness some other questions?

The CHAIRMAN. Certainly, Senator.

Senator MILLIKIN. It seems to me, as the President says, that it is very "iffy." It is "iffy" from the standpoint of finding a lessor. It is "iffy" from the standpoint of finding a buyer.

Just to bounce a thought against you, would it be practicable to set aside a part of these coal lands as a sort of test of renting ability and as a sort of test of sales ability, to see what the experience would be, before we dispose of the great residue of the lands?

Mr. LEWIS. That is a very fair question, Senator, and that is precisely what we did in 1932. The legislation that is now on the statute books permits doing just that. I mean there were a number of veins, and, of course, they were choice veins, because they had the picture of the whole area, that were already partially developed and exposed. A person could go in there now and lease them, with shafts already in there. And the statute further provides that should the mine not be exhausted when you reach the end of your lease, additional acreage contiguous thereto may be had; so that is possible now. That is the point I make or that I am attempting to make.

Despite the fact that they have had that on the statute books for 10 years, now, there are not 20 leases in that whole area. That is why they have to have those permits that I called to the attention of the committee yesterday. Fly-by-night boys go in and scoop a little off the top of the ground.

Yes, I think the Senator's question is a fair one. We have done just that, and there is still no demand. Failure to pass this bill won't take that statute off the books. They can still go in, and if anybody has to have a lease, he can certainly get one of that kind, and they are the better deposits, because obviously the better ones will be the first ones to be developed.

The CHAIRMAN. Under the existing law, do the tribes have the legal right to sell all these coal lands outright?

Mr. LEWIS. Yes, Mr. Chairman; they have. As the legislation now is, they can sell all or any part of these lands. As the legislation now is, they can carry on this experimental leasing, as the Senator has just inquired about. That is what they are doing, and they are not getting anywhere with it.

Why burden the other 375,000 acres with leases when we are trying and hoping to sell?

If there were any demand that could be shown, by which these coal deposits would become exhausted in the next few years, I would say, "Hurrah. Let us go out and get that done." But there is not.

The CHAIRMAN. Are there any other questions anyone wishes to ask Mr. Lewis?

If not, we thank you, Mr. Lewis.

Mr. LEWIS. I thank the committee.

The CHAIRMAN. Does the Department have any interest in this hearing. Are there any facts that need to be cleared up, in your mind, with regard to the statements made heretofore in the hearing?

**FURTHER STATEMENT OF WILLIAM ZIMMERMAN, JR.,
ASSISTANT COMMISSIONER OF INDIAN AFFAIRS**

Mr. ZIMMERMAN. Mr. Chairman, I think that Mr. Lewis has made a very persuasive presentation of one point of view. Some of the implications that he may have left do, I think, call for some explanation.

The plans of the present tribal authorities, as I understand them, call for the use of such income as these tribes now have for the benefit of some of the needy members of those tribes.

I think it is apparent to the committee that Mr. Lewis and the Indians of his standard of living do not need the small increment of tribal income, or even of tribal capital, which they would get if the tribal capital were dissipated pro rata.

I think it is quite apparent that there are many Indians in Oklahoma who may be crying, as he says some of your correspondents are, for distribution of this capital so that they can get their \$50, \$100, or \$500.

Senator CHAVEZ. You can't blame them when what was received heretofore went for expenses while they got nothing.

Mr. ZIMMERMAN. You can't blame them, but I want to point out that the money does not all go for tribal expenses and that the officials are using the money in a program which, we think, is desirable.

Senator CHAVEZ. Has the Department information as to how the revenue was spent in the past 10 years?

Mr. ZIMMERMAN. Yes, sir, though I do not happen to have it in my head at the moment.

Senator CHAVEZ. Do we have it in the record yet?

Mr. ZIMMERMAN. I do not know, but I think that it could be supplied easily.

Senator CHAVEZ. I think that it would be advisable to have the record show the receipts and the distribution of the receipts.

The information requested is as follows:)

Report on receipts and expenditures, Choctaw and Chickasaw tribal funds

	1932	1933	1934	1935	1936	1937	1938	1939	1940	1941	1942
CHOCTAW EXPENDITURES											
Salaries and expenses, tribal officers.....	\$8,984.42	\$9,450.31	\$8,874.52	\$7,424.91	\$8,706.60	\$7,067.03	\$7,329.97	\$8,632.25	\$7,810.55	\$9,034.48	\$4,451.86
Salaries and expenses, tribal attorneys.....	7,250.80	8,087.70	1,604.90	2,787.87	5,763.79	5,324.90	6,204.48	8,233.68	7,680.20	8,211.81	1,089.48
Tribal council expense.....							298.78	119.64	125.71	157.20	
Tuition, contract schools.....	46,406.83	44,350.12	34,855.32	34,928.97	18,892.42				762.20	4,309.09	
Insurance.....					433.16		6,441.72				
Miscellaneous (cost of travel, improvements to tribal property, etc.).....	10.00	0	356.25	161.26	402.64	60.27	202.67				
Total Choctaw expenditures.....	62,652.05	61,888.13	45,690.99	45,303.01	34,198.61	12,452.20	20,477.62	16,985.57	16,378.66	21,712.58	5,541.34
CHICKASAW EXPENDITURES											
Salaries and expenses, tribal officers.....	6,861.15	6,700.63	6,487.86	4,947.53	6,901.43	5,916.08	6,253.78	6,351.05	5,488.56	6,105.12	3,303.23
Salaries and expenses, tribal attorneys.....	6,786.27	6,378.05	943.47				15,020.20	102.99	5,822.20	1,467.70	2,266.20
Tribal council expense.....						100.00	91.10	154.70	232.99		
Tuition, contract schools.....	15,962.68	4,549.21									
Insurance.....			214.35		2,875.00			755.36	2,712.84		
Miscellaneous.....					91.56			42.75			
Total Chickasaw expenditures.....	29,610.10	17,627.89	7,645.68	4,947.53	9,867.99	6,016.08	21,365.08	7,406.85	14,256.59	7,572.82	5,569.43

	Fiscal year 1932	Fiscal year 1933	Fiscal year 1934	Fiscal year 1935	Fiscal year 1936	Fiscal year 1937	Fiscal year 1938	Fiscal year 1939	Fiscal year 1940	Fiscal year 1941	July 1 to Dec. 31, 1941
CHOCTAW RECEIPTS											
Coal royalties.....	\$21,474.07	\$11,049.34	\$13,239.35	\$23,620.65	\$6,220.69	\$47,099.63	\$42,671.75	\$21,358.17	\$25,149.54	\$36,760.98	\$4,620.64
Asphalt royalties.....						1,608.00	1,687.50	1,687.50	1,687.50	1,687.50	1,687.50
Sale segregated mineral deposits.....	31,696.23	23,793.66	21,699.63	24,871.83	18,229.44	28,174.44	11,765.16	4,623.78	3,213.28	5,939.25	6,693.90
Rentals and royalties from other leases (oil and gas, grazing, etc.).....	990.42	463.20	556.06	494.96	247.40	355.13	830.44	1,248.70	1,242.26	1,791.24	71.81
Sale unallotted and segregated land.....	5.62	5.62	796.52	2,339.54	1,193.31	23,994.90	8,767.00	75.00	521.25	215.29	56.25
Sale of timber land.....	8,664.32	1,497.05	1,286.20	1,022.85	299.91	369.11	67,892.69	75.00	754.76	75.00	150.00
Timber illegally cut.....			147.19	137.96							
Sale of town lots.....			9.45	1.95	18.93	69.07	20.81	19.89	479.07		97.04
Insurance, dairy barn, Jones Academy.....					2,500.00						
Sale of Tuskahoma Academy.....	600.00	690.00	660.00	630.00							
Rights-of-way.....				431.85	47.10	129.29	104.55		203.75		298.26
Miscellaneous.....		75.00	152.55	16.88	69.74	141.25	303.65	11.25	39.87	1.50	71.89
Total receipts.....	63,430.66	37,573.87	38,546.95	53,568.47	28,826.52	101,940.82	134,043.55	29,099.29	33,291.28	46,470.76	13,747.29
CHICKASAW RECEIPTS											
Coal royalties.....	7,158.03	3,683.11	4,413.13	7,873.53	2,073.57	15,699.89	14,223.03	7,119.40	8,383.19	12,253.67	1,540.21
Asphalt royalties.....						536.00	562.50	562.50	562.50	562.50	562.50
Sale segregated mineral deposits.....	10,565.43	7,931.23	7,233.19	8,290.61	6,076.48	9,391.47	3,921.74	1,541.26	1,071.10	1,979.76	2,231.30
Rentals and royalties from other leases (oil and gas, grazing, etc.).....	330.13	154.40	185.34	164.99	82.45	118.37	276.81	416.26	414.12	597.11	97.44
Sale unallotted and segregated land.....	1.88	1.88	265.51	779.84	397.78	7,995.31	2,922.34	25.00	173.75	71.77	18.75
Sale timber land.....	2,888.10	499.01	428.73	340.96	99.97	123.04	22,630.90	25.00	251.59	25.00	50.00
Timber illegally cut.....			49.06	45.99							
Sale of town lots.....			3.15	.65	6.31	23.01	6.93	6.62	159.69		32.34
Sale of Tuskahoma Academy.....	200.00	230.00	220.00	210.00							
Sale of Chickasaw Indian dormitories.....									32,308.00		
Rights-of-way.....				143.95	15.70	43.10	34.85		67.92		99.42
Miscellaneous.....		25.00	50.85	5.62	23.26	7.75	101.22	3.75	13.28	.50	23.96
Total receipts.....	21,143.57	12,524.63	12,848.96	17,856.14	8,775.52	33,940.94	44,681.22	9,699.79	43,405.14	15,490.31	4,655.92

Mr. LEWIS. Mr. Chairman, may I ask some questions of Mr. Zimmerman?

The CHAIRMAN. Yes.

Mr. LEWIS. What authority has the Indian Bureau or the tribal officials to take these tribal funds and give them to any one individual member? It belongs to all the members of the tribe. By what authority is it that you propose now, through these proceeds you are going to get from these coal lands, to take my money and give it to my brother over there because he is destitute? What legal authority do you have for it?

Mr. ZIMMERMAN. There is no proposal, Mr. Chairman, to take Mr. Lewis' money and give it to anybody else. The proposal is to use it in the purchase of material, of land, and of productive equipment and to allow the people to borrow, as I understand it. There is no gift contemplated of Mr. Lewis' money to any other Indian.

The tribal officials are here. They know the details of the plan they have. But I can say further that if there is any question as to the legal authority, the money cannot be expended, as Mr. Lewis himself said, without appropriation by Congress. I take it that Congress would have the right—at least, the moral right, and, I think, the legal right—to say that the tribal funds may be used for certain specified purposes, even though not every member of the tribe shares equally in the benefit.

Senator CHAVEZ. Is there authority under the law to distribute this money except through the tribal council?

Mr. ZIMMERMAN. Each year Congress has appropriated a portion of the tribal funds—a specified sum.

Senator CHAVEZ. To pay the expenses of the council?

Mr. ZIMMERMAN. That is right. There are certain provisions each year in the appropriation act.

Senator MILLIKIN. Does the Department have any information that is contrary to the testimony of Mr. Lewis bearing on the question of whether the lands could be leased to responsible people if this bill were enacted?

Mr. ZIMMERMAN. No; I think that Mr. Lewis is substantially correct. There has been very little demand for those lands.

Senator MILLIKIN. Has the Department any reason to believe that the lands could be sold advantageously to responsible people?

Mr. ZIMMERMAN. Not as a whole. In any event, the Department now has authority to sell.

Senator MILLIKIN. And there are no bidders rushing in to buy?

Mr. ZIMMERMAN. Not at the moment; no, sir.

Senator McFARLAND. Mr. Zimmerman, do you know about how much coal there is?

Mr. ZIMMERMAN. Well, the estimates, I must say, I think are rough; in the neighborhood of 2,000,000,000 tons.

Senator McFARLAND. Do you know what percentage of that has been mined under these leases?

Mr. ZIMMERMAN. Oh, it is a small percentage. About 10 percent of the land—

Mr. LEWIS. Less than that.

Mr. ZIMMERMAN. I would say less than 10 percent of the area has been developed.

Senator McFARLAND. What I am trying to get at is what these lands would really bring under the system of leases that you have been using by comparison with the net profit that you have received for the ores that have been mined up to date. I am trying to learn how much these Indians would really receive out of this project if you handled it in the same manner as you have been handling it in the past. Those data, if they are available and could be furnished, would be interesting.

Mr. ZIMMERMAN. We can supply figures as to the tribal revenue and the revenue from the mines. Those figures are available.

Senator McFARLAND. I mean the net profit to the Indians. Not the total amount received, but the net profit after taking out the expenses of handling this matter.

Mr. ZIMMERMAN. The only actual expense that the tribes have in connection with the coal operation is the salary of the mining trustee.

Senator CHAVEZ. Yes; but testimony has been given here this morning to the effect that after the total receipts are available, so much of that money goes for expenses of the tribal council.

Mr. ZIMMERMAN. That is correct.

Senator CHAVEZ. And to the officers and trustees, whoever they are.

Mr. ZIMMERMAN. Perhaps I do not understand the Senator.

Senator CHAVEZ. Then, there is a certain sum, if they do not spend it all, that is left for the benefit of the Indians.

Senator McFARLAND. This is what I mean; if it is completed in this manner: as to how much the Indians will really receive for the lands after they are finished, after they are mined out under this process, by taking as a basis what they received in the past.

Mr. ZIMMERMAN. That is almost impossible to calculate. These coal deposits, it is reasonable to estimate, would not be mined out in a hundred years, even if this new enterprise that Mr. Lewis was talking about, that may be started in Texas, were developed. There is coal there far in excess of the requirements of plants of that size.

Senator McFARLAND. If you mined 5,000 tons, we will say, and you netted so much per ton for that coal and had \$100,000 left, you could figure out how much you would get?

Mr. ZIMMERMAN. Yes; that is right.

Senator McFARLAND. And how much by this process, even though it took a hundred years, the Indians would eventually get out of it?

Mr. ZIMMERMAN. I think we are agreed that there are roughly in the neighborhood of 2,000,000,000 tons.

The CHAIRMAN. Well, at 10 cents a ton royalty, that would make \$200,000,000; is that correct?

Mr. ZIMMERMAN. Two hundred million.

Senator McFARLAND. But you would have to take out of it those expenses that you were talking about.

Senator BUNKER. Your expense would not necessarily increase in proportion to the amount of coal mined. The impression that I receive is that you take in \$35,000 a year royalties and that it takes about \$20,000 or \$25,000 for expenses for the tribes, including tribal officers and the coal commissioner. Is that impression correct?

Mr. ZIMMERMAN. I do not have the figures in mind accurately, but they are something like that.

Senator BUNKER. But that expense would not increase necessarily with the increased mining of coal?

8
566 - $\frac{2}{125}$ - 2,000,000,000
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40,000,000,000
50,000,000,000
25

2,000,000,000
200 million
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10

Mr. ZIMMERMAN. That is correct. It seems to me that the issue here is really a very simple one. Under the present statute there is authority to sell or to lease not to exceed 640 acres contiguous to developed land, and the only question is whether or not it is wise to embark on a program that might result in new leases on undeveloped land.

The CHAIRMAN. In the Osage Nation the Indians reserved the mineral rights, and it has been the policy of your Department to hold an auction sale there at different times and offer certain lands for sale to the oil interests. Through that method we have disposed of large parts of the Osage mineral rights.

Suppose a similar plan were adopted for the disposition or attempted disposition of the coal under the Chickasaw and Choctaw Reservations. Is it your opinion that you could either sell or lease in considerable part all this coal land at the present time if you should put it up at public auction?

Mr. ZIMMERMAN. I doubt very much if we would have many bidders.

The CHAIRMAN. Is that the only reason why coal is not worth anything at the present time? There is no demand for it?

Mr. ZIMMERMAN. In that area the competition with oil is so great that coal will not sell. There are other factors, too, including the factor of freight rates, but there are possibilities for the marketing of some of the coal. It has been stated before that this coal is of every grade, from hard, semianthracite to very soft coal.

Senator MILLIKIN. Mr. Chairman, have we in the record the report of the Geological Survey on the details of this coal deposit?

The CHAIRMAN. I do not think so.

Senator MILLIKIN. I wonder if it would not be a good idea to have a summary report on what it is that we are considering.

The CHAIRMAN. Mr. Zimmerman, do you know of any report that would be of value for the record as to the area of these coal lands? I mean by that the acreage and the tests of coal lands, showing the depth of the coal at various points and the quality of the coal at various points, so that we can have in the record something that may be of value to the committee in considering this proposed value?

Mr. ZIMMERMAN. So far as I know, Mr. Chairman, there has been no recent survey of the coal deposits—nothing since the report Mr. Lewis has referred to, which was made by the Geological Survey 40 years ago.

Mr. LEWIS. No; in 1918. That is the Cameron report.

The CHAIRMAN. Mr. Lewis, where could a copy of that report be procured?

Mr. LEWIS. From the United States Geological Survey; it is on file here in the Interior Department.

The CHAIRMAN. Is it your opinion that a copy of that report would be valuable for inclusion in our record?

Mr. LEWIS. It is possible that it would, Mr. Chairman. I mean that it would disclose, of course, the area and the acreage. But there is no dispute about that. It would disclose the approximate number of tons, but there is no dispute about that. It might show the probable depth. It is a geological survey that was made. For this purpose it would give general facts. I am not sure that it would

help the committee to determine as a matter of policy what it ought to do.

The CHAIRMAN. Without objection, I will ask Mr. Grorud to try to get a copy of that report and lay it before the committee when we come to consider this bill in executive session.

