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INDIAN CLAIMS COMMISSION APPROPRIATIONS FOR
FISCAL YEAR 1974

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HEARING

BEFORE THE

SUBCOMMITTEE ON INDIAN AFFAIRS

OF THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

NINETY-THIRD CONGRESS

FIRST SESSION

ON

S. 721

A BILL TO AUTHORIZE APPROPRIATIONS FOR THE INDIAN
CLAIMS COMMISSION FOR FISCAL YEAR 1974,
AND FOR OTHER PURPOSES

FEBRUARY 16, 1973



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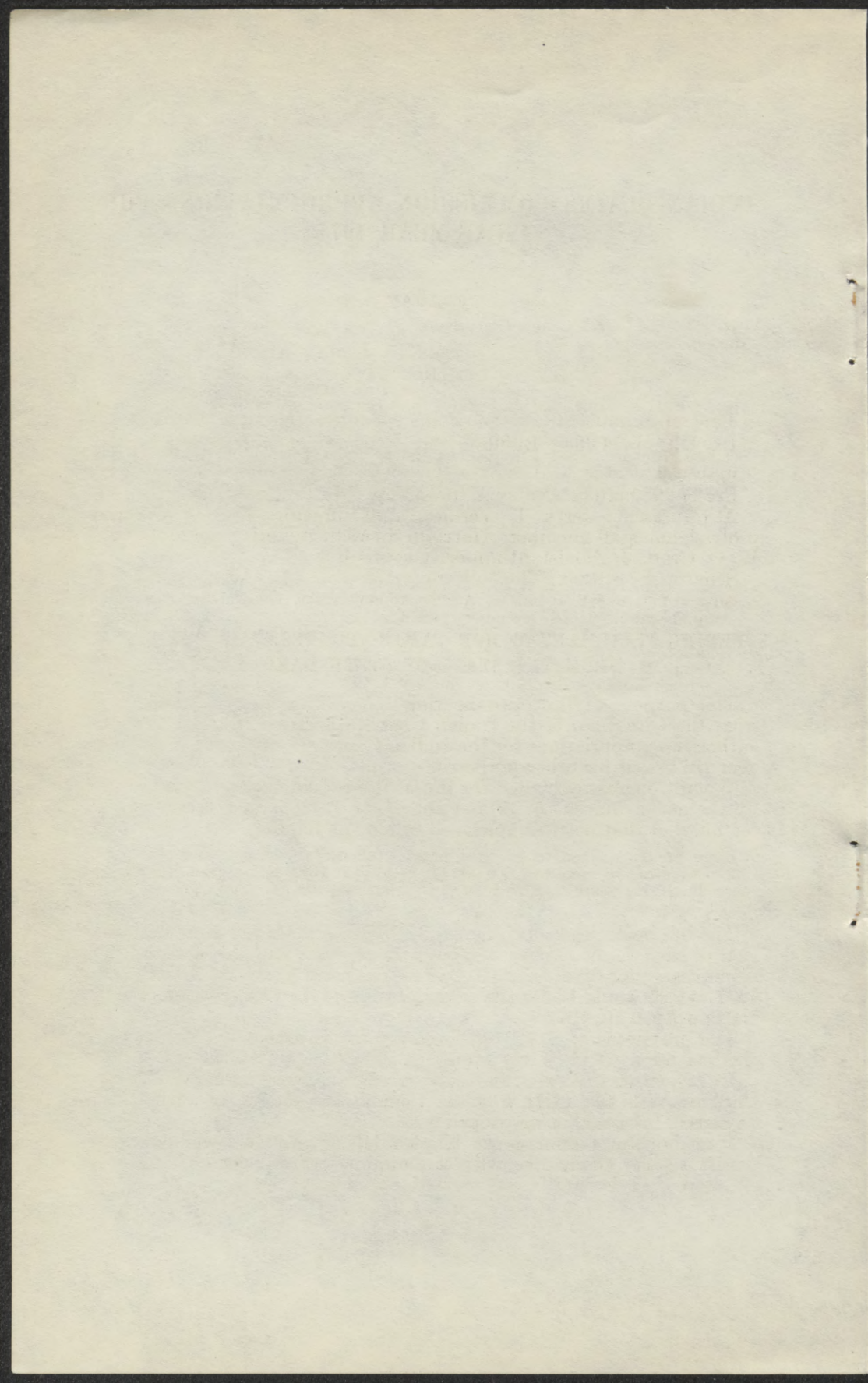
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INDIAN CLAIMS COMMISSION APPROPRIATIONS FOR FISCAL YEAR 1974

FRIDAY, FEBRUARY 16, 1973

U.S. SENATE,
SUBCOMMITTEE ON INDIAN AFFAIRS,
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 3110, Dirksen Office Building, Hon. James Abourezk, chairman, presiding.

Present: Senators Abourezk [presiding], Metcalf, and Bartlett.

Also present: Jerry T. Verkler, staff director; Forrest Gerard, professional staff member; Harrison Loesch, minority counsel; and W. O. Craft, Jr., assistant minority counsel.

Senator ABOUREZK. The subcommittee on Indian Affairs is now in session.

OPENING STATEMENT OF HON. JAMES ABOUREZK, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

The purpose of the open hearing today is to receive testimony from the Chairman of the Indian Claims Commission on S. 721, to authorize appropriations for the Indian Claims Commission for fiscal year 1974, and for other purposes.

When Congress extended the life of the Indian Claims Commission by the act of March 30, 1972, Public Law 92-265, an amendment to section 6 of that act was approved to read as follows:

There are authorized to be appropriated for the necessary expenses of the Commission not to exceed \$1,500,000 for fiscal year 1973, and appropriations for succeeding fiscal years shall be made only to the extent hereafter authorized by Act of Congress.

The bill before the subcommittee today would authorize appropriation of such sums as may be necessary to carry out the work of the Commission for fiscal year 1974 as well as fiscal years 1975, 1976 and 1977, which would be for the remaining life of the Commission, which ends on April 10, 1977.

The provisions of S. 721 are contrary to the intent of Congress on this matter as it is clearly stated in Public Law 92-265.

In my view, the executive communication transmitting S. 721 to Congress fails to justify why the Commission should be authorized to depart from such a major policy.

I am hopeful commissioner Kuykendall's testimony will serve to justify to the committee why the administration believes it should be allowed to deviate from congressional policy.

In addition, I intend to pose several questions during this hearing pertaining to the progress of the Commission's work and other matters related to your responsibilities.

At this point I shall order S. 721 and the executive communication to be made a part of the record.

[The text of S. 721 and the executive communication follow:]

93^D CONGRESS
1ST SESSION

S. 721

IN THE SENATE OF THE UNITED STATES

FEBRUARY 1, 1973

Mr. JACKSON (for himself and Mr. FANNIN) (by request) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To authorize appropriations for the Indian Claims Commission for fiscal year 1974, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That there is authorized to be appropriated to carry out the
- 4 provisions of the Indian Claims Commission Act (25 U.S.C.
- 5 section 70), during fiscal years 1974, 1975, 1976, and 1977
- 6 such sums as may be necessary to complete the program of
- 7 the Indian Claims Commission.

INDIAN CLAIMS COMMISSION,
Washington, D.C., January 29, 1973.

HON. SPIRO T. AGNEW,
President of the U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a proposed bill "To authorize appropriations for the Indian Claims Commission for fiscal year 1974, and for other purposes." We recommend that the proposed bill be introduced and referred to the appropriate committee for consideration, and we recommend that it be enacted.

FISCAL YEAR 1974 APPROPRIATION AUTHORIZATION

The legislation under which the Indian Claims Commission conducts its program, the Indian Claims Commission Act, as amended, 25 U.S.C. § 70e (1972), states "There are authorized to be appropriated for the necessary expenses of the Commission not to exceed \$1,500,000 for fiscal year 1973, and appropriations for succeeding fiscal years shall be made only to the extent hereafter authorized by Act of Congress." In order to meet fiscal years 1974 through 1977 program requirements, we propose that appropriations of such sums as may be necessary be authorized. There is immediate need for enactment of this authorization in order for work to proceed during the next fiscal year.

FISCAL YEARS 1975, 1976, AND 1977

The Commission is determined to continue its program toward completing all its work by April 10, 1977, a program approved by the Congress in extending the Indian Claims Commission last year. Public Law No. 92-265, 86 Stat. 114. In addition to the authorization for fiscal year 1974, we are also requesting authorization for the balance of the Commission's work life. Problems of recruitment and retention in an agency where only short tenure can be expected would be compounded by the uncertainties introduced by yearly authorizations. Full oversight by the appropriate committees of Congress will be assured by the required submission of progress reports as presently provided by law.

The Office of Management and Budget has advised that this proposed legislation is consistent with the Administration's objectives.

Sincerely yours,

JEROME K. KUYKENDALL,
Chairman.

Enclosure.

A BILL To authorize appropriations for the Indian Claims Commission for fiscal year 1974, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated to carry out the provisions of the Indian Claims Commission Act, 25 U.S.C. § 70, during fiscal years 1974, 1975, 1976, and 1977 such sums as may be necessary to complete the program of the Indian Claims Commission.

Senator ABOUREZK. I might say that we intend to mark up this bill at the conclusion of these hearings and report it on to the full committee, in whatever final form it comes out to be today.

So, I would appreciate the chairman and the other members who are going to testify, if you would keep your opening remarks brief.

We will ask that your entire statement be put in the record, and if you could do us a favor of summarizing, because there will be some questions that we want to ask, Mr. Chairman, it would help in the work of the committee today.

Mr. KUYKENDALL. Thank you, Mr. Chairman.

May I introduce my fellow members?

Senator ABOUREZK. Please.

STATEMENT OF JEROME K. KUYKENDALL, CHAIRMAN, INDIAN CLAIMS COMMISSION; ACCOMPANIED BY COMMISSIONERS JOHN T. VANCE; RICHARD W. YARBOROUGH; MARGARET H. PIERCE; BRANTLEY BLUE; CHIEF COUNSEL HARRY E. WEBB, JR.; AND EXECUTIVE DIRECTOR DAVID H. BIGELOW

Mr. KUYKENDALL. On the far end to your left is Commissioner Pierce, between Mrs. Pierce and me is Mr. Vance, and on my immediate left, to your right is Mr. Yarbrough, and to your extreme right is Commissioner Blue.

We have two staff members here, our General Counsel, Harry Webb, who is a little bit to my right, your left of me, and our Executive Director, David Bigelow.

I might say that all of us have a very vivid memory of a hearing before the House committee last year, and it was not our expectation to ask for anything but an authorization for the coming fiscal year.

But the Office of Management and Budget, in order to save work and trouble in the future, I believe wanted to get an authorization for us for the entire period.

That is how this request has come about.

In view of what you have said, I don't think there is any use of my discussing that matter further.

Turning to progress we have made, I would call your attention to two charts which are attached to our statement.

Chart 1 is a graph depicting the number of dockets completed by the Commission in each fiscal year from 1949 through 1972.

Since fiscal year 1973 is more than half completed, we believe we can predict quite accurately our progress during that period.

Senator ABOUREZK. Excuse me, Mr. Chairman. Which page are you on in the booklet?

Mr. KUYKENDALL. Page 2, the paragraph that starts just a little below the center of the page.

Senator ABOUREZK. We don't seem to have the document up here.

Mr. KUYKENDALL. It is in my statement.

Senator ABOUREZK. OK, I am with you now.

Mr. KUYKENDALL. All right, on page 2.

Since fiscal year 1973 is more than half completed, we believe we can predict quite accurately our progress during that period and it therefore is shown on the chart by a dashed line.

A dotted line representing the work to be done between July 1, 1973 and April 10, 1977 shows that we will get the job done on time if we keep up the pace of fiscal year 1973.

Chart No. 2 shows the number of dockets completed by monetary awards, which is not including dismissals in each fiscal year from 1947 when the Commission came into being, through fiscal year 1972. This information is portrayed both by a graphic line and by bars placed at 5-year intervals on the chart.

The chart discloses that more dockets were completed by monetary awards made in the 5 fiscal years of 1968 through 1972 than were made during the entire prior life of the Commission.

Senator ABOUREZK. May I interrupt, Mr. Chairman? Does that include the Alaskan claims at all, or are you excluding that?

Mr. KUYKENDALL. There have been no monetary awards in any of those cases so they are not included.

And as a matter of fact, we dismissed most of those cases because there are only one, or two, or three over which we shall have jurisdiction.

Senator ABOUREZK. I am referring to the legislation last year that awarded the one billion for the Alaskans. You don't include that?

Mr. KUYKENDALL. No; we have not made any award of that money and we never will.

When we appeared before you a year ago, we outlined our plan for completion of the remaining cases by April 10, 1977. That plan, which is described in detail in our 1972 annual report, is being carried out.

