

DAVID CLAH, District 9:

Another thing that I would like to bring out at this point is when you bring a patient to a hospital according to our experience, one lady brought to the Shiprock hospital and we knew the lady was suffering from internal ailment, but when we presented her to the doctor at Shiprock she was told there was nothing wrong and the hospital could not do anything and she was excused, and just prior to this her husband brought the same woman to Fort Defiance and the doctor said the same thing. It looks like the doctors are not really interested in promoting the health of the people if they present themselves to be treated like this woman did. I have no objection to adopting this resolution as read but the thing is the medical should be really interested in its work in order to promote the health.

I second the motion.

CHEE DODGE:

All who favor this resolution, please stand.

(The vote is 50 in favor - none opposed.)

JOE DUNCAN, District 12:

Before anything else comes up, I would like to bring up a matter, to my knowledge a very important matter which concerns the Navajo people. There is a proposed plan of diversion of the San Juan River toward Albuquerque. The Navajo people living along the river are urging the leaders to protest that so those people there will not be like a bunch of fish when the lake or river dries up. I understand that the Indian Service has another plan of diverting the same river just below the proposed project and I would like to know what river will be diverted by the Indian Service.

MR. STEWART:

Let me ask Joe what diversion he means, the one over to the Rio Grande Valley? Is that the one you are talking about?

JOE DUNCAN, District 12:

Yes.

MR. STEWART:

First of all, I am not at all sure it is Indian Service diversion. I believe it is the Reclamation Service.

I want to tell you of a trip we made recently into this area with the Commissioner of Reclamation, Mr. Bashore. In our post-war program for the Navajo, we have recommended the irrigation of over 100,000 acres from waters from the San Juan water shed and this over 100,000 acres is in the Navajo reservation. However, some people have been saying that after we got all of this land irrigated the Navajos would not use it; that they do not know how to farm and would not take up farming and would lease it to white people. So about two weeks ago we were fortunate enough to know the Commissioner of Reclamation himself would be in that country. A group of us from Window Rock

met him at Shiprock, together with a large group of people with him from Durango, Farmington, Fruitland, Santa Fe, Aztec and Albuquerque. There was a large group of people with him and we took that entire group - there were eight carloads of people - over the Hogback Irrigation Project, the Navajo farm area, the lands we feel should be irrigated toward Table Mesa and Monument Rocks, which we feel should be irrigated and returned then to Shiprock. Thereafter we crossed over to the Fruitland Project and I was with Commissioner Bashore all the way and wound up in Farmington, but on the way he told me that the information that had been given him by other people that the Navajos would not farm, could not farm, and it would be a waste of money to irrigate more lands for them, was a gross misrepresentation; that he had become convinced after seeing the Hogback farms and Fruitland farms that the Navajos could and would farm and he felt the United States had an obligation to the Navajo people and if it meant irrigating large areas then he personally would be in favor of such a program.

JOE DUNCAN, District 12:

Another thing I would like to bring out is we have here on the reservation an agronomist and agricultural people who are supposed to work on the reservation and teach the people the proper way to farm. What information would they turn in about the Indians? Do they report that the Indians do not know how to farm, or what kind of reports have they turned in? I think the Indian Service has the opportunity now to support this resolution and try to have our reservation developed in some parts for agricultural purposes.

ROGER DAVIS, District 7:

What I want to bring out is we would like to discuss that jury trial and draw up a resolution and pass it and see if jury trials can be worked out on the reservation.

SAM AHKEAH, Vice-Chairman:

Fellow Councilmen, the jury trial that is going to be discussed here is 12 men on a jury and that was practiced at Shiprock for a good many years and the Navajos down there know what it is. I believe all we have to do in that case is to set the age of the jurors, from age 21 on up to serve as jurors. I believe that is about all that is necessary for us to consider.

ROGER DAVIS, District 7:

I would recommend that the jurors be at the age of 40 years or above.

ZHEALY TSO, District 10:

I would recommend that these jurors be picked out in the vicinity where the trial is held, from people of the community.

MR. COHEN:

I am very sorry I have to leave in a few moments and would like to give my views on this jury question before I go. The present Navajo Law and Order Regulations were originally drafted in 1934 and 1935 by Tom Dodge, with the help of Mr. Mueller and myself. Those regulations provide for jury trial. They provide that a jury of 6 shall be selected by the Judge in any case

where there is a real disagreement about the facts. Most of the provisions of that Code that Tom drafted have worked out pretty well, so well that they were copied for other tribes all over the United States. But I understand from the Councilmen that I have talked to that the jury provision has not worked out on this reservation because the Council has never done what the regulations say the Council should do, viz., to specify who is eligible to serve on the juries. So the Judges have never been able to select a jury because the Tribal Council never provided who was eligible. So the Judges have really been breaking the law because they could not select a jury, and some of our Judges were criticized for that by Federal Judge Neblett in New Mexico. When ordinary human beings like the rest of us break the law, the judges can take care of us, but when the judges break the law that is a pretty bad situation. So as I see the situation there are only two ways to cure that, either the jury trial regulation should be abolished or the Council should go ahead and decide who is eligible to serve on the jury and then the Judges will know whom they can pick in that neighborhood to serve on a jury. I am sure the Council will settle the question one way or another.