Senator CHAVEZ. May I suggest that, if possible, one be obtained for asphalt?

The CHAIRMAN. Yes.

Senator CHAVEZ. Both as to the fee land and the Indian land.

The CHAIRMAN. Yes; and there is some gas. We might make an effort to get a report on gas, so that if we consider legislation for it in the future, we will have it in our files.

All right, Mr. Zimmerman. You may continue.

Mr. ZIMMERMAN. I think that is all, Mr. Chairman.

Senator LANGER. Does this land pay any taxes, special assessments, or anything of that sort?

Mr. ZIMMERMAN. Practically all the surface land does; yes, sir. Practically all the surface rights have been alienated. The tribal interest is only in the mineral. Practically all the surface lands were allotted, and a large part of them are on the tax rolls.

Senator CHAVEZ. They are on the tax rolls?

Mr. ZIMMERMAN. Yes, sir. I can't give you the figure, but my guess would be that 75 or 80 percent of those lands are now on the tax rolls.

Mr. LEWIS. Oh, yes; more than that.

Senator LANGER. For farms?

Mr. ZIMMERMAN. For farms, and some is rough timberland and some is grazing land.

Senator McFARLAND. I was not here yesterday, so perhaps some of these questions were answered. But I should like to ask, What was the demand for this legislation? Who sponsored it?

Mr. ZIMMERMAN. The tribal officials were really responsible for the legislation, and the Department has agreed that it would add authority with which it might be possible to stimulate some new interest in the development of the field.

The CHAIRMAN. Are there any further questions? If not, we thank you, Mr. Zimmerman.

Chief Durant, do you have some additional suggestions to make?

FURTHER STATEMENT OF WILLIAM A. DURANT, PRINCIPAL CHIEF OF THE CHOCTAW NATION—Resumed

Mr. DURANT. Mr. Chairman and gentlemen of the committee, in the argument placed before you yesterday there was intimation made that the tribal officials are the parties behind this bill—pressing it for ulterior motives—and that I am trying to arrange this business so that I can perpetuate myself in a position to live off the Choctaws' money.

I would just like to have you gentlemen know what I have been doing since I have been chief of the Choctaw Nation and what I have been doing in connection with the Government in trying to give the needy Choctaw Indian in my tribe some help along the line. That is what I have been working at. In fact, I was working at it when the

VERY INTERESTING!

Well, Well.

Government started into this relief business a few years ago. This Nation got itself into a condition where it had to attempt to relieve the white man, and in doing that your efforts as Members of this Congress broadened it out to include everybody. That is what you intended to do, but when they put that law into operation in those States where we have Indian population, unfortunately the Indian was sometimes left at home and not put on that list for the relief that you people provided for.

The then chief of the Choctaws appointed me, under the rules of the Choctaw Nation and approved by the Department, as a member of the council. He had me on that committee to advise, and I worked with him and have been working at it for over 8 years.

We succeeded in getting the Department that is handling that money that you people appropriated for relief, and the people of this Nation, to fix it so that these timid people we had, the Indians in my tribes and in the other tribes of the United States, could get some of that relief, and we worked it out. We did, through them, get some special arrangement made by which they got employment and got some money. That is what they call this C. C. C. Indian Division in the relief business in my State.

There has been some wonderful work done there. It was not the intention of this Congress, and it was not the intention of the officers of this Nation, to leave those people out in the rain.

So, I was working at that before I got to be chief. In that same connection, that is how I got to be chief. We did not have money enough of our own to meet this immediate relief, but the Government was doing something of that kind, so we asked the Department if they would not recommend, with me, asking you to appropriate some tribal money and to let us invest it in some property or in some business or another to give additional relief to those Indians down there who needed help. They asked you for it, and you appropriated the money.

The Department took my advice and my suggestion and, with me, have been doing some things of that kind.

We bought some land down there. We acquired back that old council house, that we had had for many years, that had belonged to our fathers and grandfathers, and had it replaced as a monument to those people, so that we could have something to look to in the future as showing what they did, and not be a forgotten race. That cost each individual Choctaw on the enrollment about 75 cents apiece.

Some of them kicked about it, so I said, "Do you object to spending 75 cents to recreate this building we are placing here? Do you object to spending that much money to preserve your national history in that way?"

In addition to that, we had to have more land. I conceived the idea that we ought to have a meeting place for those Indians, a camping place, where they could meet. Congress appropriated the money and the land was bought. Then I thought we had better get enough additional land to make it self-supporting, and you added money to it and we did that. I have deeds down there making the United States Government trustee for the Choctaw Nation, and that puts the title back in the Indian tribe. There are 925 acres of land. We have had three annual meetings of the Choctaws, including some of the old people that went to those old schools 75 or 80 years ago. The first school established there was in 1842. That is a hundred years

ago today. They renewed their acquaintance and were rejoiced to see their people again.

That is what the Department allowed me and helped me to do.

Now, some of my people think that is costing money, and they asked me if I was using tribal money. I said, "No; I am not. I can't use tribal money. That is appropriated with the consent of the Department." But I had some good friends that were willing to put up some money to pay expenses, and that is the way they were entertained. Some people have such a carnal mind that a man cannot do anything without being suspected by them of having an ulterior motive. They thought I had an axe to grind, that I was "shaking down" some tribal money for my own benefit. I have no patience with men who are so carnal-minded as that.

I have asked the Department to buy some additional land and to put a wool-processing building up; to buy some raw wool and we would process it. The educational department has a system down at the Wheelock School. They send a woman out in the country to aid them to spin yarn, and they have 50 splendid spinners among the full-bloods. I conceived the idea that we could increase that, and I am trying to raise it to 250. I asked for the money and I asked permission to buy some land and put some sheep on it, and raise some wool; not only to buy the raw wool and process it in that building, but to raise it and shear the sheep and take that wool and send it down to that school and let them take it into their homes, and the Government would pay these full-blood women for first-class yarn, and they can make from \$5 to \$10 or \$15 a month, living right where they are, and it would be quite a relief to those people. That is what they have been doing, and that is what they can do. That is what we started out to do, and that is what I am working at now.

But I have been criticized, because some people think that I am doing those things for no other purpose than to help myself.

The CHAIRMAN. The Government furnishes money, and with that money you buy wool, and the Indians take this wool and clean it and spin it into yarn?

Mr. DURANT. Yes, sir.

The CHAIRMAN. For which they are paid a certain sum?

Mr. DURANT. Yes, sir.

The CHAIRMAN. And that gives employment to some considerable number of the full-blood Indian women in that area?

Mr. DURANT. Yes, sir.

The CHAIRMAN. What is done with the yarn when it has been spun?

Mr. DURANT. After it is spun it is sent to the Indian school at Tahlequah, and there the Government is teaching young men and young women and old people to use looms and weave the yarn into cloth. I want to tell you that if you had a sample of the material that they make down there it would surprise you. It is wonderful material that they turn out.

The CHAIRMAN. When the students weave the yarn into cloth, what is done with the cloth?

Mr. DURANT. The Government has a market for it. I do not know just who buys it, but the Government has a sale for it.

The CHAIRMAN. And this program that you have evolved is one wherein the Indians get all the benefit, so far as the work is concerned; is that correct?

Mr. DURANT. Yes, sir. They process the wool and the Government sends it to the Indians to spin into yarn and the yarn is woven into cloth. I am just trying to increase what the Government is doing. The Government is not going to lose a dime.

The CHAIRMAN. Are we justified in the conclusion that this institution or industry is supported in part by funds appropriated from tribal funds?

Mr. DURANT. Yes, sir. I got that additional money put into it; and I do not see where I can lose a dime of that money, because when it goes down to the Wheelock School it will come back. It is put into a revolving fund.

The CHAIRMAN. I suppose the management is under the supervision of officials? All the work is done by Indians excepting the management, perhaps?

Mr. DURANT. Yes; all but the management.

The CHAIRMAN. The teachers that teach how to clean the wool and how to spin it, and the teachers that teach how to weave it, are Indians?

Mr. DURANT. No; they are white women. We have got some experts down there. The head of the weaving business is an expert man who knows that business.

The CHAIRMAN. Mr. Zimmerman, to what extent is this industry financed by the Federal Treasury and to what extent by the funds taken from tribal funds? Will you make that distinction, if there is a distinction?

Mr. ZIMMERMAN. I can supply the figures, Senator. The instruction, as Mr. Durant pointed out, is supplied by teachers who are regularly on the pay roll.

The CHAIRMAN. That is from the public Treasury?

Mr. ZIMMERMAN. Yes, sir.

The CHAIRMAN. Where did you get the money that is in the revolving fund?

Mr. ZIMMERMAN. I think most of it is tribal money for the purchase of wool and sheep.

The CHAIRMAN. That is the point I wanted to get. The money derived from the meager returns from the sale of this coal goes into that fund, and some is used to support officials of the two tribes and some of the fund is used to support the revolving fund. That is the basis of this new industry that you are trying to develop in that area?

Mr. DURANT. Yes, sir.

The CHAIRMAN. I think that is now clear for the record.

Mr. ZIMMERMAN. Mr. Chairman, may I ask that you hear from Mr. Greenwood?

The CHAIRMAN. The committee will be very glad to hear Mr. Greenwood.

STATEMENT OF W. B. GREENWOOD, CHIEF ADMINISTRATIVE OFFICER, OFFICE OF INDIAN AFFAIRS

Mr. GREENWOOD. There has been an outlay of \$150,000 authorized from the Choctaw tribal funds for land purchases that the chief has been talking about, and also for rehabilitation of needy Indians. Part of that money is being used to further this sheep enterprise which Chief Durant has spoken of, and the wool enterprise. Most of that

money has been spent from an appropriation made annually by Congress for fulfilling treaties with the Choctaws. It has been impracticable, because of the condition of the tribal membership, that is, the people who would be entitled to share in the annuity, whose whereabouts we cannot ascertain. The authorization to use Choctaw tribal funds for rehabilitation purposes has largely come from this annual appropriation made by Congress.

Mr. LEWIS. May I ask one question?

The CHAIRMAN. Yes.

Mr. LEWIS. You are the Indian Office official in charge of this rehabilitation program, and that is your program and Congress has adopted it? These destitute Indians would have received the same benefits from the Government direct, would they not? Yet, we are penalized for having tribal funds.

Mr. GREENWOOD. Congress has relied on our recommendation.

Mr. LEWIS. That is all.

The CHAIRMAN. Does that complete your statement?

Mr. GREENWOOD. Yes; Mr. Chairman.

STATEMENT OF WILLIAM A. DURANT, PRINCIPAL CHIEF OF THE CHOCTAW NATION—Resumed

The CHAIRMAN. Proceed, Chief.

Mr. DURANT. Getting back to this coal proposition: When I had the bill introduced, in the first instance, I thought we owned the property there, and I thought that if somebody wanted to lease it, we could lease it; that we ought to have a right to lease it. There is no use tying it up so that it cannot be leased. That is what started the bill.

As I said yesterday, Mr. Tucker had an application to lease some of it, and some other parties had called on him to inquire as to whether it was possible to lease it, and I filed the information in regard to it.

When it came to selling the coal, I was here a year ago advocating the sale of it as hard as I could. But there is nobody on earth who would buy it as a whole now, because there is not enough income from it to pay taxes. There is no outfit that is going to buy it, and we all know that.

So far as getting the Government to do it, we know that is impossible in this war and in the condition that we are in. It is just absurd to come here and ask you or anybody else to appropriate money to buy that coal, when we need every dollar we can raise and scrape together in this war. We do not know when it is going to be over.

So I did not think there would be any harm in asking authority to lease this land when we have a chance to do it. If we do not, it can lie there.

I did not understand Mr. Lewis' opposition to it. He opposed it before and today he opposes it. He has some letters against this bill, and those letters are nothing but propaganda to back up his statement, because some of them are signed by Indians that couldn't read such a letter and would not understand it or know what it was about. He has got a lot of propaganda behind this opposition.

All we ask you, for you have the power to do, if you think it is good business; that is, to go ahead and lease this land if we have an opportunity.

St. Louis is buying coal now, and Kansas City may get into it. Some of those larger cities have got to use that coal. We have a chance to lease the land. If we do not, it is not going to hurt anything. With all this war industry going on I thought maybe the Government would need some of it. If we had an opportunity to let somebody have a virgin piece of the property it would be good business to get what we can out of it. That is what I am asking for. I will never consent to sell that coal for a song. I will not consent to seeing those Indian people cheated out of it.

Senator McFARLAND. How much do you think the lands are worth?

Mr. DURANT. They were appraised in 1912 or 1918, and we got a pretty fair, legitimate appraisal. I will look it up and tell you. They want to get it for a song; that is what they are proposing to do.

Senator CHAVEZ. The Department still approves those sales?

Mr. DURANT. Yes; but they ask me for my consent.

Senator CHAVEZ. I think the tribal council should have something to do with a lease or permit; but besides that protection they also have the protection of the Department which has to approve any sale or any lease?

Mr. DURANT. Yes; and I am going to protest if it is done for a song.

Senator CHAVEZ. I think this committee will, too.

Mr. DURANT. If it is a legitimate proposition I will agree to it. A party called on me about buying a piece of it. I said, "If we can get this bill through I will lease you some of it; but I am not going to let you buy it for a song. It is not right."

Senator BUNKER. Would you look with favor on an outright sale, if the price were right, rather than leasing it now?

Mr. DURANT. Yes; but there is nobody who can buy it but the Government itself. No corporation has got that much money; and they have too much sense to invest in that property when the taxes would eat it up.

Senator BUNKER. The only way you can get anything out of it is to lease it?

Mr. DURANT. The only way we can get any income out of it now; yes. The Government never did say right out they were bound to buy that coal. They said they would sell it for us in 3 years, but they have not done that. We cannot make them, of course. They said they would handle it, but conditions changed on them like they have on everybody else. If they could get a reasonable price for it I would be willing to sell it; but I know we cannot sell to anybody that has good sense. They are not going to buy it. The only thing we can do is to get some income from it. If I can help those poor Indians that need help and relief down there by giving them an opportunity to benefit and improve their condition, I am for it.

I thank you.

Mr. JOHNSON. I did not know anything about this when I came up here. Is it possible to lease that land and still reserve the right to sell it in the event that some chump should come along and offer to buy it? I am just asking for information. Can you lease it and still reserve the right to sell it?

Mr. LEWIS. I do not know of anybody in the world that would spend \$150,000 to open up a shaft, subject to right of sale. A man would be a gibbering idiot who would spend \$150,000 to equip a mine, knowing it was going to be sold. You can, but will you? That is the answer to that.

Mr. JOHNSON. I am asking the question: Could the right to sell it be reserved?

Mr. LEWIS. Not as it is now. That would depend upon the lease contract that you made with the lessee.

Mr. JOHNSON. I think you should have a provision in this bill reserving the right to sell this land.

Mr. MAYTUBBY. Mr. Chairman, may I make an additional statement?

The CHAIRMAN. Certainly.

ADDITIONAL STATEMENT OF FLOYD E. MAYTUBBY, GOVERNOR, CHICKASAW TRIBES OF INDIANS

Mr. MAYTUBBY. Yesterday I should have made a statement in regard to the resolution that was passed by our association. The Chickasaw Protective Association was called to meet on November 12, 1941, to discuss this leasing bill, to see whether or not they wanted to lease the lands or not lease them. The meeting was advertised through the Daily Oklahoman, and it was picked up by numerous newspapers of the State advertising this meeting. We had the meeting and discussed this bill, and at the meeting the date was set for December 15, for passing of the resolution.

The Chickasaw Protective Association is a recognized organization of the Chickasaw Nation. The executive committee is not appointed by me. The officials are elected by the Chickasaws themselves. I meant to put that in my statement yesterday, but I omitted it.

(The above-referred-to resolution follows:)

Session of the executive committee of the Chickasaw Tribal Protective Association, assembled at Tishomingo in the county of Johnston and State of Oklahoma, on the 15th day of December, A. D., 1941.

RESOLUTION NO. 2

Whereas we are again permitted to enjoy the privilege of meeting together as an executive committee, in the name of the Chickasaw Tribal Protective Association, and on behalf of the Chickasaw Nation of Indians in the State of Oklahoma, and under the authority of Hon. Floyd E. Maytubby, Governor of the Chickasaw Nation; and

Whereas we have had the report of the condition of the affairs of the Chickasaw Nation from our Governor, and especially as to the state and condition of our segregated coal and asphalt lands; and are informed by him that it would be for the best interests of the tribe, to have the undeveloped coal and asphalt lands leased again for development and in order that we may have continuous operation of a larger area of those lands and thus enjoy larger receipts from their productivity in the future; and

Whereas under present war conditions in the world and the demands of the Government of the United States, for the production of various war supplies for immediate use, and the prospective demand for coal for that purpose, we are of the opinion that it would be wise for us to ask the chairman of the Indian Affairs Committee of the House of Representatives and of the Senate of the United States Congress, and the Secretary of the Interior of the United States, to cause to be prepared and presented a suitable measure for the leasing of the undeveloped coal and asphalt lands of the Chickasaw and Choctaw Indians in Oklahoma, for the purpose of authorizing the leasing of any undeveloped area of such lands now under lease, with a view of protecting the best interests of such tribes, with a provision that a minimum rental per annum be paid on the acreage involved, whether being developed or not; therefore, be it

Resolved, That, we, the executive committee of the Chickasaw Tribal Protective Association, for and on behalf of the people of the Chickasaw Nation of Indians in Oklahoma, do hereby respectfully request the chairman of the Indian Affairs Committee of the House and of the Senate, of the Congress of the United

States, and the Secretary of the Interior of the United States, to cause to be prepared and presented before the House and Senate of the United States Congress, a suitable bill authorizing the leasing of the undeveloped coal and asphalt segregated lands of the Chickasaws and Choctaws in the State of Oklahoma, having in view at all times the best interests of the two tribes therein and with a minimum rental provided whether being developed or not.