Since our appearance before the committee last year, the number of cases remaining has been reduced from 267 to 226. The rate at which case phases have been completed during the last 6 months indicates that more than the number planned will be disposed of in fiscal year 1973.

Every matter that has been submitted to the Commission for its decision is under active consideration, and the Commission is presently able to give prompt attention to each new matter submitted.

On February 12 of this year, the Commission held another calendar call at which counsel for the plaintiffs and the defendant were present. As a result of this proceeding any additional matters which could be scheduled for trial by agreement of the parties were thus reset for trial.

We believe that an increased sense of urgency was instilled at this proceeding. In addition, two other matters which vitally affect the ability of this Commission to complete its task were discussed.

One subject was our accounting cases. As this committee knows, the General Services Administration is in the process of rebuilding its Indian Tribal Claims Branch so that the accounting information necessary for the litigation of our accounting cases can be provided.

We were informed that there are now only nine employees in this section and that it is still unable to function effectively. We are confident that this situation will improve, but are naturally concerned as to when adequate reports will be forthcoming.

The Commission has done and will continue to do everything possible and within the bounds of propriety to expedite this work of GSA.

Another matter which came to the attention of the Commission concerns the Expert Assistance Fund established by Act of Congress in 1963. See U.S.A.C. paragraph 70 n-1, *et seq.*

This fund is administered by the Secretary of the Interior for the purpose of making money available to Indian tribes which must have the same in order to obtain expert assistance.

At the moment this fund is overcommitted to the extent of \$175,000. In addition to the existing overcommitment, estimates of counsel for the various tribes indicates that approximately \$1 million more will be needed in the near future.

This immediate and potential deficit in the fund will either make it impossible for a number of tribes to obtain loans for expert assistance, or will unduly delay them in getting such assistance, with the result that the Commission will be seriously hampered and delayed in its work.

Last year we discussed two other problems with you. One of these concerned our accounting cases mentioned above, and the other was the lack of an adequate legal staff in the Indian Claims Section of the Department of Justice. We have been informed that this latter problem is being alleviated by the assignment of additional personnel to that section.

My fellow Commissioners may wish to add to what I have said, and all of us are available for questioning.

I thank you for your attention and for your consideration of S. 721.

Senator ABOUREZK. Thank you.

Mr. Chairman, I would like to ask how many attorneys you have on your staff.

Mr. KUYKENDALL. We have 20.

Senator ABOUREZK. Twenty? And how many do you need, how many attorneys do you think you need on your staff?

Mr. KUYKENDALL. Presently I don't think we need any more, but I think that in the ensuing years we may need more as the work comes to us faster. But at the moment, and I think during the coming fiscal year, I believe we will be able to operate with 20 lawyers and we should be able to hire one more, or 21 lawyers.

Senator ABOUREZK. I wonder if you might be able to tell us about the function of those 20 attorneys. What do they do?

Mr. KUYKENDALL. Well, I will start at the top. Mr. Webb, our Chief Counsel, supervises all lawyers and we have three Assistant Supervisors. The rest of the staff are doing the basic work of going through these tremendously long records that we have, extracting the facts, reading the briefs of the parties, and from that drafting for us proposed findings of fact, and frequently an outline of what he thinks the opinion ought to be.

That work is very time consuming and is real drudgery too. And it is imperative that we have a staff to sift all that evidence and make these drafts for us. That enables us to move along in our work.

Senator ABOUREZK. I see that you charted the completion of the cases at the completion of your 5-year life.

Mr. KUYKENDALL. That is our goal, yes.

Senator ABOUREZK. Is there any chance of finishing before that time?

Mr. KUYKENDALL. I don't believe there is, but we will know more maybe 2 years from now.

Senator ABOUREZK. I guess you must know everybody is concerned about undue delays and so on in the cases, and we naturally are, and I hope you are too, I am sure you must be.

What would be needed by your Commission to speed up the handling of these claims to get them over with, because I just might say that I get complaints from the Indian people who are penalized, I guess might be the best word, or who are being penalized as a result of what they consider to be slow handling of the cases. And we are all interested in seeing that process speeded up.

What would you suggest could be done to get that particular job done?

Mr. KUYKENDALL. Well, of course the answer is what it is in almost every case, more personnel could do more work. But during this coming year, I don't believe as I said, that we need more personnel. I don't believe there will be enough new cases, new matters coming before us for a decision to require it during that period.

Thereafter I think maybe the flow will be greater and we may need greater personnel.

Senator ABOUREZK. Well, would more personnel right now speed up the claims? I mean, you have all the claims filed, don't you?

Mr. KUYKENDALL. Yes.

Senator ABOUREZK. Are there any more left to be filed that you know of?

Mr. KUYKENDALL. No, none can be filed. But we have to have more trials, more conclusions of cases, which we will have, before we can use, I believe, more lawyers.

Senator ABOUREZK. And you are talking about more trials before your Commission, is that correct?

Mr. KUYKENDALL. Right. We are scheduling them as fast as we can get the lawyers for the parties to go to trial.

Senator ABOUREZK. In other words, the cases that you have tried are all being held expeditiously?

Mr. KUYKENDALL. Right.

Senator ABOUREZK. That is the point I was trying to get at.

Mr. KUYKENDALL. That is true. I might say, Mr. Chairman, that I think there is a good hope that we are going to get a lot of settlements eventually, particularly in these accounting cases, which are so troublesome to us now, and which if something isn't done, might delay our completing our work. But that is the type of litigation in which settlements should be made in many of the cases. It lends itself to negotiation and settlement, and when the GSA gets those reports and the counsel for the parties have time enough to go through them, analyze them and then discuss the matters with each other, I believe that we are going to get some settlements in those cases.

I also believe we will get more settlements of our land cases. Now, this is just a hope, an expectation, but when we have defined in every case the area that the Indians owned, to which they had original title, the parties then will know what land is to be valued, they then can use their appraisers and get a decent idea of what the land is worth.

I do think we are going to get more settlements of those cases, too. That is all in the future and is all hope, but I am very confident that that is what will occur.

Senator ABOUREZK. I, as you know, have not followed the work of your Commission all that carefully because when I was just in my single term in the House, I was involved in a lot of other matters. But I am going to try to do what I can.

All the members of this committee are interested in the same thing, of making sure that these claims are handled expeditiously. And when you come back for your authorization next year, which we hope will be the outcome of this legislation today, we will be very interested in the progress the Commission has made then.

I might make one other statement for the record. The OMB, with regard to their request for a 4-year permanent authorization, until the life of the Commission is over with and done so probably to save work and time, and I just want to make a personal observation there, that the OMB probably would like Congress just to go home anyhow, and that would save them an awful lot of work according to their view.

And I want to also go on record as saying that I just don't think it is a good practice to do away with participatory government, and I don't believe those people in the administration who dream up these kinds of things really believe in that kind of government.

And let it be said for the record that I think that Congress ought to participate as representatives of the people.

I would like to ask you to summarize—of course, I understand it is in the book, in your annual report and in your yellow book here—the budget breakdown.

Mr. KUYKENDALL. I think if I may, Mr. Chairman, I will give this summary in thousands of dollars as it is stated in the estimate.

For personnel compensation, \$923,000; personnel benefits, \$78,000; travel, \$15,000; rent, communication, and utilities, \$15,000—

Senator ABOUREZK. For the record, you are reading in thousands of dollars?

Mr. KUYKENDALL. Right. The thousands are not printed here but I can say this anyway.

Senator ABOUREZK. I was just trying to find out for the court reporter.

Mr. KUYKENDALL. Other services, \$42,000; supplies, \$10,000; equipment, \$2,000; making a total of \$1,086,000.

Senator ABOUREZK. Does this include pay raises, this figure that you have given us?

Mr. KUYKENDALL. It includes all that were in effect last September, but it does not include the one that took effect on January 1, 1973.

Senator ABOUREZK. Well, what is your estimate of what that amount of increase will be in dollars?

Mr. KUYKENDALL. Well, it is about 5 percent. We estimate it would be about 5 percent of our payroll. It would be around at least \$50,000.

Senator ABOUREZK. Does that mean you are going to put in an across-the-board pay increase for next year of 5 percent?

Mr. KUYKENDALL. That is what we anticipate will occur. I would respectfully suggest, Mr. Chairman, that the committee might consider increasing somewhat the \$50,000 that I have mentioned, because we won't spend it and won't get an appropriation for it if we don't need it.

Senator METCALF. If you get an appropriation, it will be impounded.

Mr. KUYKENDALL. We would hate to have to bother you again for another authorization, and there is no danger of our spending any of this money unless it is needed.

Senator ABOUREZK. OK, we thank the chairman for that statement.

Several months ago the committee received information that the General Services Administration proposed to shift its Indian Claims

Division to Kansas City, Mo. Now, naturally we are concerned over this proposal because of the importance of this Division's work in connection with the accounting cases.

Chairman Jackson of this committee immediately directed a communication to Mr. Arthur Sampson, Acting Director of GSA, expressing his concern over the issue. Mr. Sampson responded to the chairman in a letter dated December 18, 1972, but did not completely allay the concern of this committee.

We have been subsequently advised that GSA has canceled altogether its plans to ship the Indian Claims Division to Kansas City, Mo.

Can you give us the exact status of this matter as it exists today?

Mr. KUYKENDALL. To the best of our knowledge, any plan to shift that work to Kansas City has been abandoned. It will stay here.

Mr. Webb attended a conference of a number of people where that decision was clearly stated, I believe.

Mr. WEBB. That is correct, sir.

There was an agreement by GSA that the work would be done in this area. They may utilize people in the outlying areas where the records are, but that will not affect, or should not affect the work of this Commission.

Senator ABOUREZK. I am going to ask that these letters be made a part of the hearing record at this time.

[The letters referred to above follow:]

DECEMBER 7, 1972.

MR. ARTHUR F. SAMPSON
*Acting Administrator,
General Services Administration,
Washington, D.C.*

DEAR MR. SAMPSON: I am writing to request information concerning reported plans of the General Services Administration to shift the Indian Claims Division of G.S.A. to Kansas City, Missouri.

As you know, Congress has recently provided necessary funds for the General Services Administration to up-date and supplement accounting reports in some 38 accounting claims pending before the Indian Claims Commission on behalf of various Indian tribes. In three claims various tribes have demanded an accounting from the United States for its stewardship of their tribal money and other tribal property. The actions are analogous to the equitable accounting that must be rendered by a private trustee to a beneficiary.

These cases have been greatly delayed because of the failure of the United States—despite rulings of the Indian Claims Commission and the United States Court of Claims—to provide accounting reports for years subsequent to 1951. The government has also failed to provide adequate reports since the report that have been furnished are little more than balance sheets of cash transactions in tribal accounts to the Treasury Department and fail to provide any meaningful description of the trust assets or transactions creating income.

Despite the fact that the government was on notice as early as 1956 that additional work would be required on accounting reports, the Indian Claims Division of G.S.A. was allowed to dwindle to a skeleton staff.

For this reason I was most pleased to learn that plans are now being made for completing necessary accounting work and preparation of the accounting reports so that the Indian Claims Commission may complete pending accounting cases.

I was disturbed to hear, however, that serious consideration is being given to moving the records of the Indian Claims Division of GSA to Kansas City, Missouri and that the staff be assembled for this work would also be located in Kansas City, Missouri. As you know, the Indian Claims Commission is located in Washington, D.C. and most of the tribes having accounting claims are represented by counsel with offices in Washington, D.C. In addition, expert accountants who have been hired by the tribes to work on these matters are located in Washington, D.C.

It seems to me that any shift of the Indian Claims Division to Kansas City, Missouri would necessarily create further delay in the processing of accounting claims and greatly increase the expense to the tribes and the government of handling these claims if attorneys and expert witnesses are required to go to Kansas City for access to the necessary materials.

A member of my staff conferred with your office of congressional liaison recently and was assured that no plans are being made to shift the Indian Claims Division to Kansas City. It was further stated that while a shift of a supervisor for the program to Kansas City had been accomplished, the Indian Claims Division itself, its records and its work would remain centered in Washington, D.C. In line with that conversation, your office recently sent me a copy of the GSA order of November 7, 1972, (ADM5440.68) which discusses a reorganization of the Indian Claims Division.

Despite the assurances that have been offered to members of my staff I have had several recent reports indicating that the move of the entire Indian Claims Division to Kansas City is still being contemplated. I would appreciate definite word from you as to your plans in this regard and in particular, I would appreciate a clear and concise explanation of the meaning of the GSA order of November 7, 1972 which is not clear on its face.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., December 18, 1972.

