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Improved safeguards for the property interests of both individual Indians and tribes were announced today by Commissioner of Indian Affairs Glenn L. Emmons. The Department of the Interior made public his statement on the Indian Bureau's policy governing sales of individually owned Indian lands.

The Commissioner said the statement was issued to correct widespread misinformation about sale of lands which are the property in trust of individual Indians. Tribally owned lands, comprising about 75 percent of the Indian holdings in Federal trust status, are not involved since their sale requires congressional legislation.

“The problem, in essence, has been to work out a method for permitting the fullest possible development of sound tribal land acquisition plans without violating the property rights and interests of the individual tribal members," Commissioner Emmons said. The policy was developed recently after an intensive four-year study, he said.

Commissioner Emmons pointed out that tribal holdings have increased since he became Commissioner, August 10, 1953.

He said that when a single Indian owner of an allotment requests that his land be sold, a sale will be authorized if it appears to be clearly justified.

In all such cases, however, the tribal organization will be notified of the proposed sale, Commissioner Emmons added. The notice will provide an opportunity for the tribe to negotiate a purchase with the owner.

If a negotiated sale is not arranged, the policy provides two additional methods by which the tribal organization may acquire the property, by meeting the high bid, if the owner approves, or at auction.

Commissioner Emmons said the same general procedures would govern sales or Indian allotments in multiple ownership as a result of inheritance, but with same exceptions. The policy statement explains in detail how the owners' rights are protected and how the tribal organization may obtain the land.

The Commissioner said the Department and Bureau recognize that some difficulties remain to be solved, including limitations on the amounts of tribal funds available for land purchases. Legislative proposals are being developed to eliminate the handicaps, he said. The policy statement is attached.

Text of Statement by Commissioner of Indian Affairs Glenn L. Emmons:

Because of the evidence of widespread public concern and substantial public misunderstanding about the Indian Bureau's policy governing sales of Indian land, it seems essential at this time to state the policy that is being followed (and the reasons for it) as clearly and concisely as possible.

It should be emphasized at the outset that what follows deals only with lands which are the property' in trust of individual Indians. Tribally owned lands, which comprise roughly three-fourths of the Indian holdings currently in Federal trust status, lie wholly outside the scope of this discussion since they cannot be sold or alienated except as authorized by Congressional legislation. While there has been some slight diminishment of tribal holdings in the past few years in connection with Federal flood control projects (principally in the upper Missouri Basin)1 this has been much more than offset by the addition or return of more than 1,000,000 acres to tribal holdings during the same period since 1953. These additions have resulted either from tribal purchases approved by the Department or from legislation sponsored or endorsed by the Department.

To put the current policy governing sales of individually owned Indian lands in proper perspective, it is necessary to review briefly the immediate historical background. During the 1930's and the early 1940's the Department followed substantially the same policy on land sales that is now being so strenuously urged by the outstanding critics of the present policy. In other words, it strongly discouraged individual Indian landowners from selling their holdings and permitted such sales ordinarily only to other Indian individuals or to tribal groups. During this period hundreds of Indian landowners who wished to convert their land holdings in excess of their needs into cash for various purposes were completely frustrated and tied to lands that may have produced little or no benefit to them. Where sales were permitted with the market limited to Indian purchasers, thousands of acres were sold at prices substantially below the returns that the Indian sellers might have realized if free and unrestricted bidding had been permitted.

During the late 1940’s the former policy of restricting the market to Indian purchases began to break down as Indian landowners demanded to be allowed to sell their holdings for a maximum price. They developed the practice of going directly to Congress for individual legislation that gave the “fee patents” or unrestricted title to their lands. Although the Department in this period generally recommended against the enactment of such bills, a great many of those introduced in each Congressional session were nonetheless enacted. A substantial acreage of individually owned Indian land was removed from Federal trusteeship through this process and undoubtedly the major portion of it was sold to non-Indian purchasers.

The policy which the Department and bureau have been following over the past few years, and especially since 1955, is based on full recognition of the individual Indian property rights which are unquestionably involved. In allotting lands to individual Indians on many of the reservations and in public domain under Congressional law during the latter part of the 19th century and down through the 1920’s, the Federal Government, in effect, gave these Indian a deed to the lands allotted. It thus vested in these individual Indians (and their rightful heirs) a valid property right, though under trust, fully equivalent, in the last analysis, to that enjoyed by any other American property owner.

Under the system of free democracy few concepts are more centrally important than respect for individual property rights. This is in sharp contrast with the situation in the Soviet Union and other communist countries where individual property rights are either not recognized at all or regularly and systematically . subordinated to the interests of the State or the larger group.

At the same time, however, we are also fully aware of our trust responsibilities for tribal property and we recognize that many of the tribal organizations have a legitimate and valid interest in acquiring individual Indian properties that may be offered for sale. The problem, in essence, has been to work out a method for permitting the fullest possible development of sound tribal land acquisition plans without Violating the property rights and interests of the individual tribal members. During the past four years

the Department and Bureau have been giving a great deal of intensive study to this problem and we have recently developed a policy which, we believe, goes a long way toward attainment of the desired objective. The essential elements of this policy are as follows:

1. Wherever a single Indian owner of an allotment asks that his land be sold and, after careful examination of the circumstances in his case, a sale appears to be clearly justified in the light of his long-range best interests, a sale will be authorized.
2. In all such cases the tribal organization will be notified that the particular allotment is being offered for sale. This will give the tribe an opportunity to negotiate a purchase with the owner. If the owner insists on competitive bidding, he will be specifically asked whether he is willing to let the tribal organization meet the high bid that may be offered. The land will then be advertised for sale and sealed bids will be received. If all bids fall substantially below the Bureau's appraisal of the property's value, all will be rejected. If one or more of the bids are acceptable, the tribe will be given the opportunity to buy the land by meeting the high bid provided that the owner has agreed in advance to such an arrangement. If the owner has not agreed and one or more sealed bids exceed the appraisal, the land will be put up for auction with the amount of the highest sealed bid as the floor of the auction bidding. This will give the tribe an additional opportunity to acquire the property in competition with other bidders.
3. In connection with Indian allotments which are in multiple ownership as a result of inheritance, the same general procedure will be followed with a few noteworthy exceptions. Such properties will be sold only if' a sale is requested by one of the owners and approved by or on behalf of all the others. If any one of the owners is interested in buying out the others, he will be given first opportunity to purchase the land at the Bureau's appraisal figure unless one or more of the other owners object. A sale may also be made to one of the owners at less than the appraisal if the other owners are agreeable. If more than one of the owners wishes to buy the allotment, all of those interested will submit sealed bids and the property ,will be sold to the highest bidder. If none of the owners is interested, the property will be offered to the tribal organization at the appraisal price unless one of the owners objects. If there is objection by an owner, then the procedure outlined under Number 2 above, involving sealed bids to be followed by an auction, will be used.

The Department and its Bureau of Indian Affairs recognize that there are difficulties in the present situation which will hinder the tribes from full realization of their land acquisition and development plans even under the policy outlined above. One of these is the difficulty of securing the approval of frequently dozens of owners for sale of multiple-ownership lands as required under existing law. Another is the fact that many, perhaps most, of the tribes do not now have the financial resources needed for a substantial land purchase program. The Department and Bureau are now working to develop legislative proposals which we believe will go a long way toward eliminating these deterrents.