Upon ample consideration and discussion and due presentation thereof, this resolution is adopted by unanimous vote of the members of the executive committee of the Chickasaw Tribal Protective Association, in session at Tishomingo in the county of Johnston and State of Oklahoma, on this 15th day of December, A. D., 1941.

In testimony whereof, witness the signatures of the chairman and secretary of the executive committee, the day and year last above written:

FRANKLIN BOURLAND, *Chairman.*

Attest:

JACKSON McCARTY, *Secretary.*

Mr. STIGLER. Mr. Chairman, I think the main issue here has been somewhat obscured. After all, this bill is a leasing bill and not a sale bill. Mr. Lewis yesterday and this morning devoted the major portion of his argument to sale. All of us have been in favor of selling this coal land. A year and a half ago we were up here, all the tribal officers appeared before the House Committee on Indian Affairs. We had a bill before that committee providing for the sale of our coal lands. We were unsuccessful.

Today we are appearing before you gentlemen asking you to give us an opportunity to lease our coal lands, because under the present law we cannot make new leases on undeveloped tracts. The only way that a coal operator can get a lease now is to already own one, and if he desires additional acreage he can get land adjacent or contiguous to the land on which he has a lease.

I also desire to point out that today we have 20 leases under operation. Why is that? Simply because no new operators can get a lease on undeveloped coal land. So, since we have only 20 leases now in active operation, we say, Give us an opportunity to try to obtain more, thereby getting more revenue for the tribe.

Some reference was made yesterday to the asphalt matter. Practically all of our asphalt lands were sold, except 3,040 acres, prior to 1932. So that all we have now is 3,040 acres of asphalt land. So far as the revenue is concerned, it is very, very small. We, therefore, are not particularly concerned at this moment with reference to the asphalt feature of this bill. But if the opportunity arises, certainly, along with the coal, we want to have the privilege to lease the asphalt land.

Senator CHAVEZ. The statement was made this morning by Chief Durant that there might be some insidious interests who would like to buy the coal lands for a song. I do not know how true my information is, but I have been informed that there might be some insidious interests who would like to lease the Indian asphalt land. There is very little information that the committee has up to now as to the necessity of leasing that land. If the asphalt land could be sold, even to those insidious persons, at a good price, would it be more advisable?

Mr. STIGLER. As Mr. Lewis brought out, that has been more or less of a burning question in our State, but certainly it is not proper for me, before you gentlemen, to go into that phase of it.

Senator CHAVEZ. I do not want to do any injustice to anyone. I had that information and I wanted to verify it. We have had very little information concerning asphalt.

Mr. STIGLER. Privately, Senator, I can give you my individual opinion of it.

Senator CHAVEZ. But if the committee were to find that it was not advisable to include the asphalt lands in this bill—

Mr. STIGLER (interposing). It would not make any particular difference to us, because, as was stated a moment ago, the revenue we would derive from the asphalt royalties is very, very small.

Senator CHAVEZ. Is there authority now to sell the asphalt land?

Mr. STIGLER. So far as I know, there is, if I remember correctly.

Mr. JOHNSON brought out a moment ago that this bill does not change our situation with reference to selling our coal lands. If we can find a buyer for the coal land, and he gives the proper consideration, we can still sell it, and we will be able to sell it after this bill is enacted, if it is enacted. So that will not hinder the tribal officials from selling coal land.

There is another thing that I want to bring out at this particular time. If we are permitted to make leases under this bill, certainly we think that there will be additional development due to the present emergency, and it will bring more operators in there. But certainly there is no one, unless you could give him a long-time lease, who is going to make an initial investment of from \$25,000 to \$50,000 or \$75,000. It all depends upon the size of his plant. But before one can operate a coal mine he must have an initial development of at least \$25,000.

Senator CHAVEZ. If he goes to that expenditure he would not want that land sold within a year?

Mr. STIGLER. Naturally not.

Mr. JOHNSON. I would like to ask Mr. Stigler a question.

The CHAIRMAN. Proceed.

Mr. JOHNSON. On your reservation, under these laws that we have been talking about, you still have the right to sell. How much of a reservation do you hold back in regard to how long they can operate a lease before there is a right to sell it?

Mr. STIGLER. This bill provides for a definite time.

Mr. JOHNSON. That is, 1967?

Mr. STIGLER. Yes. Of course if the land is sold between now and then, it will have to be sold subject to such leases, under this bill.

Mr. JOHNSON. In other words, you are not reserving the right to sell; you will just sell subject to the lease?

Mr. STIGLER. Yes. That is the plain fact about it.

Yesterday reference was made also to why we did not have a greater output. That was due to strikes and competition with oil. We could not have a greater output during that period of time.

I believe that is all I have to say, Mr. Chairman.

The CHAIRMAN. Are there any questions to be asked of Mr. Stigler? (No response.)

Mr. Adams, have you any suggestions to make?

Mr. ADAMS. None, sir.

The CHAIRMAN. I believe, then, that completes the testimony.

Mr. LEWIS. Mr. Chairman, it has not been my purpose to enter into any personal controversy here, and I am not going to. I feel that the members of the committee know me well enough to know that I do not think it is necessary to make any response to any personal observations that may concern me. I know the committee knows

that any statement that I have made was not directed at anyone personally, but to the situation as it exists.

With that statement I have nothing further to say.

The CHAIRMAN. It is understood that we will try to get the Geological Survey report on these lands as respects coal and asphalt, and also natural gas, if there be any.

Also we would like to have the Department furnish a statement covering the receipts and expenditures as fully as you care to submit such statement. I would not go into any great detail, because we have to get the hearings completed, but enough so that the data will be of benefit to the members of the committee when we give consideration to the bill. If you will get it to us as soon as you can, we shall appreciate it. We will take this bill under consideration as soon as we can get the data.

(Whereupon, at 12 o'clock noon, the hearing was concluded.)

LEASING OF UNDEVELOPED COAL AND ASPHALT DEPOSITS OF CHOCTAW AND CHICKASAW NATIONS IN OKLAHOMA

TUESDAY, MARCH 3, 1942

UNITED STATES SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, D. C.

The committee met, pursuant to adjournment on February 3, 1942, at 10:30 a. m., in room, 424 Senate Office Building, Senator Elmer Thomas of Oklahoma, chairman, presiding.

Present: Senators Thomas of Oklahoma (chairman), Chavez, McFarland, Millikin, Langer, Wallgren, Bulow, Shipstead, and Bunker were present either in person or by proxy, and Albert A. Grorud, special assistant to the committee.

Also present: William Zimmerman, Jr., Assistant Commissioner, Bureau of Indian Affairs; F. L. France, Chief of Oil and Gas Section, Land Division, Bureau of Indian Affairs; H. I. Smith, Chief of Mining Division, Geological Survey; Thomas A. Hendricks, coal expert, Geological Survey; William A. Durant, principal chief, Choctaw Nation; Floyd E. Maytubby, governor of the Chickasaw Nation; W. G. Stigler, attorney for the Choctaw Nation; Grady Lewis, Esq., attorney, a member of the Choctaw Nation by blood; and J. C. Puterbaugh, president, McAlister Fuel Co., McAlister, Okla.

The CHAIRMAN. The committee will be in order.

On the former occasion the committee had under consideration Senate 1542, being a bill to authorize the leasing of the undeveloped coal and asphalt deposits of the Choctaw and Chickasaw Nations in Oklahoma. The hearings were begun, and after the testimony had been taken of the witnesses at that time present a recess was had until the call of the Chair. Since that meeting it has developed that there is now a demand for the coal located in these two reservations. At the time of the former meeting I did not know of the demand for coal except in a general way; there was no special demand in evidence at that time.

I have before me now a letter from the Secretary of the Interior, dated March 2, 1942, which I shall place in the record at this point.

(The letter referred to is as follows:)

DEPARTMENT OF THE INTERIOR,
Washington, March 2, 1942.

Hon. ELMER THOMAS,
*Chairman, Committee on Indian Affairs,
United States Senate.*

MY DEAR SENATOR THOMAS: Reference is made to S. 1542, a bill to authorize the leasing of the undeveloped coal and asphalt deposits of the Choctaw and Chickasaw Nations in Oklahoma.

Under date of February 2, the War Production Board advised this Department that it had approved a project which includes the construction of a blast furnace and coke ovens at Houston, Tex., and that it is planned to obtain the needed coal from the segregated Choctaw and Chickasaw coal deposits in Oklahoma. A rather large amount of coal will be required and the War Production Board requested this Department to expedite negotiations through which the coal will be made available. There appears a strong likelihood that it will be desired to lease rather than to purchase the coal.

My report of July 14, 1941, on S. 1542, states that there is now no authority for the leasing of undeveloped coal deposits. The enactment of this, or similar legislation, will be necessary before leases can be granted covering the coal deposits desired in connection with this project. Legislation of this nature has been pending for several years (see S. 2617, 76th Cong.). At the time it was originally drafted there was little demand for leases on the coal deposits of the Choctaw and Chickasaw Tribes and no large mining enterprise was anticipated. A provision was placed in the proposed legislation limiting the leases to 960 acres and minimum tonnage requirements were based upon this acreage. In view of the approval of the above-mentioned project and the possibility that one or more similar projects may be approved in the near future, it appears advisable to change the proposed legislation to provide for leases embracing larger areas. In order to accomplish this, the last sentence in section 1 of the bill should be stricken and the following should be inserted:

"Leases executed in accordance with this act and the act of April 21, 1932, may be for any term of years, not to extend beyond September 25, 1967."

All of sections 2 and 3 should be stricken and the following section should be substituted:

"SEC. 2. The rate of royalty in coal leases made under this act and the act of April 21, 1932, shall not be less than 10 cents per ton on all coal mined, including what is commonly known as slack and the rate of royalty in asphalt leases shall not be less than 15 cents per ton on all crude asphalt mined: *Provided*, That the Secretary of the Interior is hereby authorized to prescribe minimum annual tonnage requirements and advance annual rental payments for each lease. If the minimum annual tonnage specified in a lease is not mined, the lessee shall pay royalty thereon the same as if the coal or asphalt had actually been mined. The advance royalty paid for any year may be credited on the royalty becoming due on coal or asphalt mined during the year for which the said advance royalty has been paid but shall not be credited on royalty on coal or asphalt mined in any previous or subsequent year."

I recommend that S. 1542 be amended as suggested and, in view of the request of the War Production Board for prompt action, that the amended bill receive early consideration by your committee.

I have been advised by the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

HAROLD L. ICKES,
Secretary of the Interior.

The CHAIRMAN. The letter states in one paragraph [reading]:

Under date of February 2, the War Production Board advised this Department that it had approved a project which includes the construction of a blast furnace and coke ovens at Houston, Tex., and that it is planned to obtain the needed coal from the segregated Choctaw and Chickasaw coal deposits in Oklahoma.

Then the letter states that in order to make the lands available in the proper manner, according to the plans of the Department, it is necessary to have the bill that is pending before the committee amended in at least two particulars. Then the Secretary recommends [reading]:

that S. 1542 be amended as suggested and, in view of the request of the War Production Board for prompt action, that the amended bill receive early consideration by your committee.

And for that reason this meeting is called today to further consider the provisions of the bill and this latest request from the Department.

We have with us this morning Mr. Puterbaugh, who, as I understand, is interested in the securing of some of these lands, either

through sale or through lease; and in order that we may have a fuller understanding of the additional and extraordinary demands for coal, and also have Mr. Puterbaugh's opinion about the matter, I would like for him to make a statement if he will.

STATEMENT OF J. G. PUTERBAUGH, PRESIDENT, McALESTER FUEL CO., McALESTER, OKLA.

Mr. PUTERBAUGH. Senator, I wrote down a little memorandum here.

The CHAIRMAN. Just a moment. Your full name is what?

Mr. PUTERBAUGH. J. G. Puterbaugh.

The CHAIRMAN. And your residence is at what point?

Mr. PUTERBAUGH. McAlester, Okla.

The CHAIRMAN. And what is your business, Mr. Puterbaugh?

Mr. PUTERBAUGH. I am president of the McAlester Fuel Co. at McAlester, Okla.

The CHAIRMAN. Are you actively engaged in the production of coal?

Mr. PUTERBAUGH. Yes, sir.

The CHAIRMAN. How long have you been in that business?

Mr. PUTERBAUGH. I have been marketing coal from the Choctaw and Chickasaw lands since 1898. I moved to McAlester in 1902 and have been producing and marketing coal since that time.

The CHAIRMAN. So the business of producing and marketing coal is your chief business, or one of them at least?

Mr. PUTERBAUGH. That was my chief business until 1931, and I nearly went broke in the coal mining business, and I got into the oil business and am now trying to make enough in the oil business to pay the losses in the coal business.

The CHAIRMAN. Well, it is usually or often the case that people have one line of activity; then they make their money in some other line to support the first line; is that true?

Mr. PUTERBAUGH. That is right.

The CHAIRMAN. I understand a great many people have firms operated on that basis.

All right; you may proceed.

Mr. PUTERBAUGH. I stated that I moved to McAlester in 1902 and have been active in the coal business there since, and familiar with the developments in respect to the Indian coal lands. I was present at the auction sales—pardon me, Senator; I can give this written manuscript to the reporter.

The CHAIRMAN. We would like to have before the committee just a brief statement. Then we shall use your manuscript in the record.

Mr. PUTERBAUGH. I can read it faster than they can take it. If they just take this copy—

Senator LANGER. Just a very brief statement; that is all.

Mr. PUTERBAUGH. I was therefore at McAlester when in 1902 the "Supplemental Agreement" was entered into between the Federal Government and the Choctaw-Chickasaw tribes, under which agreement the Federal Government undertook to segregate and set apart the coal lands from the other tribal property of the Choctaw and Chickasaw people with the understanding that these lands were to be sold—as I recall—within 3 years, so that the Indian people might receive cash out of which to improve their allotments of farm lands.

I was well acquainted with Mr. William Cameron, the old and very able Scotch ex-mine superintendent and inspector who was employed by the Government to report upon and appraise the Indian coal lands. I was present at the auction sales at which the lands were offered for sale to all comers in December 1918, June 1919, June 1920, and in June 1925, and, at some of these sales, companies in which I am interested, made purchases. I might add that the segregation included the surface coal lands as well as the coal measures underneath them.

About 1912 I was a member of a committee, some members of which were members of the Choctaw and Chickasaw tribes, which came to Washington to suggest to Congress that the surface coal lands be sold separately and apart from the coal deposits so that such surface lands as were tillable might be sold for farming purposes and not be tied up indefinitely with the coal.

That was done, and I think the Indians realized from the surface sales about as much as they realized for the coal.

Five or six months ago I was advised by Mr. R. L. Gray, president of the Sheffield Steel Co., of Kansas City, Mo., that the Office of Production Management and the Defense Plant Corporation were negotiating with them in respect to the construction of a blast furnace at Houston, Tex., for the conversion of East Texas iron ores into pig iron. Mr. Gray stated that they had obtained options on Alabama coal lands which for many years have produced coking coals that have proven satisfactory to the iron and steel industries in the Birmingham district of Alabama.

I told Mr. Gray that I thought it would be possible from among the unsold and unleased coal lands of the Choctaw and Chickasaw Indians in eastern Oklahoma to find acreage that would produce coal that would make satisfactory coke for his purposes and that I understood that the Secretary of the Interior had authority to sell the lands and that the members of the Choctaw and Chickasaw tribes were eager that the lands should be sold.

I also told Mr. Gray that the lands had been appraised during the last World War and were first offered at the 1918 appraisals in 1918 and 1919; that the original appraisals on the remaining lands were reduced 16% percent when the lands were offered in 1920 but that only a few tracts were purchased in the 1920 sales, and that between 1920 and 1925 the unsold remainder of the lands had been revalued and they were again publicly offered for sale in June, 1925, and that some additional sales have from time to time been made during the past seventeen years—all but one at the 1925 prices, and that I understood that the same printed price schedule was still in effect.

Upon these assurances Sheffield Steel Co. asked me to have shipped a carload of samples from various operating mines in eastern Oklahoma and western Arkansas to by-product coke ovens at Kearney, N. J.—that they might there be tested. None of the coals by themselves made satisfactory coke, but we found that by mixing certain of the different grades a reasonably satisfactory grade of coke could be obtained.

In January negotiations for the construction of coke ovens and an iron furnace at Houston, Tex., were consummated between Sheffield Steel Corporation of Texas and the Defense Plant Corporation and thereafter the Sheffield Steel Corporation requested me to obtain from the Secretary of the Interior authority to prospect by drilling

several tracts that we thought might prove mineable, and to ascertain from the Secretary of the Interior the prices at which these lands could be purchased.

On February 3 I delivered to Hon. John Collier, Commissioner of Indian Affairs, a letter from Mr. Edward Holley, Coke Consultant from the Iron and Steel Branch of the War Production Board, which requested authority to enter upon some of the lands and drill, to see if the coal was there all right.

(The letter referred to is as follows:)

FEBRUARY 2, 1942.

The Honorable JOHN COLLIER,
Commissioner of Indian Affairs,
Department of the Interior, Washington, D. C.

DEAR MR. COLLIER: The War Production Board has approved a project sponsored by the Sheffield Steel Co. of Texas which includes the construction of a 700-ton blast furnace and 47 by-product coke ovens at Houston, Tex., and if satisfactory arrangements can be made the development of two coal mines on coal deposits owned by the Choctaw and Chickasaw Indian Tribes in eastern Oklahoma. Under the arrangements proposed it will be the duty of the Sheffield Steel Co. to acquire by lease or purchase the right to mine approximately 4,000,000 tons of McAlester District coal found in Pittsburgh County, Okla., and approximately 4,000,000 tons of McCurtain coal located in Haskell County, Okla.