HON. HENRY M. JACKSON,
*Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Thank you for your letter of December 7, 1972, regarding the accounting service to be provided by the General Services Administration to the Department of Justice pertaining to various Indian claims. As a result of rulings by the Indian Claims Commission and the United States Court of Claims, the Government is now required to perform the necessary research, fact finding, and documentation in greater detail with reference to the Indian claims than was true in the past.

The General Services Administration plans to do all the necessary comprehensive accounting work on all cases required by the Indian Claims Commission for the Court of Claims. Three cases have already been referred to us by the Department of Justice in which the Commission has directed that additional data be furnished. We ultimately expect to work on all cases in which the Commission requires additional data, probably an aggregate of 42 cases, with each case requiring different types of research at various locations throughout the United States.

The records which must be used in performing the accounting service are located at many different locations. Two of the main locations are the National Archives and the Records Center at Suitland, Maryland. However, most of the records pertaining to activities subsequent to 1951 are located either in our records centers throughout the country or at various tribal offices.

There is not sufficient work space in either the National Archives or the Records Center at Suitland to enable us to perform the required work. (As a result, the records must be moved from their present location to a different location.) To minimize the impact of having records of public interest out of service for a prolonged period of time, we are exploring the possibilities of obtaining copies of existing microfilm records or xeroxing copies of records.

We have established an Indian Claims Division as an integral part of the Office of Finance which will be located in Washington. This new Division will plan, supervise, and control this new program on a national basis. All of the employees of the Indian Claims Division will be Central Office employees. However, since most of the records subsequent to 1951 are located in Records Centers west of the Mississippi, it may be necessary to physically locate employees at many different sites, such as Oklahoma City, Oklahoma; Denver, Colorado; and Fort Worth, Texas. Accordingly, we have already established one field office to be located in Kansas City, Missouri.

Until the program fully develops, we will remain flexible. Let me assure you that, as we make our plans, we will keep in mind the interest of other people in the availability of the records.

In regard to your question about GSA Order ADM 5440.68, the order merely establishes the Indian Claims Division within the Office of Finance, Office of Administration. The former Indian Claims Division was organized under the National Archives and Records Service of GSA.

We appreciate your interest in this matter, and you can be assured that all our efforts will be exerted to bring this program to a successful completion.

Sincerely,

ARTHUR F. SAMPSON,
Acting Administrator.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., January 4, 1973.

HON. JEROME K. KUYKENDALL,
Chairman, Indian Claims Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of December 19, 1972, relating to our plans for the transfer of the Indian Claims Branch from Washington, D.C., to Kansas City, Missouri. We do not plan to transfer the Indian Claims Branch or the records related to the Indian claims from Washington, D.C., to Kansas City.

Unfortunately, there was a major misunderstanding as to our plans. On December 21, 1972, there was a meeting with representatives from the White House, the Office of the Vice President, Department of Justice, principal attorneys and accountants for the Indians, the General Services Administration, and your office. Your office was represented by Commissioner Vance and your General Counsel. Mr. G. C. Gardner, Jr., Assistant Administrator for Administration, represented GSA.

At the meeting, Mr. Gardner discussed our plans and stated that we do not intend to transfer the records of Indian claims from Washington, D.C., to Kansas City, Missouri. At the conclusion of the meeting, all of the participants appeared to be satisfied with GSA's plans.

You can be sure that we will cooperate with your Commission in every way in connection with providing the accounting data for the Indian claims. We will not make any decision that will adversely affect your work without discussing the changes with you.

Sincerely,

ARTHUR F. SAMPSON,
Acting Administrator.

Senator ABOUREZK. I have one further question before I refer the question to Senator Metcalf.

What is the exact status of the Black Hills claim?

Mr. KUYKENDALL. I will defer to Mr Webb. I think he can give you that.

Senator ABOUREZK. Would you like to slide up to the table and respond to that?

Mr. WEBB. Yes, sir. The Black Hills claim is presently in the process of being evaluated. What we know as our docket 74-B has been—

Senator ABOUREZK. I am sorry, I don't understand that.

Mr. WEBB. What we refer to as our docket 74-B, the Black Hills case, is presently in the process of being determined on evaluation. In other words, the value of the land is being determined now.

Senator ABOUREZK. When will that decision be made, as to the value of the land?

Mr. WEBB. Sir, the target date is approximately 30 days off to have the draft of that.

Senator ABOUREZK. That is the final decision in 30 days?

Mr. WEBB. That is the evaluation. The question of consideration and offsets must still be determined.

Senator ABOUREZK. And what is your timetable on the final deliberation?

Mr. WEBB. We have the difficulty that a portion of that case is involved in an appeal in the Court of Claims, that is the aboriginal portion of it, east of the Missouri River. And until that appeal comes back and we find out precisely how much land is going to be involved, we really have a difficult time determining consideration because we don't know what we are defining the consideration for or how much of it there will be. So, we cannot complete the case until we get that appeal back, and I don't know when that will be, sir.

Senator ABOUREZK. Do you have any estimate or a rough idea from the court as to when it will be back?

Mr. WEBB. I would hesitate very much to give you an estimate on it, sir, because they have a number of our cases over there. If I may refer to my records perhaps I could come up with a reasonable guess.

Senator ABOUREZK. Yes.

Commissioner YARBOROUGH. Mr. Chairman, our experience is that it takes at least a year to get a decision on an appeal to the court of claims, and that case has been on appeal about 6 months or so. So, at least 6 months in the future I think before that appeal will be decided.

Senator ABOUREZK. Well, let me ask you this, assuming it does come out at the maximum amount of time in 6 months, what then would be your timetable for a final decision on the Black Hills claim?

Mr. WEBB. That is if it came down in 6 months?

Senator ABOUREZK. Yes.

Mr. WEBB. I would estimate it would take a year before we got it finally determined.

Senator ABOUREZK. So we can expect something in about a year and a half roughly, within a month or two?

Mr. WEBB. Yes, sir.

Senator ABOUREZK. OK, thank you.

Did you want to say anything further on that?

Mr. WEBB. My records indicate that the case was appealed on May 26, 1972, so if you allow a year to 18 months for the normal course of an appeal, we would hope to certainly finish it up a year after that time.

Senator ABOUREZK. Senator Metcalf.

Senator METCALF. Mr. Chairman, I haven't any questions of this committee.

I have made a career almost, of hearing, following the Indian Claims Commission. When I first came to Congress 20 years ago, it was a matter of concern, and I have talked about it on the floor of the House of Representatives, on the floor of the Senate, and I have a very high regard for this Commission. Some of them are personal friends of mine and I feel that they are doing an outstandingly good job.

I do want to compliment you, Mr. Chairman, Chairman Kuykendall, and Commissioner Vance, Commissioner Yarborough for the job you are doing, and I want the Commission continued.

You know that many of us on this committee over the years have raised some questions about the promise and the settlement of claims, but I see here that we have put almost more than a third of a billion dollars in that. Isn't that right, into a return to the Indians?

Mr. KUYKENDALL. It is all of that, I believe.

Senator METCALF. How much?

Mr. KUYKENDALL. It is almost half a billion.

Senator METCALF. Half a billion?

Mr. KUYKENDALL. Yes.

Senator METCALF. And, I think that in these days when the soul of America is being searched about, or in many areas, we should recognize, and here we have returned to Indian citizens and tried to make up to them for a lot of seizures that were unwarranted.

So, certainly I want to continue this program. I think I agree with the chairman. We have a little closer supervision over it than 4 years, and of course I concur in everything he says about OMB.

If Mr. Ash continues as Director of OMB, he will take over the Congress and the executive department both, and if he runs it as well as he ran Litton, well, he will have a very difficult time being even a secretary.

So, I think that we have a responsibility, but I do compliment you on your achievements, on carrying out I think the will of Congress on advancing these claims as fast as possible, almost as fast as we can handle them in this committee, and as far as doing our job and our responsibility in seeing that the plans are made for the distribution of the money and carried out.

So, I am going to have a continuing interest, Mr. Chairman, in your Indian claims. I don't know whether—how are we doing on Montana claims? We are about through, aren't we?

Mr. KUYKENDALL. I think Commissioner Vance can answer that question; he is the expert on Montana claims.

Commissioner VANCE. Montana is rolling along very well. Some of them were tried earlier, in the early days of the Commission as you know so well, Senator. The priorities were pretty well established by the eagerness of the lawyers who represented the Indians. So the only claims left in Montana now of course are the Blackfoot and Assiniboine, one in Fort Belknap, the Little Shell band; but those are large claims.

Senator METCALF. Which have some difficult problems. I think the others are going to be handled expeditiously in the ordinary routine.

Thank you very much. Thank you, Mr. Chairman, for getting our friends up here. We see too little of them and I know that they have a great deal of work downtown.

Senator ABOUREZK. Thank you Senator.

Senator Bartlett.

Senator BARTLETT. Thank you, Mr. Chairman.

Mr. Chairman, members of the Commission, I am not very familiar with your activities, so my questions are not going to be too lengthy or too numerous, but I would like to learn a little bit.

One, I notice that the Indian Claims Commission was established by Congress over 25 years ago, presumably for a 10-year program. What were the obstacles that the Commission found that extended that time?

Mr. KUYKENDALL. Much more work than was anticipated. I don't think Congress or anybody in the United States really had any means of making a good appraisal of the amount of work that there would be.

Somehow or other, this figure of 10 years was decided upon and Congress and Members of it frequently evidenced their great disappointment that the work was not completed within 10 years, and blamed the Commission in many cases for failure to do it.

The Commission never could have done it in anything like 10 years, but I think the record shows that the Commission might have done more in the past than it did.

Senator BARTLETT. Was the additional work beyond that that was anticipated by Congress, did it consist of the difficulty of proving the rolls of various tribes and the records, the complications of just delving into the historical aspects?

Mr. KUYKENDALL. No, that didn't bother us. That is a work that Congress and the Department of Interior and Bureau of Indian Affairs performs, but what created, what made the work for the Commission was the vast number of claims which were filed and were much greater in number and complexity than anybody ever expected.

Senator BARTLETT. In your statement on page 4, you mentioned the expert assistance fund and the fact that it is overcommitted to the extent of \$175,000. Could you explain that fund?

Mr. KUYKENDALL. That is a fund from which tribes which do not have enough funds of their own may borrow money to hire expert witnesses. In most all cases he is a real estate appraiser who appraises the lands they once owned and places a value on those lands as of the date that the tribe lost title to them.

Senator BARTLETT. You use the funds for loans to them. Are they repaid?

Mr. KUYKENDALL. They are repaid out of the proceeds or recovery.

Senator BARTLETT. Yes, then also on page 4 on the bottom, you mention one of the problems that we discussed last year, a concern over the accounting cases. What are accounting cases?

Mr. KUYKENDALL. The Government has put the Indians on the reservation, and in almost all cases has handled their financial affairs. The tribes might have had timber on their reservation which was sold, or they might have had minerals, or they might have all kinds of sources of money. The Government has been the custodian of their funds and it has been discovered that in many cases the Government did not handle those funds properly.

These accounting cases are to find out exactly how much money the Government got that belonged to the Indians, and what the Government did with that money.

Senator BARTLETT. In other words, the purpose is to see whether or not the Indians were dealt with fairly?

Mr. KUYKENDALL. Right, and to allow recovery for anything that the Indians are entitled to.

Senator BARTLETT. Has there been considerable recovery in the accounting cases?

Mr. KUYKENDALL. No, there probably will be, but we have not gotten into them. They have baffled the lawyers, both for the Indian tribes and for the Government.

Most tribes had other cases involving their lands, which the lawyers knew how to handle, and they prosecuted those cases first. We are now just getting into these accounting cases. I believe the lawyers

and the tribes wanted to press what looked like the best law suits first.

I rather imagine that some of these accounting cases are going to result in large recoveries, but we don't yet have the experience with them.

Senator BARTLETT. Will those accounting cases be heard this calendar year, the ensuing years, or will it start that soon?

Mr. KUYKENDALL. No. There possibly may be one or so starting this year, but the plaintiff tribes first get the accounting from the Government before any litigation can take place or any settlement can be made. As I stated, we understand that GSA has only nine accountants working, and it will be a while before those accounting reports are submitted.

And even then, the tribes may think that they are not adequate or complete. It gets to be a very complex situation.

Senator BARTLETT. In other words, the tribes are waiting rather on GSA?

Mr. KUYKENDALL. Yes, that is the first step, to get the accounting report; only after the full report is made will the parties be able to settle or litigate any of those cases.

Senator BARTLETT. Is this delay causing any delay on this Commission, or are you busy with others?

Mr. KUYKENDALL. We are busy with other matters, but it is causing a delay of our work in the future. As I explained, we don't really think we can use any more lawyers this next year.

If we had more cases ripe for decision, we could use more. I am hoping that next year we can demonstrate to you that we need quite a few more people, and there again we are going to have a problem that we are all worried about. As the remaining life of the Commission shortens, it is going to become more and more difficult to hire people and it is going to become more and more difficult to keep the people we have.