I want to thank you for the privilege of being here. It has been a great inspiration to me to attend a legislative meeting - and that is part of my business, attending legislative meetings - it has been a great privilege to attend a meeting where, whether I agreed with the decisions or not, I could see that everybody was trying to look as far into the future as he could and trying to do the best thing he could for the children not yet born to the Tribe.

Thank you.

ZHEALY TSO, District 10:

Speaking on this jury discussion, Roger made the statement that any person above 40 years of age can sit on the jury. I would recommend anybody over 30 years of age can sit on a jury. If we are going to introduce a jury trial on the reservation why have only 6? Is it because we are Indians? With other people the rule is there are supposed to be 12 persons on a jury and I would rather have a jury of 12 than 6.

DESCHEME NEZ BEGAY, District 10:

This is one of the important things to come up for discussion. There are two persons here who mentioned two different ages of persons qualified to sit on the jury. I believe that at 30 years of age any person has sense to make a decision and above that. Another thing, why have only 6 jurors? Why not have 12? There are always some criticisms coming up so the best thing is to abide by the law, so I would speak in favor of having 12 rather than 6. Another thing, the judges selecting the jurors to sit and make decisions, there is always some prejudiced feeling among the Navajos and there might be feeling on the part of the judges in selecting his jury, and so to prevent this kind of thing let us have this discussion in a proper way and agree upon something. So on this suggestion I made, let us vote. I make a move that we vote on it.

JOHN CURLEY, District 17:

I would like to be given a little more time at this time for the speech I made before because there is a deep thought in this jury question. Fellowmen,

it was said I broke the law in having the 12 jury. To my own justice I have not broken the law with 12 jury because I did not have 12 jury. Ever since Fort Defiance exists we have never had 12 jury acting yet, and in 1924, at the time when the delegates started on this reservation, where is the record showing that 12 jurors were selected and approved by the Navajo Council. There is a law made in Washington for the Navajo people to use 12 jury but the Navajos themselves have not approved the 12 jury yet. In that article there it says the jury will have 50 cents a day. Since the Court is growing and the population is growing and the courts work for 20 or more days, these jurors will have 50 cents a day. The next point is who is going to bring the jury from any distance to the court? That jury should be enforced at government expense by bringing it in again. I don't like to go out and ask a jury to come. It looks like it falls in my hands again if they do not come. It looks like there might be a penalty if they don't come. I don't want to punish the men who would try to help me. Those things should be considered. I know I lost the trial in Albuquerque for the same thing, because I did not use a jury, but after investigation it is proved that the 12 jury has not been approved by the Navajo Tribal Council and therefore the judge had not broken the law.

CHEE DODGE:

The attorney who just left mentioned that Tom had helped draft the procedures for handling the court where the jury will be used and we would like to have Tom Dodge explain why it has been decided that only 6 men will be used on a jury.

(Tom Dodge is not present in the audience.)

MR. STEWART:

Since this subject has been opened up and since Tom Dodge is not now available, and he should be available to explain why the 6 jurors were substituted for the 12, and since we have so much business to attend to, I suggest we put this aside for the moment until he returns.

CHEE DODGE:

I will ask that this resolution be read.

INTERPRETER:

RESOLUTION

WHEREAS, the Navajo people have suffered great economic loss through the compulsory stock reduction program, we earnestly request the Secretary of the Interior to provide all possible irrigation from the San Juan and the Animas Rivers for the benefit of the Navajo people. We need 200,000 acres of farm lands for our people with good drainage.

SAM AHKEAH, Vice-Chairman:

The question was asked about what river this resolution mentions. This resolution mentions two rivers - the Animas and the San Juan. The Animas comes down from the La Plata Mountains by Durango and Aztec and Farmington. The

San Juan comes from near Dulce and comes on down and joins the Animas near Farmington. The San Juan diversion takes care of the lands south of Shiprock. The Animas diversion will take care of the land that lies north of Shiprock and over into Colorado. If the time ever comes that this diversion works out under this big project all the Navajos will have a chance to farm, even those Navajos off the reservation, so this is quite a big thing that is proposed. And further, the Commissioner told us yesterday that we need not all try to depend on sheep but we should consider other sources of income so this is one source besides making a living off of stock.

CHEE DODGE:

This party that made the trip to that area, which river did they intend to divert?

MR. STEWART:

We did not talk about diversion but talked at all times about the Navajo needs. I don't know what the plans are but it is my understanding it will be water from the San Juan that will be diverted if any is diverted.

JOE DUNCAN, District 12:

The San Juan River was intended to be diverted toward Albuquerque by the people from Albuquerque and we people are asking the people to help us so we can get this diversion. This river (the Animas) is not permanent but dries up in the summer and if they investigate and plan to divert that river it will be a waste.

MR. STEWART:

We feel that the San Juan diversion on the Navajo should come first and the Monument Rocks on the Animas should come second, if at all.

SAM AHKEAH, Vice-Chairman:

This resolution requesting the Secretary of the Interior to consider regarding us for the San Juan River for our use first while the other people over in Albuquerque they are asking too for the San Juan River.

CHEE DODGE:

We are asking the Secretary of the Interior to give us the first chance.

JOE DUNCAN, District 12:

I make a motion that we vote on this resolution.

JOHN CURLEY, District 17:

I second the motion.

CHEE DODGE:

All who favor the resolution, please stand.

(The vote is 43 in favor - none opposed.)