The tracts which have been tentatively selected and which the Sheffield Steel Co. desires to prospect by drilling at once, are those described on the attached memoranda. The description in which are taken from the official maps of the segregated coal lands, and we should like for you to:

1. Give the McAlester Fuel Co., who will be the engineer-contractor for the development of the mine, authority to enter upon and prospect these lands by drilling.

2. We should like for you to advise Mr. J. G. Puterbaugh, president of the McAlester Fuel Co., as representative of the Sheffield Steel Co. of Texas, at what price and on what terms each of the tracts of land referred to can be purchased. We should also like for you to advise him as to the terms on which the land may be leased.

Your cooperation in this matter will be appreciated, and will expedite the conclusion of arrangements for the beginning of active work on this project.

Very truly yours,

EDWARD HOLLEY,
Consultant, Coke, Iron and Steel Branch.

Approved.

R. C. ALLEN,
Deputy Chief, Iron and Steel Branch.

Mr. PUTERBAUGH. Mr. Collier referred me to Mr. William Zimmerman, Assistant Commissioner of Indian Affairs, who advised that under existing statutes the Department of the Interior had no authority to enter into any coal mining lease covering Choctaw and Chickasaw lands that would extend beyond the year 1947. He stated that the Secretary of the Interior is duly authorized to sell any residue lands at not less than their appraised value.

I delivered to Mr. Zimmerman a description of several tracts in which I thought we might become interested and stated that I would like to know if in the event, after drilling, we found we could use those tracts, they could be purchased under the statutes now in effect and at the appraised price as published in 1925. Mr. Zimmerman stated that he would wish to discuss this matter with representatives of the Geological Survey, and on February 13 he delivered to me a letter signed by Assistant Secretary Chapman, which indicated that the lands could be purchased, but at the 1918 prices, which were 33% percent above the 1925 prices.

(The letter referred to is as follows:)

DEPARTMENT OF THE INTERIOR,
Washington, February 13, 1942.

Mr. J. G. PUTERBAUGH,
President, McAlester Fuel Co.,
Washington, D. C.

MY DEAR MR. PUTERBAUGH: Further reference is made to the letter of February 2 of the War Production Board, concerning obtaining coal belonging to the Choctaw and Chickasaw Tribes for use in connection with a proposed blast furnace and coke ovens to be constructed by the Sheffield Steel Co. at Houston.

Alternate proposals to purchase or lease the needed coal deposits are under consideration. Existing legislation only authorizes leasing of developed tracts and tracts to be added to developed leases. Additional legislation is necessary to meet your requirements and this Department is doing all it can to expedite consideration of such legislation. Although no final decision has been made at the present time, it appears that it would be to the interest of the Indians to lease rather than to sell the coal deposits.

There is existing legislative authority for the sale of the deposits. The deposits were all appraised in 1918 in connection with offering them for sale at that time. You have the figures on this appraisal. Tentatively, it is the opinion of this Department that if a sale is made, this appraisal should be used. You have submitted a letter dated February 9 in which you express the opinion that the 1918 appraisal is too high, particularly with respect to the coal deposits in the McCurtain district. If the 1918 appraisal is not used, it appears that a new appraisal should be made and this would require some time.

This Department is fully aware of the need for knowing definitely that a supply of coal suitable for making coke will be available so that the construction of the blast furnace and coke ovens may be started without delay. This letter may be taken as the assurance of this Department that the coal deposits of the Choctaw and Chickasaw Indians are and will be available either through purchase at their appraised value or lease, the latter depending upon the enactment of suitable legislation. It is hoped that this will eliminate any possibility that construction will be delayed on this account. Efforts by this Department to expedite the completion of a sale or lease of the coal deposits will be continued.

A copy of this letter is being forwarded to Mr. Edward Holley, consultant, Coke, Iron and Steel Branch of the War Production Board.

Sincerely yours,

OSCAR L. CHAPMAN,
Assistant Secretary.

Mr. PUTERBAUGH. As I seemed to be making progress very slowly, under date of February 23 I addressed to Hon. Harold L. Ickes, Secretary of the Interior, the following letter. I thought I had better read that letter. It covers the situation. [Reading:]

Hon. HAROLD L. ICKES,
Secretary of the Interior, Washington, D. C.

MY DEAR SIR: I have now worked for 6 months to help bring about the location of two iron furnaces, two sets of coke ovens, and two steel plants adjacent to the iron-ore deposits in East Texas.

One of these sponsored by Sheffield Steel Corporation of Texas has been approved and I have been directed to select and acquire coal land for two mines, one of which should be in the McAlester district of Oklahoma, and one in the Smokeless district of Eastern Oklahoma or Western Arkansas. These would be large, deep mines that would work every day in the year and for 75 years or more. Because of the size of the investment, the sponsors wish to own the coal deposits.

The Federal Government agreed with the Indians in 1902 (supplemental agreement) to sell the coal lands within 3 years. The lands were appraised during the boom days of World War I, when Oklahoma coal was being produced and sold in large quantities and selling at profitable prices and fuel oil was scarce at \$3 per barrel.

A sale was conducted in November 1918, and at that time the most desirable lands along the outcrop near the surface were sold. Another public sale was held in 1919 and a few more tracts were sold.

In 1920 the unsold residue lands were reappraised and the prices were reduced one-sixth and again they were offered at public sale, but very few tracts were sold.

In 1925 the residue of unsold lands were again reappraised and the new prices were approved by the Secretary of the Interior, and the lands were again offered at public sale and very few tracts, if any, were sold.

Meanwhile, natural gas was taking over more and more of the markets that prior to 1922 had been supplied with coal from Oklahoma, Arkansas, and Texas.

Total production in Oklahoma has declined from a peak of nearly five million tons to about one and one-half million tons. All of the important mines that formerly gave value to Oklahoma coal lands have failed or abandoned the field.

I mention then a long list of the companies that used to be responsible for the production in Oklahoma but that have since abandoned the field, as follows [reading]:

Among those that have long since failed or abandoned and quit are the Rock Island Railroad mines at Hartshorne, M.-K. & T. mines at Coalgate, Santa Fe Railroad mines at Lehigh, Fort Smith and Western Railroad mines at McCurtain, the Hailey-Ola Coal Co. mines at Haileyville and Wilburton, the Osage Coal & Mining Co. mines at Krebs, the Great Western Coal & Coke Mines at Wilburton, the Degan & McConnell mines at Wilburton. These and many others discontinued because they could not sell enough coal to enable them to operate profitably. Meanwhile wages and all production costs have increased. The mining towns of Hartshorne, Wilburton, McCurtain, Krebs, Alderson, Pittsburgh (Oklahoma), Lehigh and Coalgate, once prosperous communities, are now almost empty ghost towns; sad relics of a better day.

For the past 10 years about 4,000 miners, who formerly earned good wages in the mines, have had to accept part-time employment on Works Progress Administration projects or straight Government relief. The younger men have left the coal districts and the several thousand that remain own their own homes, have families, and know no other work but mining and are loath to leave and drift.

In east Texas there are deposits of iron ore. For years efforts to have them developed and utilized have failed.

In view of the existing shortage of iron and steel and the need for increased production, two groups—Sheffield Steel Co. of Texas, and a group of Texas and Oklahoma businessmen—beginning early last summer made surveys and submitted project reports to the Office of Production Management looking to the location of two blast furnaces and some open-hearth furnaces for the conversion of pig iron into steel.

The Sheffield Steel Co. planned to locate its plant at Houston, Tex., and get its supply of coke from Alabama, in the belief that satisfactory coke could not be produced from Oklahoma or Arkansas coals.

The Texas group, who planned to locate their plant at Daingerfield, Tex., asked me if I could furnish from Arkansas or Oklahoma mines coal that would produce usable blast-furnace coke. After careful investigation I advised both the Sheffield Co. and the Daingerfield group that from among the residue of 360,000 acres of unsold and unleased coal lands of the Choctaw and Chickasaw Tribes in eastern Oklahoma, all of which were for sale, that they could obtain all necessary supplies of coking coal. I showed them the printed price schedules published first in 1918 and subsequently revised in 1920 and revised again in 1925, when the lands were again publicly offered for sale.

To assure and satisfy the sponsors of the projects and the experts of the Iron and Steel Division of the Office of Production Management, I shipped 50 tons of coal from various parts of the district to the coke testing plant of the Koppers Co., at Kearny, N. J., and smaller quantities to the testing plant maintained by the Bureau of Mines at Pittsburgh, Pa., and to the testing plant at State College, Pa. At long last, after 6 months of effort, we convinced Sheffield Co. that they could safely look to the almost idle reserves in Oklahoma for supply and they commissioned me to select and purchase the acreage they would need.

We developed that they might need four 960-acre tracts or a total acreage of not more than 3,000 to 3,600 acres. If, as seems probable, the Daingerfield plant is approved by the War Production Board, it might also require three or four tracts.

On the morning of February 2 I arrived in Washington and called upon Hon. John Collier, Commissioner of Indian Affairs, and after explaining my mission I asked him at what prices certain tracts could be bought or leased.

He referred me to Assistant Commissioner, Mr. William Zimmerman. Mr. Zimmerman advised that under statutes in effect, coal lands cannot be leased (except that some additional lands can be added to operations already under way), but that the Secretary of the Interior has the right to sell.

Mr. Zimmerman made it quite clear, however, that he preferred to lease and not to sell.

I told him that in view of all uncertainties concerning the future, we would prefer to buy.

After several days Mr. Zimmerman advised me that if sales are made they thought that 1918 appraisals should govern. The prices in the 1918 appraisals are one-third higher than the appraised valuations approved by the Secretary of the Interior in 1925, and still in effect. It is my understanding that all unsold lands have been subject to purchase at the 1925 published prices since they were published but that few tracts have been applied for at even those prices and coal lands in Oklahoma are less valuable than they were in 1925.

Senator LANGER. Just a moment.

Mr. PUTERBAUGH. Yes.

Senator LANGER. What is the difference in price? What does it amount to in dollars and cents?

Mr. PUTERBAUGH. It is different on each tract, but a great deal of the land is appraised at \$40, and that would mean, if the 1918 price was \$40, that the 1925 price would be three-fourths of 40, or \$30, or \$10 difference.

Senator LANGER. It would be two-thirds, not three-fourths.

Mr. PUTERBAUGH. How is that?

Senator LANGER. It would be two-thirds.

Mr. PUTERBAUGH. The present prices are 25 percent below the 1918 prices.

Senator LANGER. Well, you said a minute ago it was one-third higher in 1918 than in 1925.

Mr. PUTERBAUGH. Yes; the 1925 price was \$30, and they would go back to \$40, the 1918 price; that would be one-third more than the 1925 price.

Senator LANGER. It would be 25 percent. It would not be one-third; it would be a fourth.

Mr. PUTERBAUGH. I do not believe you quite understand me. We say the 1918 prices are \$40 per acre. The 1925 price is \$30 per acre. That is 25 percent off. But if they now go back to \$40 per acre that would be an increase of 33 1/3 percent over the 1925 prices.

Senator LANGER. What did the sum total amount to? How many thousand dollars? You said you had three tracts there you wanted to buy.

Mr. PUTERBAUGH. On, say, 3,600 acres it would be \$36,000.

Senator LANGER. I see.

Mr. PUTERBAUGH (continuing reading):

If these enterprises will arrange to acquire enough land to meet their needs in Oklahoma and will develop mines and demonstrate that these coals will make usable blast furnace coke, it will add value to the remaining 360,000 acres of coal that constitute the unsold residue of the Choctaw and Chickasaw Coal Estate.

There exists no reasonable or logical grounds for suddenly advancing the prices 33 1/3 percent when these residue lands have been offered at public sale and have been open to purchase for 17 years at the 1925 printed and published appraisals and the markets for coal have declined and are still declining further.

If, after the effort that has been put forth to bring this new market to the Indian lands, prices are advanced, we shall certainly be forced to obtain much, if not all, of our total requirements from lands heretofore sold by the Department and now privately owned or from Arkansas, into which State, just across the Oklahoma line, the same coal measures extend or from Alabama as originally planned by Sheffield Co.

We estimate that not more than 3,000 acres would be desired by Sheffield Steel Corporation for the Houston plant and if the Daingerfield plant goes in, it may need about the same acreage later.

Assuming that the prices of the lands selected will average at the 1925 appraisal figures \$40 per acre, a sale of 6,000 acres will yield the tribal treasuries \$240,000. If the prices of lands selected average \$30 per acre, the total sale price will be \$180,000.

It will, of course—

Senator LANGER (interposing). Pardon me. Does that include surface rights, too, or have the surface rights already been sold?

Mr. PUTERBAUGH. The surface has been sold.

Senator LANGER. On this particular land?

Mr. PUTERBAUGH. Yes, sir; all of it.

Senator LANGER. Go ahead. Pardon me for interrupting.

Mr. PUTERBAUGH. That is all right.

And the person who acquires the right to mine the coal must arrange to purchase what surface he needs from the present owner.

Senator LANGER. But on this 3,000 or 6,000 acres the surface right has already been sold?

Mr. PUTERBAUGH. Yes, sir.

Senator LANGER. What do they get for it? Do you know?

Mr. PUTERBAUGH. Well, various prices according to the values, but I think they got, out of all the surface lands—I think I have it in the report in there—close to \$5,000,000 realized for the surface of all these lands.

Senator LANGER. Five hundred million dollars?

Mr. PUTERBAUGH. Five million.

Senator LANGER. Five million?

Mr. PUTERBAUGH. Yes. That was some years ago, probably 30, 40 years ago. But the right goes with the coal to condemn such surface as must be had for mining purposes later by paying a reasonable price for it.

(Continuing reading:)

It will, of course, be necessary for a prospective purchaser to do some drilling to assure himself of the presence and the continuity and thickness of the coal measures and as to how much, if any, middle bands of impurity are in the vein and as such drilling costs money and consumes valuable time, it is important that we be advised in advance as to whether any of the 360,000 acres of unsold land are available to these defense projects and, if so, at what prices.

All representations to the sponsors, the Office of Production Management and the War Board, have been predicated and based upon the understanding that the Indians are anxious and that the Department is authorized by Congress and willing to sell any of the unsold coal lands of the Choctaw and Chickasaw Tribes at the last-appraised prices, which, as stated, were published in 1925 and which I understand have governed all sales since 1925 except one sale of 80 acres located adjacent to the entries of a working mine. This small parcel, cut out of tract No. 69 in the Howe-Poteau district, was appraised at \$30 per acre and because of the smallness of that tract a price of \$60 per acre was charged and realized, making the total purchase price \$4,800. This sale was approved by the Secretary of the Interior on May 29, 1941.

I will greatly appreciate advice as to whether such acreage as we may find usable for this project can be purchased at the 1925 appraisals which, as stated, are the last prices approved and published by the Secretary of the Interior.

I delivered this letter to the office of Under Secretary E. K. Burlew. On the same date I delivered a copy of it to Senator Thomas, to Senator Josh Lee, and to our Congressman, Wilburn Cartwright.

Under date of February 24 I received a telegram from Senator Josh Lee advising that he had wired Under Secretary Burlew from Oklahoma City, as follows:

In further regard to our telephone conversations relative Indian coal lands in Oklahoma sincerely hope you can make satisfactory arrangements with Puter-

baugh in order that this defense project which contemplates use of this coal may get under way immediately. Unemployment extremely heavy in this section reopening of coal mines will therefore be extremely beneficial economically.

Under date of February 25 I was advised by Congressman Cartwright, in whose district these lands are located, that he had written Hon. Harold L. Ickes, Secretary of the Interior, stating that he knew the facts to be as set out in my letter and that he thought that such land as these projects could use should be sold at the 1925 prices.

(The letter referred to is as follows:)

HOUSE OF REPRESENTATIVES,
Washington, D. C., February 25, 1942.

HON. HAROLD L. ICKES,
Secretary of the Interior,
Washington, D. C.

MY DEAR MR. SECRETARY: I am advised that the War Production Board has approved the construction of an iron and steel plant adjacent to deposits of iron ore in east Texas and that consideration is being given to the location of a second plant in the same area. This enterprise will include the construction of coke ovens and use of considerable quantities of coal, and the people of my district have been making a strong effort to have this coal produced and furnished from the coal deposits of eastern Oklahoma, a large portion of which still belongs to the Choctaw and Chickasaw Indians.

Mr. J. G. Puterbaugh of McAlester, Okla., one of my constituents, has been requested to locate several unsaleable tracts and to ascertain from your Department if they can be purchased at the prices established and approved by the Secretary of the Interior in 1925 and which prices have prevailed since they were approved and are, I understand, still in effect.

I have read carefully a copy of the letter addressed to you by Mr. Puterbaugh under date of February 23, and I personally know the facts stated therein to be correct. I know the market demand for coal and the market value of coal lands are today both below what they were in 1925 and I think there should be no hesitation in regard to selling such of these tracts as Mr. Puterbaugh and his associates may find usable for the purpose stated at the price and on the terms that have prevailed since 1925. If suitable acreage can be located this will bring on the sale of land that is worth between \$180,000 and \$240,000, and I know such sale will be pleasing to the rank and file of the Indians, most of whom are urging increased effort to sell these lands.

I also feel that, if by cooperating in this undertaking, we can assist in bringing about the iron and steel production in east Texas and in establishing the fact that good blast furnace coke can be produced from Oklahoma coal, we will have done more to revitalize and put value in the stagnant residue of Choctaw and Chickasaw lands than anything that has happened since World War I.