Senator BARTLETT. Did I recall correctly that you consider the remaining life of the Commission estimated 5 years?

Mr. KUYKENDALL. We will cease to exist on April 10, 1957.

Senator BARTLETT. And do you think this is sufficient to handle the cases that you would expect?

Mr. KUYKENDALL. Well, we hope that we can operate in a way to complete our work, or at least have it so completed that what is left to be turned over to the Court of Claims will be only what they can take in stride.

Senator BARTLETT. Yes. You processed approximately 384 cases in the 15 years, and you have approximately 227 more to go, why is it that you feel you can accomplish this in 5 years, when it took 15 to process the 384?

Mr. KUYKENDALL. Most cases have three parts to them. They involve recovery of the value of the land taken from the Indians. Those cases are tried in parts, in phases, and properly so. It is the best way to handle them.

The first phase is a determination of what land the tribe owned, the second phase is an evaluation of that land, once you know what the land is, and third is to determine what consideration the Indian

tribe did receive, and what offsets the Government may be able to interpose against any award that is given to the Indians.

So, the difficult case involves really three cases. Now, when we are talking about docket numbers, we are talking about a figure that is much less numerically than the total of the trials that we will have.

Now, many of these cases are still on our books as incomplete but they have been through one or two phases.

Senator BARTLETT. I see. Have you worked out a ratio to demonstrate the number of monetary awards granted in relation to the number of claims made?

Mr. KUYKENDALL. I don't think we have. Mr. Yarborough says he thinks it shows it in our annual report for the fiscal year 1972. Let's see if we can find it.

Senator BARTLETT. Page 1 of the appendix.

Commissioner YARBOROUGH. Appendix 1.

Mr. KUYKENDALL. I will let Mr. Webb explain it, this question.

Mr. WEBB. Do you have that page, sir?

Senator BARTLETT. Yes; I think we found it.

Mr. WEBB. You will notice that the first column is the number of dockets completed by dismissal, the second by awards, and the third, the number of awards that were made.

Senator BARTLETT. Would you say that again?

Mr. WEBB. The No. 1 column, the first column, is the—all right, your fiscal year is your first column, the second column refers to dismissals, the total is 177, do you see that, sir?

Senator BARTLETT. No, sir, which page are you on?

Mr. WEBB. It is appendix 1 of the annual report, sir.

Senator BARTLETT. All right, sir, let's try once more. I think we are ready this time.

Mr. WEBB. Do you have it now, sir?

Senator BARTLETT. Yes.

Mr. WEBB. All right. You will notice that in appendix 1, the fiscal years are listed. In the second column the number of dockets completed by dismissals is 177. Those are cases that were dismissed with no award.

Then the third column shows the number of dockets completed by awards, that is 208. We have consolidated cases, Senator, that carry more than one docket number, so that the number of actual awards would be smaller. That figure is 170.

Senator BARTLETT. I see.

Mr. Chairman, could you give me a rundown of the handling of the cases for the Oklahoma tribes?

Mr. KUYKENDALL. It would be a little difficult for us to do it from memory. We would be glad to submit it to you or submit it for the record, if you want it in the record.

Senator BARTLETT. Yes; I would like to have that.

Would the committee like that?

Senator ABOUREZK. Yes.

Senator BARTLETT. Please, yes.

Mr. KUYKENDALL. You know, there are more tribes in Oklahoma than anywhere, so although that will take a little bit of doing, but we have the information and we can give it to you. We will send it to the committee then.

Senator BARTLETT. All right.

[The material requested appears on p. 30.]

Senator BARTLETT. I don't want this request to require too much of your time, but I think it would be very helpful to me to know just where the various tribes do stand and their steps toward a judgment. I know the Osage judgment was made not long ago. Some of the others I am just not familiar with.

Mr. Chairman, those are all the questions I have.

Senator ABOUREZK. Thank you, Senator.

Under the Commission's rules, the Government's offset claims are not presented until the close of the case, and sometimes those claims drag on for years.

Has the Commission considered expediting that particular aspect of the claims?

Mr. KUYKENDALL. Yes; and we are doing it. Frequently, we are consolidating the offset claim with the second phase, the value phase.

Senator ABOUREZK. Can the offset claim be considered at the trial on the merits?

Mr. KUYKENDALL. Yes; it frequently is.

Senator ABOUREZK. Now, when the Commission's life was extended last year there was a lot of concern over accounting cases expressed and you discussed a little bit of that with Senator Bartlett.

Congress appropriated funds for the GSA to reactivate the Indian Tribal Claims Branch to prepare supplemental accounting reports ordered by the Commission. Has the Government begun to comply with the Commission's orders with respect to supplemental accounting reports?

Mr. KUYKENDALL. Well, we know that GSA is working on it. I have stated that we understand they have now nine people working on that work. They have not submitted any reports to us yet, and I don't know when they will.

Senator ABOUREZK. Have they been unduly delaying it in your opinion?

Mr. KUYKENDALL. I don't think it would be fair to say that they have been, considering when they got their appropriation and I believe they are making an honest effort to staff up as fast as possible, but a lot of time has been lost and more will be lost before they are really producing these reports.

Senator ABOUREZK. To what extent if you know, did GSA staff up after we gave them the money to do so? Do you know that?

Mr. KUYKENDALL. We understand that currently they have eight people doing its work.

Senator ABOUREZK. Wasn't it the original estimate that they needed 100 people to do so?

Mr. KUYKENDALL. I believe so.

Senator ABOUREZK. And when did they start staffing up?

Mr. KUYKENDALL. I don't really know, it was after they got their money, which was in the supplemental appropriations, so it was not before last fall.

Senator ABOUREZK. I have got some questions I would like to have answered, just for the record.

I have three more questions to go before I am done. What would happen in a court of equity if the trustee failed to furnish the proper accounting in a proceeding for accounting?

Perhaps one of your lawyers could answer that.

Mr. KUKYENDALL. Well, the trustee would become personally liable financially, and he might be criminally liable for what he had done.

Senator ABOUREZK. Doesn't the United States have the obligation to furnish a meaningful accounting to its trustee, and hasn't this Commission so ruled?

Mr. KUYKENDALL. Absolutely.

Senator ABOUREZK. Couldn't the Commission impose liability on the United States if it failed to furnish proper accounting?

Mr. KUYKENDALL. Well, I think Congress could do more about that than we could. We will make the awards and the machinery is set up whereby these get paid, as you know. You have worked on those matters, I understand.

Senator ABOUREZK. I mean, doesn't the Commission have the power to impose that liability?

Mr. KUYKENDALL. As in any other Indian claims case; yes.

Commissioner YARBOROUGH. Mr. Chairman, that might be getting us rather far into anticipating decisions we will be called on to make. I think a great difficulty in many of these cases is there is not enough information available as to what the size of the fund should be, so that even if we wanted to charge the trustee with the liability for all of it, there is no way yet to accurately measure how much that ought to be, what it would amount to.

Senator ABOUREZK. We are talking about the Government failing in a duty it ought to be performing.

Commissioner YARBOROUGH. Yes.

Senator ABOUREZK. And with regard to the amount involved that can be determined, and the only thing I am trying to find out is whether the Commission could impose that liability on the Government if they failed to make their accounting. Of course your answer would have been yes.

Mr. KUYKENDALL. Oh, I didn't understand your asking if we could do it even if the Government did not account. I guess Mr. Yarborough understood that. That is what he is saying, we wouldn't know how much to charge them unless we had some facts.

Commissioner YARBOROUGH. Mr. Chairman, I think it is a deterrent to attorneys hoping to settle these cases in that the reports are not yet complete enough to even measure the parameters of what amount they think was a reasonable value of their claim. I think that is one difficulty, even though liability might be clear, there is just not enough information yet available to quantify how much that might be.

Senator ABOUREZK. But if—the point I am trying to get at, I guess you retract your yes answer as I take it then?

Mr. KUYKENDALL. Yes.

Senator ABOUREZK. Your lawyer is shaking his head yes.

Mr. KUYKENDALL. I don't believe I did understand your question.

Senator ABOUREZK. Well, let me rephrase it. If the GSA drags its feet and doesn't furnish the proper accounting, don't you as a Com-

mission have the power to impose a liability on the Government as represented by GSA in this case?

Mr. KUYKENDALL. My answer to that would be "No," I don't know of any way we could impose a penalty on the Government without knowing what was justly due from it.

Senator ABOUREZK. You are saying the Commission is excluded from those particular loss of equity that other trustees or other courts are empowered to use?

Mr. KUYKENDALL. Yes; I believe we are. We have only the authorities that are given us in the Indian Claims Commission Act.

Commissioner YARBOROUGH. Mr. Chairman, I think you have raised a lively topic for discussion among the members of the Commission. I think this may be an issue that will have to be brought before us in some particular case, before a definite answer can be made on it.

Senator ABOUREZK. Would you be able to furnish an opinion to the committee with regard to that question?

Mr. KUYKENDALL. Well, Senator, I would hope you won't ask us to do that because we might be giving an opinion in a vacuum that should be reserved for a decision by the Commission when a real case is presented to us.

Senator ABOUREZK. Well, I don't understand. Would you repeat that reasoning again?

Mr. KUYKENDALL. If we were to give you an opinion now, which would be in a vacuum, we would not have any specific facts upon which to base it.

Senator ABOUREZK. No, an opinion as to whether you have the power to impose liability on the Government in the event they fail to account when you ask them to account. Can you furnish that kind of an opinion?

Mr. KUYKENDALL. Sure, I believe we could do that, yes.

Senator ABOUREZK. Would, say a 30-day period be sufficient?

Mr. KUYKENDALL. That will be ample time.

Senator ABOUREZK. We would like you to furnish that to the committee, Mr. Chairman.

[The material requested appears on p. 83]

Senator ABOUREZK. I have no more questions, unless Senator Metcalf or Senator Bartlett have some more.

Mr. KUYKENDALL. Mr. Chairman, I hate to lengthen this hearing and detain anyone, but I believe I ought to clarify something else.

I stated that we were not getting the accounting reports. Now, the Commission in the past has received some accounting reports. In most all cases the plaintiffs think they were inadequate and they apparently were based on records that were here in Washington and the plaintiffs say there were other transactions of which there is no evidence here in Washington, and that the Government should go to the field and get those records.

I think now that is what GSA is doing. Also, GSA or the Government, the Department of Justice, has contended that it need not ever account beyond 1946, which was the date the Indian Claims Commission Act was passed, which said that all claims to be filed had to be in existence at that time.

Only claims that were then in existence could be filed with the Commission.

I am trying to make this short and am probably confusing the matter, but we have held, and the Court of Claims has held that a claim which originated prior to 1946 for certain wrong conduct or pattern of doing business with the Indians, which continued after 1946, may be pursued to its end, even though the law says that we cannot adjudicate any claims which did not arise prior to 1946.

The Government, the Department of Justice does not accede to that principle and this has to be adjudicated by the Court of Claims and perhaps by the Supreme Court. So that is a problem and potential cause of delay.

Senator ABOUREZK. Thank you, Mr. Chairman.

There being no further questions, we will adjourn the hearing session and proceed immediately into markup. And under the new rules, the new liberalized Democratic rules of the Interior Committee, we will proceed with the markup in the open.

Senator METCALF. May we have a short recess, Mr. Chairman?

Senator ABOUREZK. We certainly may. We will recess for 10 minutes.

[Recess.]

[The prepared statement of Mr. Kuykendall and the material requested by the committee follow:]

STATEMENT OF JEROME K. KUYKENDALL
CHAIRMAN OF THE INDIAN CLAIMS COMMISSION,
BEFORE THE SUBCOMMITTEE ON INDIAN AFFAIRS
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS
OF THE UNITED STATES SENATE

February 16, 1973

INDIAN CLAIMS COMMISSION

Jerome K. Kuykendall, Chairman

Accompanied by:

John T. Vance, Commissioner

Richard W. Yarborough, Commissioner

Margaret H. Pierce, Commissioner

Brantley Blue, Commissioner

Harry E. Webb, Jr., Chief Counsel

David H. Bigelow, Executive Director

Mr. Chairman and Members of the Subcommittee:

My colleagues and I welcome this opportunity to testify on S. 721, a bill "To authorize appropriations for the Indian Claims Commission for fiscal year 1974, and for other purposes." The need for this legislation arises from an amendment to Section 6 of the Indian Claims Commission Act contained in Public Law 92-265, which was enacted last year and was approved March 30, 1972. The amendment reads as follows:

There are authorized to be appropriated for the necessary expenses of the Commission not to exceed \$1,500,000 for fiscal year 1973, and appropriations for succeeding fiscal years shall be made only to the extent hereafter authorized by Act of Congress.

S. 721 would authorize appropriations of such sums as may be necessary to carry out the provisions of the Indian Claims Commission Act during fiscal years 1974, 1975, 1976 and 1977, which would be for the remaining life of the Commission, which ends on April 10, 1977, or at such earlier time as the Commission shall have made its final report to the Congress on all claims filed with it. The draft bill prepared by us, which now has evolved into S. 721, contains language suggested by the Office of Management and Budget which covers the Fiscal Years 1975, 1976, and 1977 as well as fiscal year 1974.

Enactment of the bill in its present form would relieve the Congress, the Administration and the Commission of the trouble necessarily involved in the passage of an authorization for an appropriation by both Houses in each of the calendar years 1974, 1975, and 1976. Nevertheless, the Congress and

particularly the members of this Committee, would still automatically have full oversight of the Commission's activities. This is assured to the Committees on Interior and Insular Affairs of both Houses of Congress by Section 28 of the Indian Claims Commission Act enacted last year which requires that the Commission shall, on the first day of each session of Congress, submit to both Committees a report showing the progress made and the work remaining to be completed by the Commission, as well as the status of each remaining case, along with a projected date for its completion. We submitted the first of such reports last month. Congress and in fact any member thereof may obtain from the Commission any information which is desired. Furthermore, it is obvious that the Commission has much work left to do in the next four fiscal years.

Two charts are attached to the statement I am now reading. Chart 1 is a graph depicting the number of dockets completed by the Commission in each fiscal year from 1949 through 1972. Since Fiscal Year 1973 is more than half completed we believe we can predict quite accurately our progress during that period and it therefore is shown on the chart by a dashed line. A dotted line representing the work to be done between July 1, 1973 and April 10, 1977 shows that we will get the job done on time if we keep up the pace of Fiscal Year 1973.

Chart No. 2 shows the number of dockets completed by monetary awards, (not including dismissals), in each Fiscal Year from 1947 when the Commission came into being, through Fiscal Year 1972. This information

is portrayed both by a graphic line and by bars placed at five year intervals on the chart. The chart discloses that more dockets were completed by monetary awards made in the five Fiscal Years of 1968 through 1972 than were made during the entire prior life of the Commission.

When we appeared before you a year ago we outlined our plan for completion of the remaining cases by April 10, 1977. That plan, which is described in detail in our 1972 annual report, is being carried out. Since our appearance before the Committee last year the number of cases remaining has been reduced from 267 to 226. The rate at which case phases have been completed during the last six months indicates that more than the number planned will be disposed of in Fiscal Year 1973. Every matter that has been submitted to the Commission for its decision is under active consideration, and the Commission is presently able to give prompt attention to each new matter submitted.

On February 12 of this year the Commission held another calendar call at which counsel for the plaintiffs and the defendant were present. As a result of this proceeding any additional matters which could be scheduled for trial by agreement of the parties were thus reset for trial. We believe that an increased sense of urgency was instilled at this proceeding. In addition, two other matters which vitally affect the ability of this Commission to complete its task were discussed.

One subject was our accounting cases. As this Committee knows, the General Services Administration is in the process of rebuilding its

Indian Tribal Claims Branch so that the accounting information necessary for the litigation of our accounting cases can be provided. We were informed that there are now only nine employees in this section and that it is still unable to function effectively. We are confident that this situation will improve but are naturally concerned as to when adequate reports will be forthcoming. The Commission has done and will continue to do everything possible and within the bounds of propriety to expedite this work of GSA.

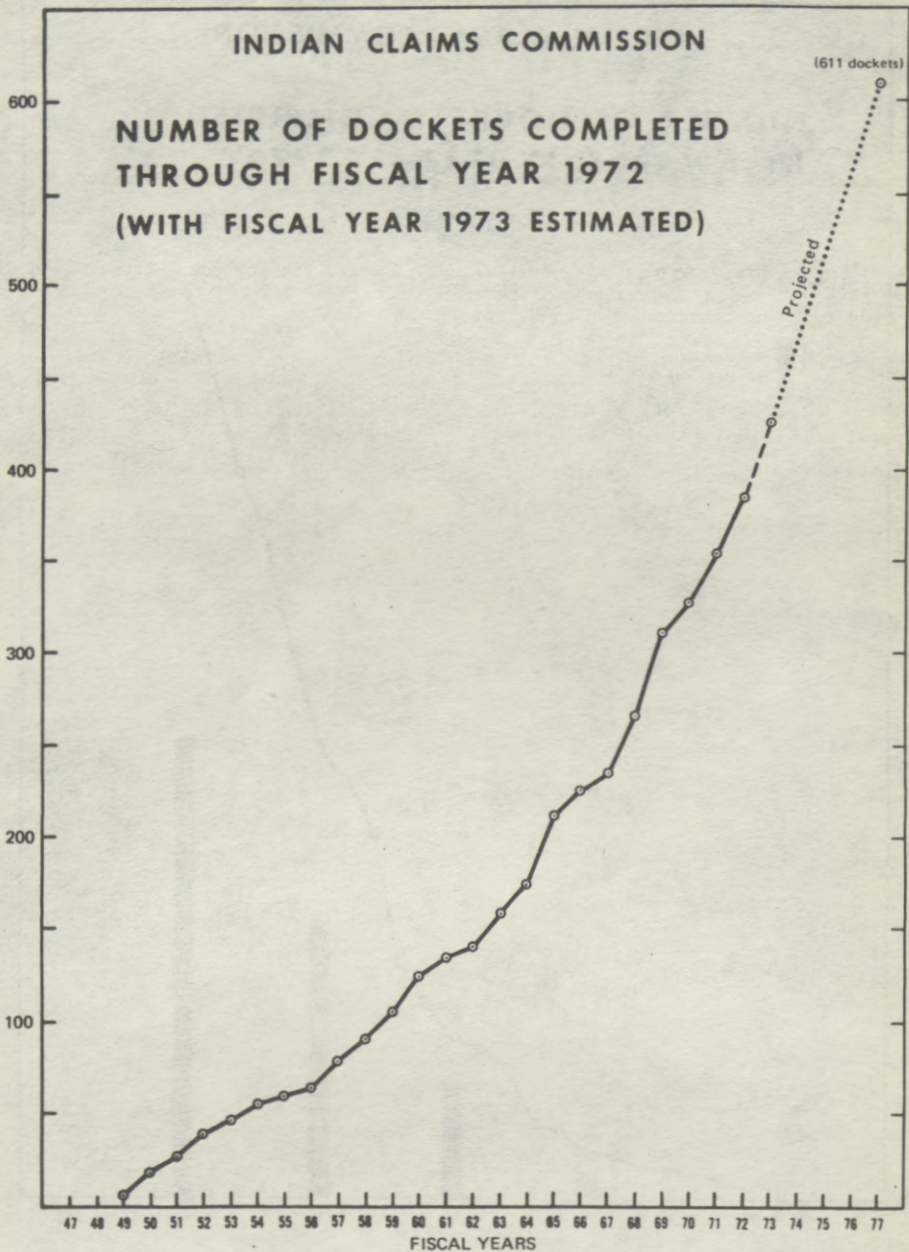
Another matter which came to the attention of the Commission concerns the Expert Assistance Fund established by Act of Congress in 1963. (See 25 U.S.A.C. §70 n-1, et seq.) This fund is administered by the Secretary of the Interior for the purpose of making money available to Indian tribes which must have the same in order to obtain expert assistance. At the moment this fund is overcommitted to the extent of \$175,000. In addition to the existing overcommitment, estimates of counsel for the various tribes indicates that approximately one million more dollars will be needed in the near future. This immediate and potential deficit in the fund will either make it impossible for a number of tribes to obtain loans for expert assistance or will unduly delay them in getting such assistance, with the result that the Commission will be seriously hampered and delayed in its work.

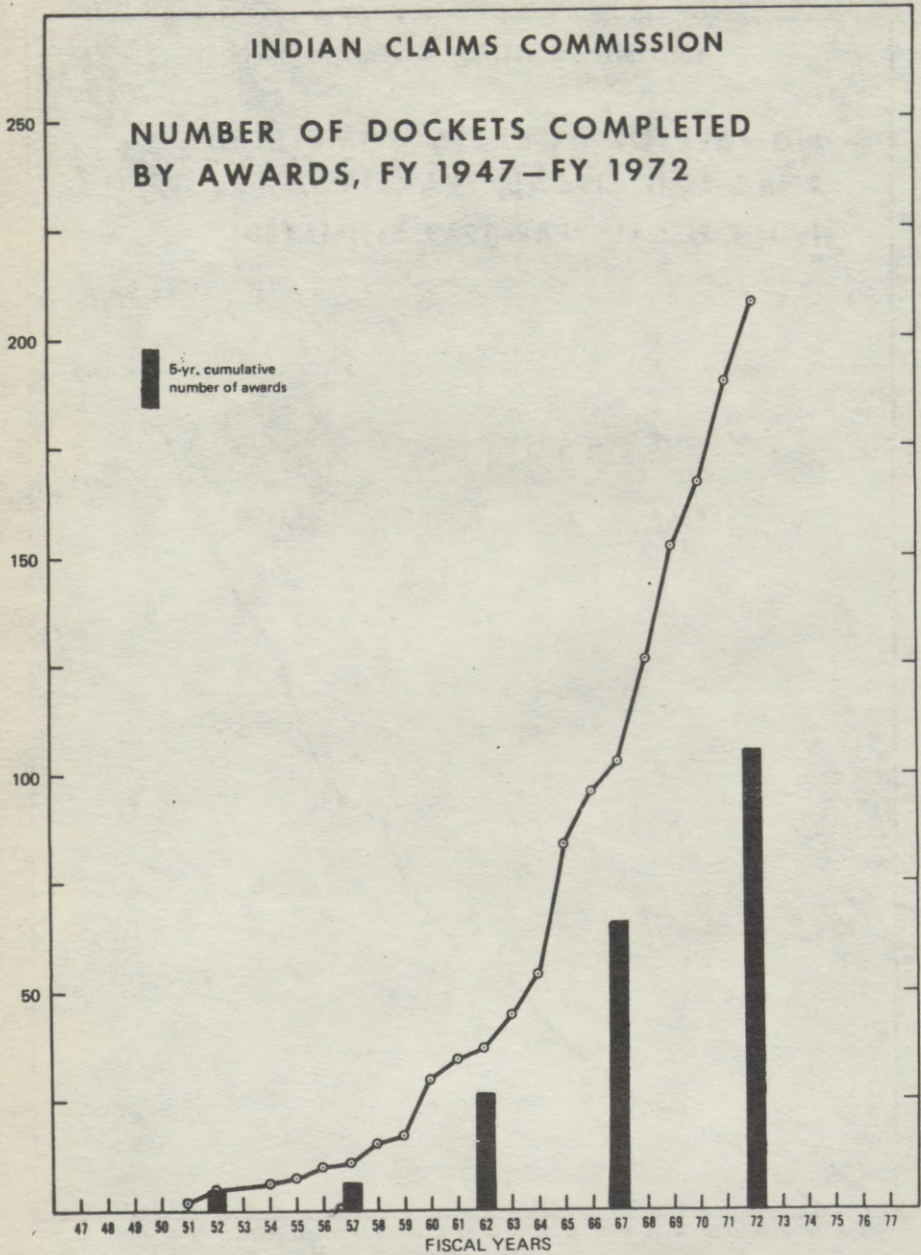
Last year we discussed two other problems with you. One of these concerned our accounting cases mentioned above, and the other was the lack of an adequate legal staff in the Indian Claims Section of the

Department of Justice. We have been informed that this latter problem is being alleviated by the assignment of additional personnel to that section.

We favor enactment of S.721 and are authorized to state that the enactment of it would be consistent with the Administration's objectives.

My fellow Commissioners may wish to add to what I have said, and all of us are available for questioning. I thank you for your attention and for your consideration of S. 721.

**CHART NO. 1**

**CHART NO. 2**

INDIAN CLAIMS COMMISSION

FRIDGELL BUILDING, 6TH FLOOR
1720 K STREET NW,
WASHINGTON, D.C. 20006



March 16, 1973

The Honorable James Abourezk
Chairman
Subcommittee on Indian Affairs
Committee on Interior and Insular Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Pursuant to your request made at the hearing of February 16, 1973, on the bill to authorize appropriations for the Indian Claims Commission for fiscal year 1974, and for other purposes, the following information is respectfully submitted.

1. A status report on the cases before the Indian Claims Commission which affected the Indian tribes of Oklahoma.
2. A report on the protest of Mr. Richard W. Belmont, Jr., Chairman, Suquamish Tribe, concerning "notice of hearing" mailed to him by the tribe's counsel.
3. Reports on six of the cases enumerated by Mr. Hank Adams, National Director of the Survival of American Indians Association, as being cases in which the tribes have protested their representation by their attorneys and the nature of the awards granted by the Indian Claims Commission. These reports reveal those cases in which tribes have protested the manner in which the cases were conducted, as well as the disposition or proposed disposition of those cases.