Assuring you I will appreciate your cooperation in this matter, I am,

Sincerely yours,

WILBURN CARTWRIGHT.

Secretary Ickes' reply to Mr. Puterbaugh's letter of February 23, 1942, is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, March 16, 1942.

MR. J. G. PUTERBAUGH,
President, The McAlester Fuel Co.,
McAlester, Okla.

MY DEAR MR. PUTERBAUGH: In reply to your letter of February 23, a decision has been reached concerning the sale of certain tracts of the Choctaw and Chickasaw coal lands.

In view of the many uncertainties attending a lease, including the possibility of delay in obtaining legislation, I see no objection to an immediate sale. In reaching this decision I find it necessary, in the interest of national defense, to override the wishes of the Indians as expressed by their tribal officials, both as to the matter of leasing and as to the minimum prices at which these lands may be sold.

On the basis of an opinion by Mr. W. C. Mendenhall, Director of the United States Geological Survey, regarding the present value of these lands, you are

advised that an offer for the purchase of the tracts in the McAlester district at the 1918 appraised value will be acceptable. As to tract No. 10 in the McCurtain district, an acceptable offer should be on the basis of the 1918 appraisal. For tracts 7, 7a, 7b, and 8 in the McCurtain district, an offer from you at the 1925 appraised value would be acceptable with the proviso, however, that tract No. 10 be purchased at the same time, and also that the boundaries of these tracts be readjusted slightly so that all mineable coal between these tracts and certain worked-out mines will be included.

If you or your principals wish permission to drill on acreage other than the 6,000 acres for which permission has already been granted, this Department will give prompt consideration to requests from you or from them.

You have asked whether any of the remainder of the 360,000 acres of unsold land will be available for sale and, if so, at what price. You are advised that these lands will be available for sale on the basis of prices recommended by the technical advisors of the Department or on the basis of a reappraisal if a reappraisal is deemed advisable. At the present time we have no technical opinion as to the present value of these lands.

I hope that this statement of the Department's position will enable you to proceed with your negotiations.

Sincerely yours,

HAROLD L. ICKES,
Secretary of the Interior.

Mr. PUTERBAUGH. On February 23 I talked with Mr. Zimmerman by telephone, and he advised me that he had just returned from a conference with Governors Maytubby and Durant and with Coal Trustee Hampton Tucker at Oklahoma City, and he asked me about the status of my negotiations here. I told him that I understood that a reply to my inquiry to the Secretary of the Interior, Mr. Ickes, was being held up pending his return and that what I hoped to obtain was a letter from the Secretary stating that, if in the residue of the unsold and unleased Choctaw and Chickasaw coal lands we could find any tracts we thought we could use, they could be purchased under the statutes now in effect and at prices not higher than the 1925 appraisals. Mr. Zimmerman stated that those with whom he conferred in Oklahoma City seemed to think that they ought to have substantially higher prices, and he stated that about a year ago they had sold one 80-acre tract at twice the 1925 appraisal.

I have indeed been surprised that there has been any hesitation or doubt as to the advisability of selling to this industry such acreage as it may find usable at not more than the 1925 prices which have now been a matter of public record and available to all comers for the past 17 years.

It is a well-known fact that the markets for coal that can be produced from these Indian coal lands have to a greater and greater extent been taken over by cheap natural gas and fuel oil with the result that practically every one of the substantial mining companies that were still in existence even as late as 1925 have subsequently failed or discontinued operations and that many of the tracts of choicest coal lands which were purchased at the auction sales held in 1918 and 1919 have from time to time changed hands at prices per acre that are considerably below the 1925 schedules and that the prices of coal lands and coal property generally in that southwestern country are considerably below the range of values that existed in 1925 when the last appraisals were made.

In support of this statement I wish to put into the record here a statement taken from the records of the coal trustee at McAlester, Okla., last week, which shows the number of tons of coal produced and royalties collected from Choctaw and Chickasaw coal lands by

years beginning with the fiscal year of June 30, 1899, and ending with the fiscal year of June 30, 1941.

(The statement referred to is as follows:)

Statement showing coal mined and royalty paid thereon beginning with the fiscal year of June 30, 1899, and ending with fiscal year of June 30, 1941, at royalty rates named below

Year	Coal	Royalty collected	Year	Coal	Royalty collected
	<i>Tons</i>			<i>Tons</i>	
1899 ¹	1,101,452.00	\$110,145.25	1922	1,756,959.01	\$140,556.66
1900 ²	1,900,127.00	152,010.16	1923	1,291,098.39	103,287.85
1901	2,398,156.00	191,852.48	1924	881,162.84	80,092.97
1902	2,735,365.00	218,829.20	1925	656,586.27	64,210.37
1903	3,187,035.00	254,962.80	1926	636,130.00	65,427.89
1904	3,198,862.00	255,908.96	1927	772,668.36	77,339.75
1905	2,859,516.00	228,761.28	1928	856,165.87	88,843.81
1906	2,722,200.00	217,776.00	1929	679,775.79	54,382.06
1907	3,079,733.00	246,378.64	1930	510,395.76	40,831.66
1908	2,780,649.00	222,451.92	1931	418,959.30	33,516.72
1909	2,728,437.00	215,274.96	1932	336,252.85	27,551.85
1910	2,692,291.00	215,383.28	1933	208,691.58	17,950.36
1911	2,265,093.00	181,207.44	1934	231,931.96	21,071.75
1912	2,736,192.00	218,895.36	1935	236,715.05	21,164.06
1913	3,103,071.00	248,245.68	1936	299,662.32	25,762.42
1914	2,892,294.00	231,383.52	1937	290,649.55	28,520.26
1915	2,694,313.00	215,545.04	1938	251,770.11	28,672.54
1916	2,158,130.00	172,650.40	1939	232,224.66	26,588.22
1917	2,846,906.00	227,759.68	1940	296,917.00	33,687.79
1918	3,227,595.00	276,186.82	1941	305,202.00	35,305.81
1919	3,075,016.00	231,969.45	Total	72,650,901.34	5,959,754.85
1920	2,680,059.00	211,740.48			
1921	2,458,390.67	196,671.25			

¹ Rate of royalty for fiscal year of June 30, 1899, was 10 cents a ton, the rate first fixed by the Secretary of the Interior.

² Rate of royalty was 8 cents a ton, beginning with fiscal year of June 30, 1900, and continuing to and including Jan. 31, 1937.

Amount brought forward	\$5,959,754.85
Add amounts collected in 1937, 1938, and 1939, by suits against, and compromises with several lessees and their sureties as advanced and minimum royalties and royalties on coal mined in previous years (these amounts not included in foregoing statement)	37,164.16
Grand total	5,996,919.01

In some years the royalty collected does not agree with the royalty payable at the royalty rates named on the tonnage, because the terms of the leases require certain advanced royalties to be paid and certain annual minimum tonnage to be mined each year, or royalty paid thereon as if mined. Although the annual minimum tonnage required was not mined, the minimum royalty was collected. In other words, the royalty collected includes royalties at the rates named above on coal actually mined, as well as advanced and minimum royalties.

MR. PUTERBAUGH. From this statement it will be observed that in 1904 3,198,862 tons were produced, and at 8 cents per ton this production yielded a royalty of \$255,908.96; that in 1918 there were 3,227,595 tons which yielded the tribes \$276,186.82, but that by 1928 production declined to 856,165 tons, which yielded a royalty of only \$88,843.81; and the year ending June 30, 1941, production had declined to 305,202 tons, which yielded a gross royalty of only \$35,305.81.

It must be apparent to anyone that values of coal lands in a district that has suffered such great shrinkage must be very greatly less now than they were even in 1925 and certainly much less than they were

in 1918 when over 3,000,000 tons were mined. Each year new and larger oil and gas fields have been discovered, and it is a well-known fact that the reserves already in sight are sufficient to supply the southwestern markets for 25 to 50 years to come.

As yet methods for the reduction of iron ore into pig iron by the use of gas as the only fuel have not been developed, and I have therefore put a great deal of time and effort and several thousand dollars of my own money into this effort to bring this prospective business to the Oklahoma coal fields where several thousand ex-coal miners are still— even under present abnormal conditions—out of employment and badly in need of work.

If we can demonstrate—as I think we can—that a satisfactory grade of pig iron and steel can be processed from east Texas iron ore deposits with coke made from Oklahoma coal, that will be the one favorable and most important development relating to the value of these Indian coal deposits that has occurred since World War I.

If I were individually the owner of the entire residue of unsold Choctaw-Chickasaw coal lands I would donate to this enterprise such coal as it may need free of cost in order to demonstrate the usability of this product rather than to miss this opportunity.

I think it is only proper to state that we are investigating and expecting to acquire some acreage from among the lands heretofore sold, now privately owned and idle, and that we are also being urged to use and we are considering the advisability of buying lands that adjoin the Indian coal lands just across the State line in Arkansas which with the surface included can be had for \$20 per acre.

I do not want to burden this record unduly but it is proper to call to the attention of the committee and those interested the fact that the most desirable coal lands in this area were sold when these lands were offered at public sale in 1918 and 1919, and again in 1920. The lands that were sold at those sales when the market demand for coal was many times what it is now were the outcrop lands that contained easily accessible and cheaply mined coal. The lands that are left and that are now available are "down dip," and nearly all of them that have been mined must be reached through deep shafts from 500 to 1,000 feet deep, and such mining involves the sinking of a second shaft for ventilation. The mines that will produce any considerable tonnages from these residue lands in the future must be designed to mine out large acreage, and such mines should be mechanized and for the most part worked on the long-wall retreating plan, and because they will be deep and very gaseous they will have to be especially well ventilated and rock dusted to avoid the risk of dust explosions.

The cream of the tonnage has been mined out and natural gas and oil have taken over the markets to such a great extent that the operation of coal mines in the segregated district in Oklahoma has become unprofitable, and this is evidenced by the fact that all of the large mining companies that formerly paid substantial royalties at 8 cents per ton have abandoned the mines which they formerly worked, and the abandoned workings now stand above the deep coal full of water. I think that the policy that has recently been entered upon of granting 1-year permits and short-term leases is in most cases an unwise policy calculated to encourage the development of small mines along the outcrop that are not equipped to go to depth and that are neces-

sarily soon abandoned and therefore lessen the probability of recovery of much larger acreages of deep coal lying down dip.

If and when it is deemed advisable to authorize the Secretary of the Interior to resume leasing the unsold remainder of these lands I think that he should be authorized to include up to 4,000 or 5,000 acres in one lease and to grant lessees the right to operate as long as they produce enough coal to yield a reasonable annual royalty or to pay a reasonable annual minimum on an acreage basis. It is only under such leases that adequately financed coal operators can ever afford to develop and operate the kind of mines that will hereafter be necessary to produce coal from these lands at a competitive price and in such a manner as to insure reasonable ultimate recovery of the coal in the ground. However, such operators as would be willing to undertake such a development will prefer—as we do—to own the land on which such developments are contemplated.

I would also call attention to the fact that during the 40 years of large production prior to 1925, when the market demand for coal was many times what it is today and there was possible profit in mining, the royalty charge was 8 cents per ton; and I think that the effect of advancing the royalty to 10 cents per ton has been harmful rather than beneficial to Indian revenues and the industry, which, under existing conditions, needs every possible encouragement.

The time will eventually come when the reserves of natural gas and fuel oil will have been consumed to such a point that these perfect fuels will be conserved for purely domestic purposes, and then even these deep coal reserves will need to be mined to supply fuel to the railroads and industries of the growing Southwest.

It does not seem to me that the Federal Government should impose upon the Choctaw and Chickasaw Indian Tribes, the older members of which are rapidly passing on, the burden of acting as a holding or fuel conservation agency for future generations of white men, and it seems to me that such of these lands as can be sold to those who can utilize them usefully now should be sold and/or leased by the Federal Government as need for them develops in the future.

I note in the letter addressed by Hon. Harold L. Ickes, Secretary of the Interior, to the chairman of this committee under date of July 14, 1941 (and which letter is a part of the record on Senate bill 1542), the following statement:

The development of oil and gas in Oklahoma has resulted in a reduced demand for coal and a reduced income to the Indians from the lease and sale of coal deposits. The Indians are anxious not to miss any opportunity to dispose of any of these deposits.

A letter written by the Acting Secretary of the Interior under date of August 22, 1941, to the chairman of this committee, contains the statement:

Even with the slight increase in demand for coal it must be admitted that the leases and permits now in effect can offer a small return to the Indians. It should be remembered in this connection that with considerable regularity efforts have been made since about 1915 to have the Federal Government purchase the coal deposits and hold them until a market develops.

This same record seems to contain letters from a considerable number of representative Indians urging that the lands be sold. I also note in this record a signed copy of a Resolution for Sale of Tribal

Coal and Asphalt Deposits, No. 8, received by the Office of Indian Affairs on March 13, 1941, which includes the following statement:

Whereas the Government offered these deposits for public sale in 1918, 1919, 1920, and 1925, and has also sold a few tracts at the appraised value at private sale since the last public sale in 1925, and after said efforts to sell the same there remains unsold at this time 376,757.08 acres of coal deposits and 3,140 acres of asphalt deposits; and

Whereas it is the desire of the Choctaw tribe of Indians that the coal and asphalt property be sold and the proceeds disposed of as hereinabove provided: Now, therefore, be it

Resolved by the Choctaw Advisory Council, assembled in regular session at Tuska-homa, Okla., on February 12, 1941, That the United States Government be respectfully requested to purchase said coal and asphalt deposits and pay to said tribes not less than the present appraised value, namely, \$10,041,029.67.

I also note on page 32 of the record of the hearing held on Monday, February 2, that Governor Maytubby makes the following very correct statement in regard to the policy of granting 1-year permits:

I am told that it is a dangerous way to lease these lands, because the coal is not properly mined and it has caused a great many crevasses and holes above the virgin coal mines where seepage of water might destroy hundreds of thousands of acres of good coal lands that are now not under lease.

I am sorry to burden the record so much, Mr. Chairman, but I do not appear before this committee very often.

The CHAIRMAN. We appreciate your statement, Mr. Puterbaugh. Does that complete your statement for the time being?

Mr. PUTERBAUGH. Yes, sir.

The CHAIRMAN. This committee has held rather extensive hearings on this bill heretofore, and this particular hearing this morning is to consider the more recent developments. For the benefit of one or two members who have just arrived, I may say that since we held our last meetings the Secretary has written a letter to the committee suggesting that the War Production Board is very much interested in securing coal from these fields to service a steel plant to be located at Houston, Tex. Because of this request and because of the need for coal for our war-defense purposes, war efforts, I called this meeting to go into the matter more fully.

Mr. ZIMMERMAN, what suggestions have you to make in addition to those made on the former occasion, if any?

STATEMENT OF WILLIAM ZIMMERMAN, JR., ASSISTANT COMMISSIONER OF INDIAN AFFAIRS—Resumed

Mr. ZIMMERMAN. Mr. Chairman, since your previous hearing, as you have pointed out, there have been changes in the situation which led the Department to submit to you the recommendation which is now before you, namely: that the bill be amended to eliminate from it certain of the limitations as to acreage, as to the length of term of the lease, and as to the minimum tonnage, so that all those details could be handled by the Secretary of the Interior under regulations. The proposed amendment which you have before you would greatly simplify the bill and simplify the operations of leasing.

Senator McFARLAND. Would the War Production Board buy this land, Mr. Zimmerman?

Mr. ZIMMERMAN. It is my understanding that the coal would be purchased by the steel company.

Senator McFARLAND. No; but would they be willing to buy this land? Would Jesse Jones be willing to buy this land?

Mr. ZIMMERMAN. No. The War Production Board, as I understand it, will not purchase the land. The War Production Board or the Defense Plant Corporation merely just—

Senator McFARLAND. The Defense Plant Corporation will finance it?

Mr. ZIMMERMAN. Will finance the construction of the mill, but it is my understanding that they will not advance funds for the purchase of coal.

Mr. Puterbaugh I am sure is informed about that. That is my understanding.

Mr. PUTERBAUGH. That is correct; yes, sir.

Mr. ZIMMERMAN. And the funds for the purchase of coal would come out of other sources, presumably the Sheffield Steel Corporation.

Senator MILLIKIN. How much coal do they want to buy?

Mr. ZIMMERMAN. Perhaps Mr. Puterbaugh can answer that.

Senator LANGER. 3,600 acres.

Mr. ZIMMERMAN. Mr. Puterbaugh is the representative of the proposed purchaser.

Mr. PUTERBAUGH. The Sheffield Steel Co. would not want, I think, over probably about 3,000 acres. Some of the tracts are so arranged that parts of them are not mineable, and you have to get parts of different tracts in order to get one: that is, in order that one mine can work out; but I would say around 3,000 to 3,600 acres.

Senator LANGER. Now, is that near a railroad? How close is the railroad to it?

Mr. PUTERBAUGH. Well, some of the tracts are immediately adjacent or near by railroads. Some are 1, 2, 3 miles—4 miles anyway—away. It all depends on what tracts are selected.

Senator LANGER. It seems to me they are offering a pretty good price. It seems to me you ought to know. You live down there. Is it a pretty good price they are offering?

The CHAIRMAN. Well, I am not experienced in coal mines. There are a great many matters I am not experienced in, so I would not give the committee the benefit of any expert advice.

Mr. Puterbaugh, how deep is this coal underground? I understand in some places there are outcroppings, which means there is no depth. Then it goes to all depths. How deep is it found?

Mr. PUTERBAUGH. Well, if you would visualize this table as the coal field, of course it is not nearly so regular, but the coal in some places comes up like that [indicating]. It is outcropping, and then it goes down, and maybe 10 miles over there it will come up again, just as that book is there [indicating].