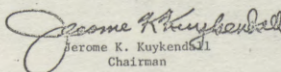
Mr. Adams further asserted that the Commission had removed these protest documents from the records. The Indian Claims Commission has never removed from the record, or failed to include in the record, any protest against a tribal claims attorney. All communications from the tribe, tribal officers, tribal members, or any other individual, concerning the litigation of a claim, are kept on file as part of the record.

The report on the Suquamish Tribe, Docket 132, is in answer to the request for a "full report in detail" on that case. This report shows that Mr. Belmont's statement that the \$36,000 consideration allowed by the Indian Claims Commission had been spent for "blankets and trinkets for 462 people" was in error. It also indicates that the Suquamish case, Docket 132, was appealed to the United States Court of Claims and that the decision of the Indian Claims Commission was affirmed. Mr. Belmont's previous contact with the Indian Claims Commission is also detailed.

4. An opinion by the Indian Claims Commission concerning the jurisdiction of the Commission to impose liability on the United States in the event the United States fails to account when so ordered by the Commission.

If I may be of further assistance, please inform me.

Sincerely yours,


Jerome K. Kuykendall
Chairman

INDIAN CLAIMS COMMISSION

March 16, 1973

INFORMATION REQUESTED FOR THE COMMITTEE
ON CASES FOR THE OKLAHOMA TRIBES

The names of the Oklahoma Indian tribes or groups that have brought claim cases against the United States before the Indian Claims Commission, the docket numbers assigned to the cases, the subject matter of the claims, and the status of the cases are indicated below.

Apache Cases

Docket No. 30, The Fort Sill Apache Tribe of the State of Oklahoma, et al. Claim for compensation for 804,000 acres of land in New Mexico. The Commission found that the United States extinguished the Apache Indian title to this land in 1886 without payment of compensation, and on August 25, 1971, entered a final award of \$521,796.00 in this case and a case consolidated with it in Docket No. 48, The Chiricahua and Warm Springs Tribes of Apache Indians. An appeal by the defendant from the Commission's final judgment in consolidated Docket Nos. 30 and 48 is pending before the Court of Claims.

Docket No. 30-A, The Fort Sill Apache Tribe of the State of Oklahoma, et al. Claim for compensation for 14,802,357 acres of land in Arizona and New Mexico. The Commission determined that the United States acquired the Apache Indian title to this land on September 4, 1886, without the payment of compensation, and on August 25, 1971, entered a final award of \$15,967,300.00 in this case and a case consolidated with it in Docket No. 48-A, The Chiricahua and Warm Springs Tribes of Apache Indians. An appeal by the defendant from the Commission's final determinations in the consolidated case in Docket Nos. 30-A and 48-A is pending before the Court of Claims.

Docket No. 49, The Fort Sill Apache Tribe of the State of Oklahoma, et al. Claim for damages for the alleged wrongful removal by the United States of the Warm Spring and Chiricahua Bands of Apaches from their homes and the subsequent arrest and imprisonment of these bands and some 450 of their members. On September 24, 1971, the Commission determined, among other things, that it lacked jurisdiction of the subject matter of this claim and entered an order in Docket No. 49 dismissing the plaintiffs' petition. An appeal by the plaintiffs from that order is pending before the Court of Claims.

Other cases involving Apaches are listed under the Kiowa, Comanche and Apache heading, below:-

Caddo Case

Docket No. 226, The Caddo Tribe of Oklahoma, et al. Claim for additional compensation for lands in Louisiana and Arkansas ceded to the United States by the Caddo Nation under the Treaty of July 1, 1835 (7 Stat. 470), and claims for compensation for lands in Texas and Oklahoma outside the area ceded by the 1835 Treaty that were allegedly occupied by the plaintiffs' ancestors and predecessors. The latter claims are asserted in counts II and IV of the Caddo petition, which counts were dismissed by the Commission's order of March 1, 1955. After a

Caddo Case, Continued

decision on the value of the lands ceded by the 1835 Treaty, the Commission entered an order in this case on December 5, 1959, vacating the dismissal order of March 1, 1955. Thereafter The Alabama-Coushatta Indians of Texas and the Coushatta Indians of Louisiana, The Wichita Indian Tribe of Oklahoma, and the Tonkawa Tribe of Indians of Oklahoma were allowed to become parties plaintiff to this case by intervention. Land title and related issues involved in the reinstated land claims have been tried and the attorneys for the parties are briefing those issues.

Cayuga--See cases under Seneca-CayugaCherokee Cases

Docket No. 2, The Cherokee Nation of Indians in Oklahoma for and on behalf of The Western (Old Settler) Cherokee Indians, and The Eastern (Emigrant) Cherokee Indians. Claim based on an alleged oral promise of some 14 million acres for outlet lands. The plaintiff failed to establish a right to recover and the case was dismissed by the Commission's order of February 19, 1952.

Docket No. 3, The Western (Old Settler) Cherokee Indians, on the relation of Dorothea Owen, Thomas Roach, Ellis Crowell Duncan, et al. Claim for the sum of \$308,548.59 principal, with interest from August 24, 1894 until paid at the rate of 5% per annum and in addition the sum of \$39,953.40 of unpaid interest, without interest. These principal and interest amounts were alleged as being the balance due to the plaintiffs under an 1846 treaty. It was determined that this case was previously adjudicated on its merits by the Court of Claims and it was dismissed by the Commission's order of November 15, 1948.

Docket No. 5, The Eastern (Emigrant) Cherokee Indians, on the relation of Florian H. Nash, Junior, Francis A. Nash, Henry C. Walkley, et al. Claim for a sum of more than \$2,000,000.00 alleged to be due to the plaintiffs under the Treaty of August 6, 1846 (9 Stat. 871). The Commission found that this claim had been adjudicated on its merits by the Court of Claims. It was dismissed by the Commission's order of November 15, 1948.

Docket No. 24, The Cherokee Nation, for and on behalf of The Western (Old Settler) Cherokee Indians. Claim to recover the value of lands in Oklahoma alleged to have been taken from the Western Cherokee Indians without adequate compensation. The Commission determined, among other things, that the Supreme Court had adjudicated this claim adversely to the plaintiffs. It was dismissed by the Commission's order of April 3, 1952.

Docket No. 41, The Western (Old Settler) Cherokee Indians, on the relation of Dorothea Owen, John B. Sixkiller, Alice Flourney-Smith, et al. Claim to recover the amount paid as attorney fees to attorneys who successfully prosecuted an action for the Western Cherokees against the United States in which \$300,386.31 was recovered. Dismissed by the Commission's order of December 28, 1950.

Docket No. 42, The Eastern (Emigrant) Cherokee Indians, on the relation of Jesse B. Milam, James Pickun, et al. Claim to recover with interest sums paid for attorney fees and the expense of ascertaining the persons entitled to share in judgment funds resulting from a judgment of \$5,098,361.08 recovered by the plaintiffs in a suit before the Court of Claims against the

Cherokee Cases, Continued

United States. Dismissed by the Commission's order of December 28, 1950.

Docket No. 43, The Cherokee Nation, et al. Claim for reimbursement because of an alleged improper charge against the Western Cherokees for a part of the expense of removal of the Eastern Cherokees to the Indian Territory. Dismissed by the Commission's order of June 11, 1951, entered on a motion to dismiss filed by the plaintiffs.

Docket No. 173, The Cherokee Nation or Tribe of Indians. On September 14, 1961, the Commission entered a final award in the sum of \$14,364,476.15 in this case representing additional compensation for 6,022,754.17 acres of Cherokee outlet lands in Oklahoma acquired by the United States under an agreement ratified on March 3, 1893.

Docket No. 173-A, The Cherokee Nation, Plaintiff and The Cherokee Freedmen and Cherokee Freedmen's Association /Plaintiffs in Docket No. 123/, Intervenor. On February 2, 1972, the Commission entered a final award of \$4,266,309.00 in this case representing additional compensation for 2,122,000 acres of Cherokee outlet lands in Oklahoma acquired by the United States during the 1872-1893 period for relocation of other Indians. Cross appeals from the Commission's final determinations were taken to the Court of Claims. In its decision on the appeals, handed down on February 16, 1973, the Court held that the United States is entitled to a credit, disallowed by the Commission, in the amount of \$378,751.43 to be applied against the final award of \$4,266,309.00.

Docket No. 123, The Cherokee Freedmen and Cherokee Freedmen's Association. The plaintiffs' cause before the Commission is asserted in Docket No. 173-A, above, in which they have been admitted as parties plaintiff by intervention.

Docket No. 190, The Cherokee Nation. Claim for funds and the value of lands distributed to certain members of the Cherokee Nation. Dismissed by the Commission's order of September 25, 1963.

Docket No. 271, The Cherokee Nation. Suit to recover some \$200,000.00 of Cherokee trust funds and interest thereon allegedly disbursed by the government to other Indians than Cherokees during the period 1862 to 1866. The same cause had been decided against the plaintiff by the Court of Claims. Dismissed on March 19, 1969, by the Commission's order entered on a motion to dismiss filed by the plaintiff.

Docket No. 297, The Cherokee Nation. Claim for additional compensation for certain Cherokee orphan school properties that were acquired by the United States. Dismissed by the Commission's order of March 19, 1969, entered on a motion to dismiss filed by the plaintiff. Plaintiff's attorney was doubtful of proving a value for the property in excess of what the government paid for it.

Cheyenne-Arapaho Cases

Docket No. 329, Cheyenne-Arapaho Tribes of Indians of Oklahoma, et al. The petition in this case asserted multiple claims. Pursuant to the Commission's order all of them were separated out from the original petition and submitted in separate petitions assigned Docket Nos. 329-A, 329-B, 329-C and 329-D. The original petition in Docket No. 329 was thereafter dismissed by the Commission's order of December 10, 1968.

Cheyenne-Arapaho Cases, Continued

Docket Nos. 329-A and 329-B, Cheyenne-Arapaho Tribes of Indians of Oklahoma (also known as the Southern Cheyenne and Arapaho Tribes). Claims for additional compensation for an approximate 50% interest in certain lands in Colorado, Wyoming, Kansas and Nebraska acquired by the United States on October 14, 1865. In accordance with an approved compromise settlement agreement between the parties the cases in Docket Nos. 329-A and 329-B were consolidated and finally disposed of by entry of a final net judgment for the Cheyenne-Arapaho Tribes of Indians of Oklahoma in the sum of \$15,000,000.00 on October 18, 1965.

Chickasaw Cases

Docket No. 23, The Chickasaw Nation. Claim for additional compensation for the Chickasaw interest in land obtained by the United States under the Treaty of April 28, 1866 (14 Stat. 769). The Commission entered a final award of \$902,008.11 in this case on July 14, 1950.

Docket No. 267, The Chickasaw Nation. Claim duplicating that in Docket No. 23. Dismissed by the Commission's order of September 16, 1957.

Docket No. 268, The Chickasaw Nation. Claim for additional compensation for the Chickasaw $\frac{1}{4}$ interest in a certain tract of land of 136,204.02 acres that was acquired by the United States. This cause was previously fully adjudicated on the merits by the Court of Claims. It was dismissed by the Commission's order of April 20, 1962.

Docket No. 269, The Chickasaw Nation. Claim for the value of $\frac{1}{4}$ interest in so much of the common domain of the Choctaw and Chickasaw Nations as was allotted to the Choctaw freedmen after their adoption by the Choctaw Nation. A final award of \$190,934.78 was entered in this case on July 17, 1959.

Docket No. 270, The Chickasaw Nation. Claim for recovery of certain funds expended for the Civil War subsistence of refugee Indians and funds disbursed to individual Chickasaws who suffered damages during the Civil War because of their adherence to the cause of the Union. During that conflict, the Chickasaw Nation as a political entity was in actual hostility to the United States. The claim was dismissed by the Commission's order of January 16, 1969.

See the case under the Choctaw and Chickasaw heading, below.

Choctaw Cases

Docket No. 16, The Choctaw Nation. Claim for additional compensation for the Choctaw interest in land in Oklahoma acquired by the United States under the Treaty of April 28, 1866 (14 Stat. 769). Disposed of by a final award in the amount of \$2,587,835.47 entered on July 14, 1950.

Docket No. 50, The Choctaw Nation. Claim for the recovery of Choctaw funds allegedly used by the United States during the Civil War for the relief of refugee Indians other than Choctaws. The defendant's answer to the petition asserted, among other things, that the same cause was tried and adjudicated on the merits by the Court of Claims. Dismissed on the plaintiff's motion on April 10, 1951.