Well, now, this coal along the outcrop would begin to be within 50 feet of the surface, and you work down, and that is the coal that has been worked out down there. When you get down into the valley here you have to go 500 to 1,000 feet, and in some places it gets down to 2,000 feet, but that is not considered workable under present conditions.

Senator LANGER. You testified a thousand-foot shaft you would have to put down; is that right?

Mr. PUTERBAUGH. Yes, sir; the places that we have been looking at, where you say we would have to go to a thousand-foot shaft, which we are hesitating about because it is very deep.

The CHAIRMAN. You just testified that you have permission to make some soundings or drillings.

Mr. PUTERBAUGH. Yes, sir.

The CHAIRMAN. Have those holes been put down?

Mr. PUTERBAUGH. We are drilling our first hole now. We have gotten down to about 1,100 feet in that particular hole and have not struck the coal yet.

The CHAIRMAN. Well, is the coal down there assuredly, or are you just taking chances on its being down there?

Mr. PUTERBAUGH. We think it is there, but it keeps on getting deeper as it goes back, and we want to determine the depth that the boundaries of this would be.

The CHAIRMAN. From your knowledge of the coal in this field how thick are the veins? What is the range of thickness?

Mr. PUTERBAUGH. They range all the way from 2 feet to a maximum of 5 feet.

The CHAIRMAN. Well, say a vein 5 feet thick under a tract of ground; how many tons of coal per acre would you get from your mine?

Mr. PUTERBAUGH. Five thousand. We figure a recovery of a thousand tons per acre-foot, but I may add that 5-foot coal is a very scarce article. The coal that we are drilling now is about 3 feet.

The CHAIRMAN. That would mean, then, that if you found a coal field that would yield 5,000 tons per acre the royalty for operating it would amount to \$500 if the coal was mined out thoroughly; is that correct?

Mr. PUTERBAUGH. Yes, sir; that would be true if you could mine all the coal in the tract, and that would be true spread over a period of probably 50 years.

The CHAIRMAN. Well, what is the object, and what is the object in trying to get this land under lease when you can buy it outright now? Because you can pay for it as you use it, and if you never use it you never pay for it? Is that one reason?

Mr. PUTERBAUGH. That is the difference between a lease and a purchase; yes, sir. But I think that the coal is better cared for and better conserved when it is owned by the people who are mining it; and for a mining company that expects to put in a real mine and develop the land properly over a long period of time, unquestionably it is more economical to purchase its land.

The CHAIRMAN. From the standpoint of business administration of the affairs of these Indians do you not think it would be a more advantageous thing to sell this land than it would be to lease it?

Mr. PUTERBAUGH. Well, frankly, Mr. Chairman, I have thought for a long time that the Federal Government was not treating the Indians properly in compelling the Indians to be the conservation agency for those coal deposits. In other words, there will come a time, maybe 50 years hence, when that country down there will not be so abundantly supplied with natural gas and cheap fuel oil, and it will need coal, and even the land that has no market value now will have value then, and I think it would be the proper thing for the Federal Government to relieve the Indians of the ownership of these lands and to put them into the Federal coal reserve and not be in haste to sell them or lease them, but let them be available to the public as the public needs the coal, to be mined in a legitimate, careful

manner, and let the Indians out of it. The Indians are rapidly dying, and there is a great deal of discontent down in that country and a feeling that the Government has not kept faith with them in administering their estate and liquidating it out.

The CHAIRMAN. I will say to the committee that the Department has ample authority now to sell any or all of these lands, and we are not dealing with legislation authorizing the sale. Under the present laws I am advised that the Department can only lease new lands when the new lands are immediately adjacent to an existing lease. So that if A has a lease in these lands and his lease is for any reason worked out or becomes nonworkable or runs out or is destroyed the lessee if he so desires can negotiate with the Department for additional lands immediately adjacent to his existing lease.

Is that correct, Mr. Zimmerman?

Mr. ZIMMERMAN. That is a correct statement; yes, sir.

The CHAIRMAN. But that if an institution wanted to go into this reservation and secure lands away from existing leases or if it has no lease to start with, there is no authority in the law for the Department, acting for the Indians, to make a new lease on entirely new lands; and this legislation is to authorize the Department, acting for the Indians, to make lease on lands that are not contiguous to or in any way connected with existing leases.

I understand the Geological Survey is represented. I wonder if anyone from that Bureau wishes to be heard.

Mr. LEWIS. Mr. Chairman, may I ask Mr. Puterbaugh one question, please, sir?

The CHAIRMAN. Yes, sir. Mr. Lewis.

Mr. LEWIS. Mr. Puterbaugh, it is your preference to buy these deposits rather than to lease them, isn't it?

Mr. PUTERBAUGH. What we need for this enterprise; yes, sir.

Mr. LEWIS. Yes, sir. Now, is 3,000 acres all that either one of these people will need down there?

Mr. PUTERBAUGH. If we can get the land in tracts divided as they should be, I think 3,000 to a maximum of 3,600 acres for each one of those furnaces, I am sure, will be all they will want.

Mr. LEWIS. There are privately owned lands down there adjacent to these deposits, aren't there?

Mr. PUTERBAUGH. Yes, sir.

Mr. LEWIS. That might be bought?

Mr. PUTERBAUGH. Yes, sir.

Mr. LEWIS. And if there was a program of leasing without any minimum tonnage requirements would it not be possible for a person to go in there and buy acreage and operate that and hold the Indian lands then as a sort of stand-by, without having to put any money out, if these amendments are put in this bill as now proposed? That would be possible, would it not, Mr. Puterbaugh?

Mr. PUTERBAUGH. Yes; that would be possible.

Mr. LEWIS. And quite probable, would it not?

Mr. PUTERBAUGH. No; I know we had not contemplated that. You have to pay substantial minimum royalties.

Mr. LEWIS. But the amendment that is now proposed for the bill does away with minimum requirements; you understand that?

Mr. PUTERBAUGH. No; I do not understand that.

Mr. LEWIS. Oh. Well, I am sorry then.

Mr. PUTERBAUGH. No. I think that it leaves it to the discretion of the Secretary of the Interior, as I understand, to establish reasonable minimums.

Do you so understand, Mr. Zimmerman?

Mr. ZIMMERMAN. The proposed amendment would leave the matter subject so regulation by the Secretary.

Mr. PUTERBAUGH. Yes, sir. Well, I assumed he would always establish a reasonable minimum royalty.

Mr. ZIMMERMAN. I think that is a reasonable assumption.

Mr. PUTERBAUGH. Yes.

Mr. ZIMMERMAN. I would not speak for the Secretary, but I am confident that that would be a requirement.

Mr. LEWIS. But at least the minimum requirements that are now in the bill will be taken out if the Secretary's amendments are adopted.

Mr. PUTERBAUGH. Yes, sir.

In regard to the leasing I wish to say this, Mr. Chairman, while that is not the purpose of my visit here: That, if the bill is passed to restore authority to the Secretary to lease, it ought to be a real leasing bill. They have been going at the subject for a great many years now piecemeal, with little short-term periods that grow shorter each year, and it encourages these permits and these little short leases, and I think that the Secretary and the Office of Indian Affairs can be depended upon to protect the Indians' rights; but my idea is that a coal lease, should be like an oil and gas lease. If you drill an oil well on a piece of land the lease is good as long as you are recovering oil in commercial quantities from that land, and it might be a hundred years; and if we would block out 3,000 acres of coal land and put an expensive shaft down the middle of it and begin to develop slowly out toward the boundaries of that land, and sell all the coal we can or use all the coal we can, we ought to be privileged to continue there until we have worked out the total acreage, if it is 50 or 75 or a hundred years.

The CHAIRMAN. Well, the amendments suggested authorize a lease to be made until 1967?

Mr. PUTERBAUGH. Yes, sir.

The CHAIRMAN. Well, that is 25 years hence.

Mr. PUTERBAUGH. I think that is entirely too short a period, because that is 25 years from now, and in 5 years it will be 20 years, and in 10 years it will be 15 years, and it is an illogical way to pass the law.

And I will say this to you too: that I do not agree with the gentlemen, I notice in this record, who state that the leasing of these lands for a longer period will lessen their sale value if ultimately they are purchased by the Government. I do not think that that is correct. I think that these lands ought to be leased, if they are leased at all, along reasonable lines for indefinite periods, giving each lessee the chance to recover the coal that he spends his money to develop.

The CHAIRMAN. Mr. Zimmerman, at this point what are the provisions of the existing leasing law? How long may leases be made for under existing law?

Mr. ZIMMERMAN. It is my understanding that the authority for leases expires in 1947.

The CHAIRMAN. Well, what is the policy of the Department in the event a lease should expire, if it has any policy?

Mr. ZIMMERMAN. We have no authority to lease beyond that period, beyond that date.

The CHAIRMAN. When that time comes it will take legislation, then, to enable the Secretary, acting for the Indians, to do anything about these lands; is that correct?

Mr. ZIMMERMAN. Of course, that is one reason that the bill is now before you; the Department wanted to correct that situation.

The CHAIRMAN. Mr. Smith, have you any suggestion to make for the record relative to the advisability or nonadvisability of enactment of the amended leasing bill for the Chickasaw and Choctaw coal land?

STATEMENT OF H. I. SMITH, CHIEF, MINING DIVISION, GEOLOGICAL SURVEY

Mr. SMITH. Mr. Chairman, I think it is very desirable, particularly, to leave it to the discretion of the Secretary as to the minimum production requirement. As it is, by act you have the same minimum production for a 40-acre tract that you have for a 960-acre tract, which is rather a matter which should be in the discretion of the Secretary.

Mr. LEWIS. In point of tonnage?

Mr. SMITH. Yes. I agree with Mr. Puterbaugh that the lease should be granted for an indefinite period, the same as it is for public lands, under the act of February 25, 1920.

The CHAIRMAN. Now, on that point what would you say to this proposition: further amend this bill to provide that at the expiration of any term lease the lessee upon his application would be entitled to a preference right to a further lease under such rules and regulations as might be prescribed by the Secretary of the Interior?

Mr. SMITH. I think that would be in the interest of conservation. Otherwise, if he is not going to get a preference right to a lease, why, he is going to mine out cheap coal regardless of the value of the property.

The CHAIRMAN. I can see that in order to get the value if there is any demand for coal he would mine the thickest vein and the most shallow vein and the most valuable grade of coal and probably leave the balance of the ground where the coal could not be recovered later on.

Senator MILLIKIN. Are not the mining plans subject to approval?

Mr. SMITH. Yes; but if the fellow's lease is going to expire you cannot require him to leave the mine there in the condition to go ahead and operate.

Senator MILLIKIN. I do not see why not. I mean it is common mining practice that the lessee shall submit his mining plans to the lessor and have an approval of them.

Mr. SMITH. Yes.

Senator MILLIKIN. And by that tactic you protect against the thing that we are talking about.

The CHAIRMAN. That could be kept by rules and regulations.

Senator MILLIKIN. Why, certainly.

The CHAIRMAN. I would like to have the reaction of Mr. Puterbaugh to my suggestion as to the preference right feature in the law.

Mr. PUTERBAUGH. I agree with Mr. Smith's answer to your question, Senator. This mining business is not a small business; it is a serious business, and it costs a great deal of money each year to

project your tunnels underground; and if you limit a man's lease to 25 years he is going to make his plans on the theory that the terms after that may be disadvantageous and he may want to stop, and much more coal might be developed and recovered from that land if the lease were for 50 years.

The capacity of your equipment and the amount of investment that you make must all be based upon the number of tons that you ultimately will recover with that equipment, and the arrangements you make with the railroads for trackage, and I see no good reason for restricting the period, because I have maps in my brief case there that I can spread out here that will show you where dozens of mines that were operated under leases are now idle and full of water and a menace to the coal that surrounds them.

The theory that Congress should keep its fingers on this coal from decade to decade and make up its mind again and again what it ought to do is all wrong. This matter ought to be administered on a long-time program, because coal is a resource that cannot be replaced, and it ought not to be trifled with. It ought not to be mined in such a way that only a third of it will ultimately be recovered.

I have no selfish interest in these suggestions at all. I am volunteering them simply as one who has lived there and who has operated coal mines and as one who is privileged to speak out about these things in the interests of the country and the Southwest and the Indians. I think that the Secretary of the Interior can well be trusted to see that the leases protect the Government or the Indian tribes, whichever is the owner; and I think that even if leasing is done instead of purchasing the lands by the Government the welfare of the Indians is also conserved and the lands made more valuable by long-time leases that will encourage good mining, instead of short-time leases that will discourage good mining practice.

The CHAIRMAN. Mr. Smith, have you an additional suggestion to make with regard to the bill before us and the amendments?

Mr. SMITH. In the bill with governing public lands, they have a provision for adjustment of the term at the end of each 20-year period, so that if you do give a lease today it does not mean to go on for a hundred years without any chance of adjustment.

The CHAIRMAN. Well, would you recommend that the bill be further amended to incorporate the provision in the Public Lands Act or some similar provisions?

Mr. SMITH. Yes; I would. I would recommend that it follow, as far as the matter is appropriate, the 1920 Public Lands Leasing Act.

The CHAIRMAN. That would be taken care of to a very large extent—

Mr. SMITH (interposing). I beg your pardon?

The CHAIRMAN. By the suggestion made by Mr. Puterbaugh, that this lease is really too short, a period of 25 years. If the law should be amended to provide for an indefinite extension under rules and regulations or under a general provision of the law, that to a large extent would take care of your suggestion.

Mr. PUTERBAUGH. I see no reason why the Government should not treat these lands the same as it treats its own lands, Senator. If that is the logical lease for the Federal lands it ought to be the logical lease for the Indian lands.

The CHAIRMAN. Is that the usual provision that public lands are leased under?

Mr. SMITH. Some of the first leases are now being renewed.

The CHAIRMAN. Are they operating satisfactorily under that provision?

Mr. SMITH. Yes, sir.

The CHAIRMAN. Mr. Zimmerman, what is your reaction to the suggestion made by Mr. Smith? Does that seem to be reasonable?

Mr. ZIMMERMAN. That seems a very reasonable suggestion. I see no objection.

The CHAIRMAN. Now I would like to hear from the representatives of the tribes direct. Mr. Stigler?

Mr. PUTERBAUGH. Mr. Chairman, while Mr. Smith is testifying I would like to ask him, as representative of the Geological Survey and in touch with these coal matters, if he can confirm the statements that I have made in regard to the decline of the coal business in Oklahoma, and as to the statement that I have made that the coal values have not increased but have decreased since 1925.

The CHAIRMAN. It occurs to me that that is pretty much a matter of administration and a matter to be dealt with between any prospective lessee or purchaser and the manager of these lands on behalf of the Indians.

Mr. PUTERBAUGH. Well, that may be true.

The CHAIRMAN. I think that would go to that point, and we would not be, probably, qualified to pass upon the value of coal lands. Speaking for myself, that is wholly true.

Mr. PUTERBAUGH. Yes, sir. All right. I withdraw the question.

Senator LANGER. Mr. Chairman, the thing that is bothering me about this whole thing is the question Senator Chavez raised the last time we met. As I recollect it, the Senator brought out the fact that there are 7,600 or more Indians who own this property.

The CHAIRMAN. No; that is not correct. There are that many in one tribe and about 40,000 in the other, and they generally own the property.

Senator CHAVEZ. Yes.

Senator LANGER. Yes. Well, close to 40,000.

The CHAIRMAN. Sixty thousand.

Senator LANGER. Fifty thousand.

The CHAIRMAN. Sixty thousand would be a more accurate estimate of the two tribes.

Senator LANGER. My recollection is that the United States Government made an agreement years ago whereby they practically guaranteed to these Indians that they would sell that property in 3 years; is that right?

Senator CHAVEZ. I think we had testimony to that effect.

Mr. LEWIS. That is correct.

Senator LANGER. I would like to know more about that agreement and why it was not kept. If you are going to make a lease here now of 40 or 50 years, why, that is going to abandon that agreement forever, apparently, and with these Indians propagating the way they are you are never going—

The CHAIRMAN (interposing). I might suggest that if we go into the matter of investigation of unkept promises to the Indians we shall be here a long time. It is just one of those things; they are all unkept,

apparently. Obviously they are. There are so many of them that it seems that is the rule.

Senator LANGER. Should not the Government keep its promise, Senator?

The CHAIRMAN. Well, that is not debatable. It should, of course, but then it hasn't, it isn't, and it won't.

Senator CHAVEZ. Not even treaty obligations. Besides promises, not even treaty obligations are kept.

Mr. ZIMMERMAN. Well, Mr. Chairman, this was a treaty obligation.

Senator CHAVEZ. For instance, the Navajos had a treaty with Uncle Sam that they were to have certain rights, and are being ignored completely.

Senator McFARLAND. Mr. Chairman, do you not think, though, that we ought to hear from these representatives of the tribes?

The CHAIRMAN. Yes. I think we can debate this among ourselves.

Mr. Stigler, do you wish to make any presentation on behalf of the tribes, or shall we call on Governor Maytubby or your chief, sir?

Mr. STIGLER. We have Mr. Durant, chief of the Choctaw Nation, and if any statement is to be made I would prefer that he make it.

The CHAIRMAN. Mr. Durant, would you take the place right in front of the reporter and make any additional statement you care to as to developments that have taken place since you were here about a month ago? What the committee wants to know, Mr. Durant, is the attitude of the Indians that you represent toward this bill and the amendments that have been suggested since you were here recently.

STATEMENT OF WILLIAM A. DURANT, PRINCIPAL CHIEF OF THE CHOCTAW NATION—Resumed

Mr. DURANT. Well, of course I have had a meeting and a conference with Mr. Maytubby since I was here, and he is governor of the Chickasaws, and of course I am chief of the Choctaws, and we came to the conclusion that if they were going to sell these lands we could not afford, in justice to the Choctaw Indians and the Chickasaw Indians, to sell at any less than twice the appraised value of the 1918 appraisement.