Choctaw Cases, Continued

Docket No. 51, The Choctaw Nation. Claim for the recovery of a sum of some \$41,000.00 in per capita payments allegedly made without the assent or agreement of the plaintiff together with interest computed from the dates of such payments. Dismissed by the Commission's order of March 2, 1950.

Docket No. 55, The Choctaw Nation. Claim for the recovery of \$753,609.41 allegedly paid from plaintiff's funds on expenses incurred by the United States in carrying out the provisions of the Atoka Agreement of April 23, 1897 (30 Stat. 495) and a related Supplemental Agreement of September 25, 1902 (32 Stat. 641). The Commission found that this cause was previously considered and adjudicated on its merits in a suit before the Court of Claims. Dismissed by the Commission's order of June 11, 1951.

Docket No. 56, The Choctaw Nation. Claim for the sum of \$63,423.11, representing the difference at June 30, 1935, between interest paid at 3% on certain trust funds and the amount of interest alleged to have been due computed at 5%, together with interest at 4% on the \$63,423.11 from June 30, 1935. The Commission found that this cause had been previously considered and adjudicated on its merits in a suit before the Court of Claims and that the judgment of the Court had wiped out the claim. Dismissed by the Commission's order of July 14, 1950.

Docket No. 103, The Choctaw Nation. Claim to recover the value of 6,589,000 acres of land allegedly ceded to the Choctaw Nation by the Treaty of October 18, 1820 (7 Stat. 210). The Commission found that a prior adjudication of this cause by the Supreme Court barred the reopening of the question of title to the lands involved and dismissed this case by its order of March 8, 1954.

Docket No. 249, The Choctaw Nation. Plaintiff's petition asserts four specific accounting claims of which one, a claim for recovery of fees paid to plaintiff's attorney, was dismissed on the plaintiff's motion, and a claim for such amount as is shown to be due by a complete general accounting from the defendant. The defendant has submitted an accounting report, but no exceptions to the accounting have been filed for the plaintiff. The case is currently submitted to the Commission for its decision on issues presented in several complex motions.

See the case under the Choctaw and Chickasaw heading, below.

Choctaw and Chickasaw Case

Docket No. 39, Marquerite J. Underwood, on the Relation of an Identifiable Group of Choctaw and Chickasaw Plaintiffs, et al. Claim for payment of the value of benefits, with interest, denied to the plaintiffs in consequence of the alleged wrongful denial of their enrollment as members of the Chickasaw Tribe. The Commission determined that the petition asserted independent, individual claims which the Commission lacks jurisdiction to entertain and dismissed this case on October 28, 1949.

Creek Cases

Docket No. 1, The Loyal Creek Band or Group of Creek Indians, et al. Claim for compensation for losses sustained by the plaintiff group in consequence of its loyalty to the Union during the Civil War. Disposed of by a final award in the sum of \$600,000.00 entered on October 19, 1951.

Docket No. 21, The Creek Nation. The Creek Nation East of the Mississippi was a party plaintiff by intervention in this case. Claim for compensation for lands ceded to the United States under the Fort Jackson Treaty of August 9, 1814 (7 Stat. 120). The Commission entered a final award in this case in the sum of \$3,913,000.00 on September 10, 1962, in favor of the Creek Nation and the Creek Nation East of the Mississippi for and on behalf of the Creek Nation as it was constituted at the time of the 1814 treaty.

Docket No. 25, P. A. Lewis, et al., on the relation of the Creek Freedmen Association, an organized group. Claims in behalf of individual persons of African descent for equalization of allotments of Creek tribal property. Dismissed by the Commission's order of August 4, 1949, for lack of jurisdiction to hear and determine claims in behalf of individual persons.

Docket No. 166, The Creek Nation. Claim for revision of the Creek Treaty of June 14, 1866 (14 Stat. 785), which provided that former Creek slaves should have all the rights of native Creeks and compensation for funds and lands of the Creek Nation given by the defendant in consequence of the treaty provision to former Creek slaves. The same issues presented in this case had previously been adjudicated by the Commission and the Court of Claims adverse to the plaintiffs involved. Dismissed by the Commission's order of February 13, 1968, entered on the Plaintiff's motion that its case be dismissed.

Docket No. 167, The Creek Nation. Claim for compensation for 1,198.99 acres of Creek land that were taken from the Creeks in consequence of a survey error. A final award in the sum of \$50,000.00 was entered in this case on May 26, 1971.

Docket No. 168, The Creek Nation. Claim for compensation for the alleged taking by the defendant of some 28,875 acres of Creek lands in the beds of the Arkansas, Cimarron, and Canadian rivers in the State of Oklahoma. The Commission found, among other things, that this claim had been heard and adjudicated on its merits by the Court of Claims in Creek Nation v. United States (92 Ct. Cl. 269, certiorari denied, 313 U.S. 381) and dismissed this case on March 18, 1963.

Docket No. 169, The Creek Nation. Claims for compensation for loss of lands and tribal funds in consequence of enrollment errors allegedly made by the defendant. This case is set for trial on valuation issues on February 4, 1974.

Docket No. 272, The Creek Nation. Claim for the fair market value of land in Alabama ceded to the United States by the Treaty of March 24, 1832 (7 Stat. 336). The tract involved contains 5,200,000 acres. The Commission's decision on the liability phase of the case was entered on December 8, 1971. An appeal by the defendant from that decision is pending before the Court of Claims.

Creek Cases, Continued

Docket No. 273, The Creek Nation. Claim for whatever sum might be due if Sections 10 through 15 of the Creek Agreement proclaimed on June 28, 1901 (31 Stat. 861) were revised on the ground of unconscionable consideration or other equitable grounds. Involved in the case are townlot properties that were disposed of by the defendant under the aforementioned agreement. The issue of the fair market value of the townlots was determined by the Court of Claims in the case of Creek Nation v. United States, 97 Ct. Cl. 602 (1942), cert. denied, 318 U.S. 787 (1943). Issues in respect to the consideration received by the plaintiff for entering into the above-mentioned agreement were tried on March 1, 1973. The attorneys for the parties are briefing those issues.

Docket No. 274, The Creek Nation. Claim for \$331,916.39 disbursed for maintenance of refugee Indians during the Civil War and \$100,000.00 in reparations paid by the plaintiff. Dismissed by the Commission's order of November 5, 1968.

Docket No. 275, The Creek Nation. Claim for compensation for some 1,500,000 acres of land in northern Alabama and northwest Georgia that the United States, in effect, gave to the Cherokee Nation by the Treaty of March 22, 1816 (7 Stat. 139). A final award of \$1,346,000.00 was entered in this case on August 23, 1972.

Docket No. 276, The Creek Nation. Claim for additional compensation for lands ceded to the United States by the Treaty of August 7, 1856 (11 Stat. 699). A final award of \$1,037,444.62 was entered in this case on August 17, 1966.

Docket No. 277, The Creek Nation. Plaintiff is seeking to recover for various alleged trespasses by railroads and their personnel. Proceedings have been stayed pending the final outcome of a similar case in Docket No. 247, The Seminole Nation.

Docket No. 292, The Creek Nation. Claim for payment of sums allegedly due plaintiff under Treaties of 1802, 1805, 1832, 1833 and 1856. The Commission determined that the plaintiff was not entitled to recover in this case and dismissed it by an order dated February 18, 1959.

Delaware Cases

Docket No. 27, The Delaware Tribe of Indians. Claim for additional compensation for the Delaware interest in lands in Michigan and Ohio ceded to the United States by the Treaty of September 29, 1817 (7 Stat. 160) with the Wyandot, Seneca, Delaware, Shawnee, Potawatomi, Ottawa and Chippewa tribes of Indians. This case was tried in consolidation with the competing or related claims of 10 other tribal groups in 10 other dockets on land title issues and is submitted to the Commission for its decision on those issues.

Docket No. 27-A, The Delaware Tribe of Indians, and Docket No. 241, Absentee Delaware Tribe of Oklahoma. The claim in these consolidated cases was for additional compensation for 960,000 acres of Delaware outlet lands in Kansas ceded to the United States under the Delaware Treaty of May 6, 1854 (10 Stat. 1048). The case was disposed of by a final award of \$435,873.86 entered in Docket Nos. 27-A and 241 on November 24, 1971.

Delaware Cases, Continued

27-B, The Delaware Tribe of Indians. Claim for additional compensation for the Delaware interest in lands ceded by the Treaty of 1795 between the United States and the Wyandot, Delaware, Shawnee, Ottawa, Chippewa, Potawatomi, Miami, Bel-river, Wea, Kickapoo, Piankeshaw, and Kaskaskia tribes of Indians. This case was tried on land title issues in consolidation with the competing or related claims of other Indian groups in 12 other dockets. The 13 dockets in the consolidation are submitted to the Commission for its decision on those issues.

Docket No. 27-C, The Delaware Tribe of Indians. Claim alleged under an 1867 agreement between the Delawares and the Cherokees for the value of a certain tract of land. Dismissed by the Commission's order of November 26, 1968, entered on the plaintiff's motion to dismiss, which was based on the ground that the claim was not consistent with another claim on which the plaintiff recovered.

27-D, The Delaware Tribe of Indians. Claim for damages in the sum of \$26,284.00 plus interest at 5% from January 1, 1870, arising under the Treaty of July 4, 1866, Article 4. Dismissed by the Commission's order of August 31, 1954, entered on the plaintiff's motion to dismiss which stated, among other things, that the plaintiff was fully convinced by the defendant's evidence that its claim had been fully satisfied and was without substance.

Docket No. 27-E, The Delaware Tribe of Indians. Claim for additional compensation for the Delaware interest in lands ceded to the United States by the Treaty of July 4, 1805, with the Wyandot, Ottawa, Chippewa, Munsee and Delaware, Shawnee, and Potawatomi Nations. This case was tried on land title issues in consolidation with the competing or related claims of other Indian groups in 9 other dockets. The 10 dockets involved in the consolidated proceeding are submitted to the Commission for its decision on the land title issues.

Docket No. 72, The Absentee Delaware Tribe of Oklahoma, et al., and Docket No. 298, The Delaware Tribe of Indians. The claim in this consolidated case was based on alleged violations by the United States of provisions in the Treaty of May 6, 1854 (10 Stat. 1048) in respect to sales of Delaware trust lands. Disposed of by a final award entered in the consolidated case on September 10, 1969, in the amount of \$9,194,364.99.

Docket No. 202, The Absentee Delaware Tribe of Oklahoma, et al. Same claim as that in the case of the Delaware Tribe in Docket No. 27-E. See comments under Docket No. 27-E, above. This case is one of the 10 cases included in the consolidated group mentioned in those comments.

Docket No. 289, The Absentee Delaware Tribe of Oklahoma, et al. Claim for additional compensation for the Delaware interest in lands ceded to the United States by the Treaty of August 18, 1804 (7 Stat. 81). A final award in the sum of \$1,497,246.11 was entered on this claim on February 24, 1971.

Docket No. 337, The Absentee Delaware Tribe of Oklahoma, et al. Claim for additional compensation for the Delaware interest in lands ceded to the United States by the Treaty of October 3, 1818 (7 Stat. 188). A final award to the plaintiffs in behalf of the Delaware Nation as constituted at the time of the treaty was entered on this claim in the sum of \$1,627,244.64 on August 5, 1963.

Delaware Cases, Continued

Docket No. 338, Absentee Delaware Tribe of Oklahoma, et al. Same Claim as that asserted by the Delaware Tribe of Indians in Docket No. 27-B. Docket No. 338 is one of the 13 dockets in the consolidated proceeding referred to in the comments above under Docket No. 27-B.

Iowa Cases

Docket No. 79, The Iowa Tribe of The Iowa Reservation in Kansas and Nebraska, The Iowa Tribe of The Iowa Reservation in Oklahoma, et al. Claim for the amount shown to be due to the Iowa Tribe under an accounting from the defendant of its handling of the plaintiffs' funds and property. On February 28, 1966, a final award was entered on this accounting claim in the sum of \$11,394.67.

Docket No. 79-A, The Iowa Tribe of The Iowa Reservation in Kansas and Nebraska, The Iowa Tribe of The Iowa Reservation in Oklahoma, et al. Claim based on allegations that the United States violated the Treaty of May 17, 1854 (10 Stat. 1069) involving sales of Iowa trust lands and allegations of a shortage in the area of the reservation created for the Iowa Nation pursuant to Article 2 of the Treaty of September 17, 1836 (7 Stat. 511). A final award of \$1,377,207.27 was entered on this claim on May 21, 1969.

Docket No. 135, The Iowa Tribe of The Iowa Reservation in Kansas and Nebraska, The Iowa Tribe of The Iowa Reservation in Oklahoma, et al. Claim for additional compensation for lands ceded to the United States under the Treaty of August 4, 1824 (7 Stat. 231). A final award in the sum of \$633,193.77 was entered on this claim on May 7, 1965.