Senator McFARLAND. Of which appraisement?

Mr. DURANT. The 1918 appraisement, twice the value.

Senator McFARLAND. Oh.

Mr. DURANT. If you go and set aside 3,000 acres, like Mr. Puterbaugh is wanting to buy, and he buys that, and you go and sell it at a price under the 1925 appraisement—in other words, at the depressed price of coal today—it is wrong.

There is not a businessman here on this committee who is going to sell his property under the strain of a depressed condition. He will not do it, as a matter of business; and it is not a matter of justice to these Indians or a matter of justice to us, representing them, to force us to sell that property at less than its real value and sell it at a time when depressed conditions exist. Now, that is our attitude as to the sale.

The CHAIRMAN. You have had a meeting down there recently, I understand. Can you express the viewpoint of those you represent as to the advisability of the enactment of this proposed legislation?

Mr. DURANT. No. I have not had a meeting with my advisory council since you have the resolution of what they expressed themselves on here.

The CHAIRMAN. You have read these suggested amendments, have you not?

Mr. DURANT. Yes, sir. Now, when it comes to leasing and the amendment made by the Government, by the Secretary of the Interior, that we should give the lessee a longer period of time, I think a rule ought to apply sort of like that under which we handle oil and gas, but we should make him pay on that lease every year a certain amount of money.

If you carry out the policy of my friend Mr. Puterbaugh over there, he can get a monopoly on that thing for a hundred years and never pay us a cent, and that is not right, and that is what the Government does not want, and that is what the Indians do not want. If you make a lease, fix it so that the lessee has to pay so much each year, a reasonable amount, and give him all the time necessary. I do not object to making it a hundred years if you want to—I think that is too long—but let him pay a reasonable amount, not give anybody a monopoly on that coal so that they can sit there and hold it and so that they let nobody else under any conditions get control of it. Now, that is wrong. That is not good business and not good business sense.

But I believe in protecting them. If they put in improvements and go ahead, we can word that lease so that they can pay annually and pay so much and develop that thing. If there is no market for it, let them carry it along and pay, not give them a monopoly on it.

Now, that is why I think the suggestion made by the Secretary of the Interior—we might change the terms of that bill, and I think there is a resolution here suggested by the Choctaws and Chickasaws to that effect, and give them some additional time on those things but not cut them loose. Let the Secretary of the Interior make those regulations, and let them pay a certain amount each month or each year. If they operate it, let them pay something, not just get there and hold a long-time lease for a hundred years and pay nothing. That is not right, and it is not the right way to do it.

Mr. PUTERBAUGH. You misunderstood me, and you misquoted me. I did not advocate that. I think there should be a minimum every year, and you entirely misunderstood me.

Mr. DURANT. I may have misunderstood you there.

Mr. PUTERBAUGH. Yes; I quite agree with you on that.

Mr. DURANT. I have not any objections to giving them more time, but I want them to pay so much each year on it.

Mr. PUTERBAUGH. That is right, surely. You are right.

Mr. DURANT. And I would like for the Secretary of the Interior to fix those rules regulating the mining very strict and require them to give a bond, which we have been making them do, and make them live up to that thing.

I will tell you what they have been inclined to do in the past: They would just mine what mines they could operate profitably and what they could make money out of, and when they found they could not make money out of it, they neglected it and left the coal in there and let it ruin.

Now, that is what a lot of these coal miners have done. That is why I insisted the royalty be raised from 8 cents to 10 cents, because what we term legitimate lessees and miners had not done that. In order to make their money, they made it at the loss to the Indians and the owners of that land, and did not mine properly, and that is one of the troubles, and that thing has got to be guarded by the Secretary of the Interior very carefully, and this law should be worded in such a way—if you want to give them more time I do not object to it, but let him make his rules and regulations so they will hold those companies right to what is right and wrong. In my experience in business matters and legislation, I have found that you either have to have the law or rule that will make them do it or they will not do it.

Senator CHAVEZ. Well, Governor, does the amendment suggested by the Secretary of the Interior do those things, in your opinion?

Mr. DURANT. Well, according to my understanding, the way it was written, it did. I have not read it, the last one that was prepared by Mr. Zimmerman; I do not remember just the exact wording of it, but I presume that it was written in such form as to do that.

You have to examine these laws pretty carefully, and sometimes you have to have a lawyer to do the examination, because the lawyer on the other side will find a loophole through which to get out of it. And I have reason for making that statement. I served in the legislature with Senator Thomas in Oklahoma, and we used to try to make these moneyed men, big corporations, pay their taxes in the State, and we had the hardest time on God's earth ever making them pay their taxes. They would fix a little loophole in there whereby they got out of it and made the common man who could not hire a lawyer pay through the nose.

That is the history of Oklahoma, and the big fellows have been getting out of paying their taxes, and that is why we have a sentiment like we have in that State and in this Nation, just on that very account. That is what they have done, and that is why we have to guard these things very carefully.

I am willing to trust the present Secretary; the present Commissioner in fact. Some of them we have had I would not trust, and if we are allowed to get another I would rather have a pretty ironclad law sometimes to surround them. You have to be awfully careful with them.

I have had some bitter experience with this stuff. I went through the history of this coal business for a number of years and watched it, and I like to be liberal with the lessees and the businessmen, but I want to fix it so we can make them do what is right, and I think the thing for you gentlemen to do is to pass this lease bill. It will please us. And if you do that, put those regulations in there so that the Secretary of the Interior can take care of the lessee and at the same time control it.

My friend, Mr. Puterbaugh, referred to some of these little mines, those permits. Mining permits were granted for the sole purpose of preventing people from stealing that coal. They were used for no other purpose except to protect them and protect the legitimate coal lessee. That is what we used, and had to do it, to correct that evil. So I think that the proper amendment probably has been prepared by the gentlemen of the Department that will protect us on those things.

The CHAIRMAN. We thank you, Chief Durant.

**STATEMENT OF FLOYD E. MAYTUBBY, GOVERNOR, CHICKASAW
TRIBE OF INDIANS—RESUMED**

The CHAIRMAN. Governor Maytubby, have you any suggestions to make in addition to those already made?

Mr. MAYTUBBY. I have none, Mr. Chairman, except that I would favor any amendment to this bill that would be good business on the part of the Chickasaw and Choctaw Nations. A lot of discussion has been in regard to the selling of coal land instead of leasing; we already have legislation passed giving the Secretary of the Interior authority to sell the coal, but we have no authority to lease additional virgin coal lands, and I favor this amendment.

I believe the leases on coal lands should be controlled the same as the oil lease business, and make these leases long enough, so long as it is profitable. I believe coal can be mined more properly on longer leases. The selling of lands in piecemeal tracts on low appraisal would not be good business on the part of the Chickasaw and Choctaw Nations.

When I was growing up down home, a lot of times we did not have enough money to buy a ton of coal; we had to buy it in a scuttleful; that meant that we had to pay 15 to 20 cents a scuttleful, which amounted to several times the original cost per ton, and if we are going to sell the coal in scuttlefuls, we should have scuttle prices. This is all that I care to say.

**STATEMENT OF THOMAS A. HENDRICKS, COAL EXPERT, UNITED
STATES GEOLOGICAL SURVEY**

The CHAIRMAN. Mr. Hendricks, have you any further suggestion to make in addition to what Mr. Smith said?

Mr. HENDRICKS. As regards the amendment?

The CHAIRMAN. Yes, and the advisability of this legislation.

Mr. HENDRICKS. As regards the advisability of providing for leasing, I think it is advisable.

In the first place, there are items of economics that come into it. The net income, total income from your lands on a lease basis, is materially higher than the income would be on a sale basis, because the person acquiring the property by sale immediately assumes certain obligations. He has the interest on his investment, which becomes a material part of his carrying charges. He has taxes as soon as he starts operation, which also become a material part of his carrying charges on the property. As a lessee he is independent of those charges. Now, those lands held as they are now I believe are not subject to taxation; so that, while that would be an important item to a prospective purchaser, it is not an important item to the Indians.

Now, because of the interest on his investment and the amount of taxes that a prospective buyer would have to face, the price that he could pay for those lands economically would not be nearly as great as the total amount that would be paid out in royalty if all the coal were mined on a lease basis. That is normal practice. As a matter of fact, the income from royalty normally is some 10 times greater than the price that could ever hope to be realized by sale, just because of those items, because the amortization charges and taxes over a period of years increase the sale price many times. The length of the

period, of course, would be an important factor in that, and the interest rate and the tax rate would also be important factors, but how to evaluate those I would not say.

As regards the length of term of the leases, I definitely feel that an ultimate time limit on all leases, such as the year 1967, is not a feasible method of approach, because, while you might have some leases taken now 25 years ahead of you, the number of leases that would be taken 15 years from now, with only 10 years' life of that lease ahead, would be lower. An operator would not be likely to undertake operation on a large property with only a 10-year lease period ahead of him, with uncertain, unknown factors as to what is going to happen after the 10-year period has expired. So I rather feel that a provision for long term of the lease is a desirable provision.

My feeling also would be that a definite minimum royalty rate of some type should be established. Now, whether that is left to the discretion of the Secretary of the Interior or whether it is put into the bill is a question that I simply would not know about. There are undesirable factors each way.

We have a Secretary of the Interior now, but who will be the next Secretary of the Interior? And so on. How will it be administered by him? We do not know.

And then on the other side of that, suppose that a rigid rate of minimum royalty is put in the bill now. Economic conditions change in a 10-year or 20-year period. That introduces an uncertainty that balances on the other side. So, as regards that, I have no specific opinion as to which is preferable.

Now I think that covers most of the points.

The CHAIRMAN. We thank you, Mr. Hendricks and Mr. Smith, for coming down before us and giving us your suggestions.

Senator MILLIKIN. Mr. Chairman, I should like to ask a question: Is there such a thing as a sliding-scale lease in coal mining?

Mr. HENDRICKS. Oh, yes; they are used in some places. You mean a royalty rate for a certain size operation?

Senator MILLIKIN. For a size operation or for value of product.

Mr. HENDRICKS. Yes, such leases I believe have been used. Now, sliding-scale royalty rates might be used on the basis of total tonnage of coal mined; that is, a higher royalty rate for smaller tonnages of coal and a lower rate for larger tonnages of coal.

Senator MILLIKIN. In the nature of a lease stimulant?

Mr. HENDRICKS. That is right.

May I say one additional thing?

Senator MILLIKIN. Certainly.

Mr. HENDRICKS. As regards this leasing; another thing, another factor that is in favor of leasing in general, the provision for leasing, is this: That certain operators do not have the capital necessary to make a purchase of a large tract of coal, whereas they do have perhaps arrangement for a satisfactory market that will give them an income that will permit them to lease and carry on royalty payments and thus operate under a lease arrangement on a property that they could not afford to buy with an initial capital outlay of a considerable amount of money. So that your potential group of operators might be expanded to a certain degree by providing for leasing and thus reducing the

initial capital outlay on certain of the properties. Now, to what degree that might work I do not know, but I think it would be a factor.

Mr. Puterbaugh, would you not agree with that, that certain perfectly legitimate operators would not be in a position to supply the purchase price of a tract who might legitimately operate on lease, a well-organized operation, simply because of the difference in initial capital outlay?

Mr. PUTERBAUGH. I think that is entirely correct, Mr. Chairman.

Mr. Chairman, I should like to make this statement. Some of this coal is very thin. It is in the twilight zone. Some of it is worth more than others in royalty or in purchase price. I think that any bill should give the Secretary, in his discretion, authority to accept as small as 8 cents a ton royalty. That was the royalty for all the years when the returns were large. I am not an applicant for any lease at this time, and I have no selfish interest in this matter, but as one who is in the coal mining business I am glad to give the Governor and the chief of the tribes and Mr. Zimmerman my advice as to what I think should be done, just as a helpful proposition.

The CHAIRMAN. We are glad to have the additional suggestion, Mr. Puterbaugh, and I think this arrangement that I have suggested if it is agreeable to the committee, will get this bill in the best shape possible for immediate action, and if we can get it agreed to and reported to the Senate we can get it through the Senate very quickly and get action on it in the House very quickly. If there is no objection to that procedure you will all be given a chance to see the bill before it is reported to the Senate. In fact, I want you to approve it by signing your names on the bill, in the form of what we call canvassing the committee, I believe. We have had the hearings, but inasmuch as the bill might be changed a little bit yet I still would like to have the members who have been here during the hearings look it over so that you will be satisfied. There might be something develop that you would not understand, in which event it will be held up until you are satisfied. So inasmuch as I must go, unless there is something that just has to be said, the hearings will be closed.

Mr. ZIMMERMAN. Mr. Chairman, may I just have the committee's permission to give the committee the Secretary's reply to the letter which Mr. Puterbaugh read into the record? It is not really germane to the bill, but inasmuch as all this is in the record I think the entire correspondence should be in.

Mr. PUTERBAUGH. The reply of the Secretary of the Interior to me?

Mr. ZIMMERMAN. Yes.

Mr. PUTERBAUGH. I have received no reply.

Mr. ZIMMERMAN. No; but I have reason to believe that you will have a reply in a day or two.

The CHAIRMAN. That will be entirely agreeable, without objection, the reply of the Secretary of the Interior to Mr. Puterbaugh's letter of February 23 which was read into the record will be inserted at the proper place.

Mr. ZIMMERMAN. I just want to do that.

The CHAIRMAN. We thank you, gentlemen, for your appearance here and assistance in working out this thing.

(The following letters are made a part of the record:)

W. E. MCGOWAN REAL ESTATE CO.,
McAlester, Okla., February 28, 1942.

Mr. ELMER THOMAS,
United States Senator from Oklahoma,
Chairman of the Committee of Indian Affairs,
Washington, D. C.

DEAR SENATOR: Being a citizen of the old Choctaw Nation myself, and my wife an enrolled Choctaw by blood, I urge you to support the sale of the coal land belonging to the Choctaw Nation to J. G. Puterbaugh of our city.

The first reason is that the price seems reasonable and it would give help financially to the Indians that are living that are needing the money so badly.

The next is that it would give employment to many Work Projects Administration workers and other miners who need the work so badly and it would mean so much to the business interest in this part of the State and we believe it would be far better than having any other Government project in our county.

I have talked to many of the leading Indians and others, too, and I have yet been unable to find one person who thinks carefully but what is for it and I again assure you that I should be delighted to know that you are making every effort toward this end. During this crucial time it means lots to this part of Oklahoma which so badly needs something to relieve the distressive condition that we are now in, as well as helping the Indians from funds that are derived from the sale.

Very sincerely your friend,

W. E. MCGOWAN.

McALESTER, OKLA., February 28, 1942.

Senator ELMER THOMAS,
Washington, D. C.

DEAR SENATOR: It is my information that the Indian Committee of the Senate, of which you are chairman, is to be held on Tuesday next, at which time will be considered disposition of the coal and asphalt lands belonging to the Choctaw and Chickasaw Tribes.

As a member of the Choctaws I believe I bespeak their sentiments when I say they much prefer an outright sale. The leasing would prolong the financial aid that many of them need badly and the status would continue to be much as it is now. Since practically all other affairs of these Indians has been settled it would seem advisable to conclude them entirely as quickly as possible. A great many of these Indians are of the opinion they have funds in Washington and the authorities refuse to make a payment. It is difficult to convince them otherwise.

If they were sold they would then understand the settlement was final and whatever they received then would be all they could ever look for.

The older generation is in distress and even the small amount they would realize from sale would be a help. The younger ones are gradually assimilating with the whites and will soon be able to cope with them in making a living. I feel also that the longer the final settlement is delayed the more unsatisfactory it will be. The oil and gas has practically superceded coal as a fuel and unless something new in the way of by-products is evolved the coal will become of no value whatever.

The McAlester seam has produced a high quality of coke heretofore and with a market for this commodity the value of our deposits may materially advance.

In the early eighties there were coke evons at Krebs, Alderson, and Howe but the demand dwindled when discoveries of coal were made in northern Mexico, where most of the output was sold.

In my opinion, the Choctaws and Chickasaws would be better served by an outright sale of the coal and asphalt.

Assured that your own good judgment in the premises will work out a satisfactory solution, and with my kindest personal regards I am,

Yours very truly,

W. E. HAILEY.

ATOKA, OKLA., February 28, 1942.

HON. ELMER THOMAS,
Senator from Oklahoma,
Committee on Indian Affairs,
Washington, D. C.

DEAR SENATOR: It is my information that a bill providing for either the sale or leasing certain coal lands belonging to the Choctaw Indians in Oklahoma, will come up for hearing on March 2, 1942, in Congress, and it is my further information that the coal in question if a sale thereof, or the leasing of the same is permitted by the passage of the bill, will be used to operate a steel mill in the State of Texas, which of course is necessary in our all-out war production.

I have heretofore objected to a sale of said coal, or the leasing of said lands for the same purposes unless we (Choctaws) were assured of how expenditures of the proceeds of said sale were to be made, that is whether the funds would be used or spent on the immediate behalf of the Choctaws, those who are in destitute and in need of any and all moneys which rightfully belong to them, but since said coal as I understand it, will be used in connection with production of war material, I cannot and I don't believe any of the members of the Choctaw Tribe will resist the bill. It appears further that sufficient coal must be had from some of the surrounding states of Texas, and I would rather the same be furnished by Oklahoma.

Sincerely,

GILBERT W. DANAY.

SOUTHERN ICE CO., INC.
McAlester, Okla., February 28, 1942.

HON. ELMER THOMAS,
Chairman of Committee on Indian Affairs,
Washington, D. C.

DEAR SENATOR: I understand that steel mill located in Texas, has option to use either Oklahoma, or Alabama coal for coking purposes;

Also that it is necessary that certain Indian lands in Pittsburg County, Okla., be sold, that mines can be opened up whereby Oklahoma coal can be made available for this mill.

Pittsburg County with a population of near 48,000 and at one time with over 50 percent of them drawing relief, this would greatly relieve this relief load in this section, I also understand that certain officials of the Indian tribe are against the selling of these Indian lands (opinion of the individual Indian) is that these officials are only wanting to make sure that there will be sufficient moneys in their treasury to pay their salaries, regardless if the individual Indian receives any compensation from the so-called leases.

These Indians want these lands sold and money allotted to them, Pittsburg County, and Oklahoma needs this industry, this coal will go directly into defense plants.

I am sure that you personally realize what it will mean to this county, if these mines can again be put into operation.

I assure you that the general opinion of the Indian, also the citizens of this county, is that for the betterment of the aging Indian, these lands should be sold and these mines allowed to operate.

I beg you as our Senator, to give this personal consideration, and act according to your own good judgement.

Sincerely yours,

F. F. McCORMACK,
Manager for Southern Ice Co., Inc., McAlester, Okla.

MCALISTER DEMOCRAT,
McAlester, Okla., February 28, 1942.

HON. ELMER THOMAS,
Chairman, Indian Affairs Committee,
United States Senate, Washington, D. C.

DEAR SENATOR THOMAS: It has come to my attention whereby a part of the segregated coal lands belonging to the Choctaws and Chickasaws could be sold for the purpose of development and at the same time the product be profitably used for coke in the manufacture of defense material.

The development of this part of the segregated coal would materially aid the employment of a particular kind of skilled labor now unemployed and almost wholly unemployable in any other kind of labor. That employment in this locality would mean much to this county.

As a member of the Choctaw Tribe, it is my belief that this opportunity to sell a part of the segregated lands for aid in defense production, provided the purchase price is fair, should receive consideration. For a number of years, these coal acres have had no prospective purchaser and time after time there have come expressions from gatherings of tribesmen for a sale. Now, if the price is fair, this seems an opportunity that should not be passed up.

I want to register my conviction on this matter and am willing to leave it to those who will negotiate the sale to drive a satisfactory bargain.

Cordially,

HIRAM IMPSON.

OFFICE OF COURT CLERK, ATOKA COUNTY,
Atoka, Okla., February 28, 1942.

HON. ELMER THOMAS,
United States Senator,
Washington, D. C.

DEAR SENATOR THOMAS: I understand there is a proposition coming up before the Senate Monday or Tuesday affecting the proposed sale of a part or all of the coal lands of the Choctaws and Chickasaws. I am heartily in favor of selling any part of these lands that may be sold, and would be in favor of selling all of them if possible. I think it would be a good thing for all the members of the two tribes.

Another way I think the sale of these coal lands would help this locality especially and also the whole State of Oklahoma would be on account of the Government project in Texas for a steel mill might use this coal from Oklahoma if same is available.

I am a member of the Choctaw Tribe of Indians, and am, of course, interested in the welfare of the whole tribe.

Yours very truly,

A. R. TELLE,
300 West Court Street, Atoka, Okla.

H. P. WATKINS INSURANCE AGENCY,
Atoka, Okla., February 28, 1942.

HON. ELMER THOMAS,
United States Senator,
Washington, D. C.

DEAR MR. THOMAS: I am informed that certain coal lands owned by Indians in southeastern Oklahoma will be sold early next week. In my opinion this will be beneficial to both the Indians and to business in this section of the State and as a committee on Indian Affairs I urge you to use your influence in seeing that coal is sold.

Yours very truly,

H. P. WATKINS, Atoka, Okla.

The CHAIRMAN. That will be all, gentlemen.
(Whereupon, at 11:55 a. m., the hearing was concluded.)

At the suggestion of the chairman and the members of the committee present, the chief of the Choctaws, the governor of the Chickasaws and their attorney, the officials and representatives of the Bureau of Indian Affairs, and the representatives of the Geological Survey met immediately after the close of the hearing for the purpose of ascertaining if an agreement could not be reached whereby the provisions of the bill be modified so as to meet with the approval of the said Indian tribes and the Department. After a prolonged discussion

between said representatives the following text of a bill was recommended as a substitute for the pending bill:

That the Secretary of the Interior be, and he hereby is, authorized to lease any of the unsold segregated coal deposits of the Choctaw and Chickasaw Nations in Oklahoma under such rules and regulations as he may prescribe. Leases shall be for indeterminate periods upon condition of diligent development and continued operation of the mine or mines, except when such operation shall be interrupted by strikes, the elements, or casualties not attributable to the lessee, and upon further condition that at the end of each twenty-year period succeeding the date of approval of the lease such readjustment of terms and conditions may be made as the Secretary of the Interior may determine, unless otherwise provided by law at the time of the expiration of such periods: *Provided*, That the Secretary of the Interior may permit suspension of operation under a lease for not to exceed one year at any one time when market conditions are such that the lease cannot be operated except at a loss.

SEC. 2. The rate of royalty in coal leases made under this Act shall not be less than eight cents per ton on all coal mined, including what is commonly known as slack: *Provided*, That the Secretary of the Interior is hereby authorized to prescribe minimum annual tonnage requirements and advance annual rental payments for each lease. If the minimum annual tonnage specified in a lease is not mined, the lessee shall pay royalty thereon the same as if the coal had been actually mined. The advance rental paid for any year shall be credited on the royalty becoming due on coal mined during the year for which the said advance rental has been paid but shall not be credited on royalty on coal mined in any previous or subsequent year.

SEC. 3. Any Act, or Acts, or parts of Acts, in conflict herewith, are hereby repealed.

(Subsequently the committee accepted the recommendation of the said representatives of the Indian tribes and the Department and submitted its report to the Senate (S. Rept. No. 1157), which reads as follows:)

[S. Rept. No. 1157, 77th Cong., 2d sess.]

The Committee on Indian Affairs, to whom was referred the bill (S. 1542) providing for the leasing of the undeveloped coal deposits of the Choctaw and Chickasaw Nations in Oklahoma, having had same under consideration, report thereon with the recommendation that it do pass with the following amendments:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That the Secretary of the Interior be, and he hereby is, authorized to lease any of the unsold segregated coal deposits of the Choctaw and Chickasaw Nations in Oklahoma under such rules and regulations as he may prescribe. Leases shall be for indeterminate periods upon condition of diligent development and continued operation of the mine or mines, except when such operation shall be interrupted by strikes, the elements, or casualties not attributable to the lessee, and upon further condition that at the end of each twenty-year period succeeding the date of approval of the lease such readjustment of terms and conditions may be made as the Secretary of the Interior may determine, unless otherwise provided by law at the time of the expiration of such periods: *Provided*, That the Secretary of the Interior may permit suspension of operation under a lease for not to exceed one year at any one time when market conditions are such that the lease cannot be operated except at a loss.

"SEC. 2. The rate of royalty in coal leases made under this Act shall not be less than eight cents per ton on all coal mined, including what is commonly known as slack: *Provided*, That the Secretary of the Interior is hereby authorized to prescribe minimum annual tonnage requirements and advance annual rental payments for each lease. If the minimum annual tonnage specified in a lease is not mined, the lessee shall pay royalty thereon the same as if the coal had been actually mined. The advance rental paid for any year shall be credited on the royalty becoming due on coal mined during the year for which the said advance rental has been paid but shall not be credited on royalty on coal mined in any previous or subsequent year.

"SEC. 3. Any Act, or Acts, or parts of Acts, in conflict herewith, are hereby repealed."

After receipt of this bill (S. 1542) by your committee it was referred to the Secretary of the Interior for consideration and report; thereafter, under date of

July 14, 1941, he submitted his report, recommending certain amendments, and again under date of March 2, 1942, the Secretary of the Interior submitted a supplemental report recommending that the bill be further amended.

There is now no authority for the leasing of undeveloped tracts of coal lands, except that granted by the act of June 26, 1934 (48 Stat. 1240), and the act of April 21, 1932 (47 Stat. 88), which authorizes the leasing of small undeveloped tracts where they adjoin developed tracts and are needed by the operator in further developing an existing mine.

The surface lands have heretofore been sold and disposed of, but the coal and asphalt deposits under a considerable area are reserved to the Indians, to be disposed of and the proceeds from the sale and leasing of such deposits be paid to the tribes. However, there has not been any great demand for coal in recent years and consequently the Indians have received practically no income, or a very small amount from the leasing or sale of such deposits.

Under the terms of the agreement of March 21, 1902, ratified July 1, 1902 (32 Stat. 641), between the United States and the Indians, the Government agreed to sell the coal and asphalt deposits at public auction within 2 years and pay to the Indians, per capita, the proceeds, but so far no such sale has been made, except sales of a few small tracts. The Indians feel that the Government has failed to perform its obligation with respect to this agreement.

Your committee has conducted extensive hearings on this proposed legislation, and has had before it witnesses representing the Interior Department, including the officials of the Bureau of Indian Affairs and the Geological Survey, as well as experts, individual Indians, and officers and attorneys for the Indian tribes.

The text of the proposed amendment is a result of conferences between the officers and attorneys of the Choctaw and Chickasaw Nations, the officials and representatives of the Bureau of Indian Affairs and the Geological Survey.

This bill, as amended, if enacted, will grant authority to the Secretary of the Interior to lease any of the remaining coal deposits which cannot be leased under existing legislation, and will conform substantially to existing legislation pertaining to the leasing of oil and mineral deposits on public domain. The enactment of this bill, as amended, will not preclude the Indians from selling all or any part of the said segregated coal lands.

Copies of the said reports of the Secretary of the Interior, dated July 14, 1941, and March 2, 1942, are attached hereto and made a part of this report, as follows:

THE SECRETARY OF THE INTERIOR,
Washington, July 14, 1941.

HON. ELMER THOMAS,
Chairman, Committee on Indian Affairs,
United States Senate.

MY DEAR SENATOR THOMAS: Further reference is made to your request for a report on S. 1542, a bill to authorize the leasing of the undeveloped coal and asphalt deposits of the Choctaw and Chickasaw Nations of Oklahoma.

I recommend that S. 1542 be enacted, if amended as hereinafter suggested.

The act of April 21, 1932 (47 Stat. 88) authorizes the Secretary of the Interior to lease "any developed tract of unsold coal and asphalt deposits of the Choctaw and Chickasaw Nations." There is no authority for the leasing of undeveloped tracts of coal lands except that granted by the act of June 26, 1934 (48 Stat. 1240), and the act of April 21, 1932, supra. The former act authorizes the leasing of small undeveloped tracts where they adjoin developed tracts and are needed by the operator in further developing an existing mine. The latter act contains a provision which authorizes the Secretary of the Interior to add not to exceed 640 acres to any developed lease where it is shown that such addition is necessary for the successful operation of the lease. If enacted, S. 1542 will grant authority for the leasing of any of the remaining coal and asphalt deposits of the Choctaw and Chickasaw Nations which cannot be leased under existing law.

The coal and asphalt deposits underlying a considerable area belonging to the Choctaw and Chickasaw Indians were reserved to these tribes. The development of oil and gas in Oklahoma has resulted in a reduced demand for coal and a reduced income to the Indians from the lease and sale of coal deposits. The Indians are anxious not to miss any opportunity to dispose of any of these deposits. They have requested, and the mining trustee of the Choctaw and Chickasaw Nations has recommended, the enactment of legislation to authorize the leasing of the undeveloped deposits. The demand for leases on the tracts which would be affected by the proposed bill has increased slightly in the past few months and because of the present world conditions further increases are quite likely to occur.

For this reason, I feel that the request of the Indians for this legislation should be respected and therefore recommend that the legislation receive favorable consideration.

The last sentence of the first section provides that leases shall not be made under this act to extend beyond September 25, 1967. The act of April 21, 1932, authorizes leases to extend to September 25, 1947. In order that leases may be made for similar periods on developed and undeveloped tracts, it is recommended that the last sentence of section 1 be stricken and that the following be inserted:

"Leases executed in accordance with this authority shall not contain more than 960 acres. Leases made under this act and the act of April 21, 1932, may be made for any term of years, not to extend beyond September 25, 1967."

The Bureau of the Budget has advised me that there is no objection to the presentation of this report to the Congress.

Sincerely yours,

HAROLD L. ICKES,
Secretary of the Interior.

THE SECRETARY OF THE INTERIOR,
Washington, March 2, 1942.

HON. ELMER THOMAS,
*Chairman, Committee on Indian Affairs,
United States Senate.*

MY DEAR SENATOR THOMAS: Reference is made to S. 1542, a bill to authorize the leasing of the undeveloped coal and asphalt deposits of the Choctaw and Chickasaw Nations in Oklahoma.

Under date of February 2, the War Production Board advised this Department that it had approved a project which includes the construction of a blast furnace and coke ovens at Houston, Tex., and that it is planned to obtain the needed coal from the segregated Choctaw and Chickasaw coal deposits in Oklahoma. A rather large amount of coal will be required and the War Production Board requested this Department to expedite negotiations through which the coal will be made available. There appears a strong likelihood that it will be desired to lease rather than to purchase the coal.

My report of July 14, 1941, on S. 1542 states that there is now no authority for the leasing of undeveloped coal deposits. The enactment of this, or similar legislation, will be necessary before leases can be granted covering the coal deposits desired in connection with this project. Legislation of this nature has been pending for several years. (See S. 2617, 76th Cong.) At the time it was originally drafted there was little demand for leases on the coal deposits of the Choctaw and Chickasaw Tribes and no large mining enterprise was anticipated. A provision was placed in the proposed legislation limiting the leases to 960 acres and minimum tonnage requirements were based upon this acreage. In view of the approval of the above-mentioned project and the possibility that one or more similar projects may be approved in the near future, it appears advisable to change the proposed legislation to provide for leases embracing larger areas. In order to accomplish this, the last sentence in section 1 of the bill should be stricken and the following should be inserted:

"Leases executed in accordance with this act and the act of April 21, 1932, may be for any term of years, not to extend beyond September 25, 1967."

All of sections 2 and 3 should be stricken and the following section should be substituted:

"SEC. 2. The rate of royalty in coal leases made under this act and the act of April 21, 1932, shall not be less than 10 cents per ton on all coal mined, including what is commonly known as slack and the rate of royalty in asphalt leases shall not be less than 15 cents per ton on all crude asphalt mined: *Provided*, That the Secretary of the Interior is hereby authorized to prescribe minimum annual tonnage requirements and advance annual rental payments for each lease. If the minimum annual tonnage specified in a lease is not mined, the lessee shall pay royalty thereon the same as if the coal or asphalt had actually been mined. The advance royalty paid for any year may be credited on the royalty becoming due on coal or asphalt mined during the year for which the said advance royalty has been paid but shall not be credited on royalty on coal or asphalt mined in any previous or subsequent year."

I recommend that S. 1542 be amended as suggested and, in view of the request of the War Production Board for prompt action, that the amended bill receive early consideration by your committee.

I have been advised by the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

HAROLD L. ICKES,
Secretary of the Interior.

Amend the title so as to read: "A bill to authorize the leasing of the undeveloped coal deposits of the Choctaw and Chickasaw Nations in Oklahoma."

FURTHER STATEMENT OF GRADY LEWIS, ESQ.

MARCH 4, 1942.

Senator ELMER THOMAS,
*Chairman, Committee on Indian Affairs,
Washington, D. C.*

MY DEAR SENATOR THOMAS: Agreeable to your request, I have examined the proposed substitute bill S. 1542, prepared by tribal officials, and representatives of the coal operators, Indian Bureau, and the Geological Survey.

If it is the avowed determination of the Congress to adopt a policy of extended and unlimited leasing of the segregated coal lands, the bill is well drawn to effect that end. Your attention is expressly directed to the fact that leasing under its authority, once commenced, may go on forever. There is positively no provision for ever stopping the program so that a final settlement of tribal affairs may be had.

During the hearings objections were laid to the fact that the Choctaws and Chickasaws have been obliged to hold a vast coal reserve for many years for the benefit of the general public. Successful fruition of the program contemplated by the act disposes of this objection forever. It disposes of it in a most effective manner. The very commencement of an unlimited and unending leasing program is tantamount to confiscating the property of these Indian citizens. The practical effect of such a program will be the turning over of these lands to the Interior Department to administer the same as if these lands constituted a part of the public domain. Indeed, a casual reading of the bill discloses that it is patterned upon acts designed to administer mineral reserves held as a part of the public domain. The proceeds, if any, from leases will, of course, be administered and expended upon whatever social experiment, for the few or the many, that happens to strike the fancy, whim or caprice of the current administration. Ownership of these deposits being found in some 27,000 people as of 1906, it follows that after some 25 to 50 years of operating under the new program it will be absolutely impossible to determine the hundreds of thousands of heirs owning this property and it will simply remain in the hands of general government where the act puts it.

Despite representations made to the committee that a demand for leases on these deposits had recently arisen, none has developed. There is no more demand for a leasing program today than there was a month ago. The testimony taken at yesterday's hearing demonstrates that. The gist of that testimony is that a certain steel company wishes to buy, not lease, some three thousand acres of these deposits. The company and the Interior Department cannot agree on a price. That situation, obviously, does not create a lease demand. However, in the failure of a leasing demand and program lies the only hope of any of the owners of this property to ever realize one penny from their inheritance.

These are my convictions on the bill as it is now drawn and about to be enacted. I would not feel that I had been fair to you, your committee, the Choctaw and Chickasaw people, nor myself did I not express them in the record as a final protest against this very unfair and unjust legislation.

Respectfully and sincerely,

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GRADY LEWIS.