Docket No. 138, The Iowa Tribe of The Iowa Reservation in Kansas and Nebraska, The Iowa Tribe of The Iowa Reservation in Oklahoma, et al. Claim for additional compensation for the Iowa interest in lands in Iowa and Missouri ceded to the United States by the Treaties of September 17, 1836 (7 Stat. 511) and November 23, 1837 (7 Stat. 547). A net final award of \$1,372,267.50 was entered on this claim on March 22, 1965.

Docket No. 153, The Iowa Tribe of The Iowa Reservation in Kansas and Nebraska, The Iowa Tribe of The Iowa Reservation in Oklahoma, et al. Claim for additional compensation for the Iowa interest in lands ceded to the United States by Article I of the Treaty of October 19, 1838 (7 Stat. 568). A final award was entered on this claim on February 4, 1970.

Docket No. 158, The Iowa Tribe of The Iowa Reservation in Kansas and Nebraska, The Iowa Tribe of The Iowa Reservation in Oklahoma, et al. Claim for additional compensation for the Iowa interest in certain lands in Iowa ceded to the United States by the Treaty of October 19, 1838 (7 Stat. 568). A final award was entered on this claim in the sum of \$1,340,435.00 on May 12, 1969.

Iowa Cases, Continued

Docket NO. 209, The Iowa Tribe of The Iowa Reservation in Kansas and Nebraska, The Iowa Tribe of The Iowa Reservation in Oklahoma, et al. Claim for additional compensation for the Iowa interest in certain lands in Iowa ceded to the United States by the Treaty of October 19, 1838 (7 Stat. 568). A final award was entered on this claim in the sum of \$168,555.00 on May 12, 1969.

Docket No. 231, The Iowa Tribe of The Iowa Reservation in Kansas and Nebraska, The Iowa Tribe of The Iowa Reservation in Oklahoma, et al. Claim for additional compensation for the Iowa interest in certain lands in Iowa ceded to the United States by the Treaty of October 19, 1838 (7 Stat. 568). A final award was entered on this claim in the amount of \$286,516.40 on May 12, 1969.

Docket No. 339, The Iowa Tribe of The Iowa Reservation in Kansas and Nebraska, The Iowa Tribe of The Iowa Reservation in Oklahoma, et al. This case was dismissed on March 22, 1965, in connection with the settlement of the Iowa claim in Docket No. 138. It was concluded by counsel for the plaintiffs that there were no known causes of action which they might have against the United States which had not been fully set forth in other petitions filed with the Indian Claims Commission.

Kaskaskia Cases--See PeoriaKaw cases

Docket No. 33, The Kaw Tribe of Indians on the relation of Keenan Pappan and Felix McCauley. Claim for additional compensation for certain reservation lands in Kansas and Nebraska ceded to the United States by Article 5 of the Treaty of January 14, 1846 (9 Stat. 842). An award in the sum of \$1,600,220.02 was entered on this claim on May 15, 1952.

Docket No. 34, The Kaw Tribe of Indians on the relation of Keenan Pappan and Felix McCauley. Claim for additional compensation for lands in Missouri, Nebraska and Kansas allegedly ceded by the Treaty of June 3, 1825. (7 Stat. 244). Dismissed by the Commission's order of May 15, 1952. Plaintiffs failed to establish proof of a compensable ownership interest in the land.

Docket No. 35, The Kaw Tribe of Indians on the relation of Keenan Pappan and Felix McCauley. Claim for additional compensation for the cession of certain reservation lands in Kansas by Article I of the Treaty of January 14, 1846 (9 Stat. 842). A final award in the sum of \$798,000.00 was entered on this claim on May 15, 1952.

Docket No. 36, The Kaw Tribe of Indians on the relation of Keenan Pappan and Felix McCauley. Claim for compensation for the alleged taking without compensation of aboriginal Kaw lands. Plaintiffs elected not to pursue the claim and on February 14, 1950, at a hearing before the Commission dismissed it. The Commission approved the dismissal on February 12, 1952, effective as of February 14, 1950.

Docket No. 38, Kansas or Kaw Tribe of Indians, et al. The plaintiffs' petition asserted the same claims included in the above-listed cases in Docket Nos. 34 and 35. The Commission dismissed this case on the defendant's motion on December 19, 1955.

Kickapoo Cases

Docket No. 145, The Kickapoo Tribe of Kansas and The Kickapoo Tribe of Oklahoma [representing the Kickapoo Nation]. Claim for the amount shown to be due under an accounting from the defendant of the funds of the Kickapoo Nation. On April 21, 1966, a final award in the sum of \$11,511.53 was entered in this case for the plaintiffs on behalf of the Kickapoo Nation.

Docket No. 193, The Kickapoo Tribe of Kansas, The Kickapoo Tribe of Oklahoma, The Kickapoo Nation, et al. Claim for additional compensation for Kickapoo lands ceded to the United States by the Treaty of October 24, 1832 (7 Stat. 391). A final award in the sum of \$540,000.00 was entered on this claim on February 29, 1968.

Docket No. 194, The Kickapoo Tribe of Kansas, The Kickapoo Tribe of Oklahoma, The Kickapoo Nation, et al. In consonance with an agreement among the parties to this case and the case in Docket No. 315, the Commission's order of March 22, 1957, dismissed the petition in Docket No. 194 and directed that the claims pleaded therein be included by amendment in the plaintiffs' petition in Docket No. 315.

Docket No. 315, The Kickapoo Tribe of Kansas, The Kickapoo Tribe of Oklahoma, The Kickapoo Nation, et al. Claim for additional compensation for the Kickapoo interest in lands ceded to the United States by the Treaties of July 30, 1819 (7 Stat. 200), July 19, 1820 (7 Stat. 208) and August 30, 1819 (7 Stat. 202). This case was tried on land title issues in consolidation with the overlapping or related claims of other Indian groups in 14 other dockets and is submitted to the Commission for its decision on those issues.

Docket No. 316, The Kickapoo Tribe of Kansas, The Kickapoo Tribe of Oklahoma, et al. Claim for additional compensation for lands ceded to the United States by the Treaty of October 24, 1832 (7 Stat. 391) and the Supplemental Article of November 26, 1832. A final award in the sum of \$771,441.26 was entered on this claim on September 29, 1967.

Docket No. 316-A, The Kickapoo Tribe of Kansas, The Kickapoo Tribe of Oklahoma, et al. Claim for additional compensation for reservation lands in Kansas ceded to the United States by the Treaty of June 28, 1862 (13 Stat. 623). A final award in the sum of \$125,209.61 was entered on this claim on September 24, 1970.

Docket No. 317, The Kickapoo Tribe of Kansas, The Kickapoo Tribe of Oklahoma, The Kickapoo Nation, et al. Claim for additional compensation for lands in Illinois and Indiana ceded to the United States by the Treaty of December 9, 1809 (7 Stat. 117). A final award in the sum of \$340,250.00 was entered on this claim on February 11, 1970.

Kickapoo Cases, Continued

Docket No. 318, The Kickapoo Tribe of Oklahoma. Claim for additional compensation for the cession of part of the plaintiff's Oklahoma reservation by the Agreement of September 9, 1891 (27 Stat. 557). A final award in the sum of \$273,250.00 was entered on this claim on June 11, 1969.

Docket No. 338, The Kickapoo Tribe of Oklahoma, The Kickapoo Tribe of Kansas, et al., as representatives of The Kickapoo Nation. Claim for additional compensation for the Kickapoo interest in lands ceded by the Treaty of August 3, 1795 (7 Stat. 49). This case was tried on land title issues in consolidation with the competing or related claims of other Indian groups in 12 other dockets. The 13 dockets in the consolidation are submitted to the Commission for its decision on those issues.

Kiowa, Comanche and Apache Cases

Docket No. 32, The Kiowa, Comanche and Apache Tribes of Indians. Claim for additional compensation for certain lands in Oklahoma acquired from the plaintiffs by the United States under the Jerome Agreement of October 6, 1892 and the Act of June 6, 1900 (31 Stat. 677). A final award in the sum of \$2,067,166.00 was entered on this claim on July 18, 1957.

Docket No. 257, The Kiowa, Comanche and Apache Tribes of Indians, Plaintiffs, The Wichita Indian Tribe of Oklahoma, et al., Intervenors. Claim for additional compensation for lands ceded by the Treaty of October 18, 1865 (14 Stat. 717) and the value of certain benefits under the Treaties of October 21, 1867 (15 Stat. 581 and 589). This case is now before the Court of Claims on an appeal by the defendant from the Commission's interlocutory decision of August 9, 1971, on land title and related issues.

Docket Nos. 258 and 259, The Kiowa, Comanche and Apache Tribes of Indians. The claim in Docket No. 258 was based on the allegation that the defendant disbursed tribal interest bearing funds when tribal non-interest bearing funds were available or expended moneys from tribal funds bearing a higher rate of interest when tribal funds bearing a lower rate of interest were available. The claim in Docket No. 259 was for the amount shown to be due by a general accounting of the defendant's management of the funds and other property of the plaintiff. In consonance with a compromise settlement agreement among the parties to these cases, the claims were disposed of by a final award in the sum of \$6,000,000.00 entered in Docket Nos. 258 and 259 on January 29, 1968.

Docket No. 259-A, The Kiowa, Comanche and Apache Tribes of Indians. Claim arising from the defendant's disposition of some 12,000 acres of the plaintiffs' reservation lands. The case has been tried on the issue of the value of the lands and is submitted to the Commission for its decision on that issue. The defendant has submitted an accounting of the rental income from a leased portion of the lands.

Miami Cases

Docket No. 67, The Miami Tribe of Oklahoma, and Docket No. 124, Miami Tribe of Indiana, et al., consolidated cases. Claim for additional compensation for lands in Indiana and Ohio ceded to the United States by the Treaty of October 6, 1818 (7 Stat. 189). On June 30, 1960, a final award in the sum of \$4,647,467.67 was entered on this claim in favor of the two tribal plaintiffs as representatives of the Miami Tribe as the same existed at the time of the 1818 treaty.

Docket No. 76, The Miami Tribe of Oklahoma. Claim for an accounting. It was determined that the matters complained of were included in other claims of the plaintiff before the Commission. Dismissed on November 21, 1961.

Docket No. 251, The Miami Tribe of Oklahoma, and Docket No. 124-A, Miami Tribe of Indiana, et al., consolidated cases. The petition in each case asserted identical claims arising from the cession of Miami reservation lands in Kansas and the commutation of tribal annuities under the Treaty of June 5, 1854 (10 Stat. 1093). Final awards were entered on the claims on May 31, 1961, as follows: For the Miami Tribe of Oklahoma \$349,193.59. For the Miami Tribe of Indiana \$64,738.80.

Docket No. 251-A, The Miami Tribe of Oklahoma, et al. Claim for damages and an accounting for the proceeds of sale of some 10,000 acres of unallotted lands. On January 9, 1969, a final award of \$10,000.00 was entered on this claim pursuant to an approved compromise settlement agreement between the parties.

Docket No. 252, The Miami Tribe of Oklahoma, et al. Claim for additional compensation for the Miami interest in lands ceded by the Treaty of August 3, 1795 (7 Stat. 49). This case was tried on land title issues in consolidation with the competing or related claims of other Indian groups in 12 other dockets, including similar claim of the Miami Tribe of Indiana in Docket No. 130. The 13 dockets involved are submitted to the Commission for its decision on those issues.

Docket No. 253, The Miami Tribe of Oklahoma, et al., and Docket No. 131, Miami Tribe of Indiana, consolidated cases. Claim for additional compensation for the interest of the Miami Tribe, including the Eel River Miamis, in lands in Indiana ceded to the United States under the Treaties of August 21, 1805 (7 Stat. 91) and September 30, 1809 (7 Stat. 113). On January 8, 1970, a final award was entered on this claim in the sum of \$3,826,660.20 for the two plaintiff tribes on behalf of the Miami and Eel River Tribes.

Docket No. 254, The Miami Tribe of Oklahoma, et al. Claims for additional compensation for the Miami interest in lands in Indiana ceded to the United States under the Treaty of October 23, 1826 (7 Stat. 300). This case was tried on land title issues with the overlapping or related claims of other tribal groups in 27 dockets, including similar claims of the Miami Tribe of Indiana in Docket Nos. 124-B and 124-H. It is submitted to the Commission for its decision on those issues with the other cases involved in the title proceedings.

Miami Cases, Continued

Docket No. 255, The Miami Tribe of Oklahoma, et al., and Docket No. 124-C, The Miami Indians of Indiana, et al., consolidated cases. Claim for additional compensation for a tract of land in Indiana known as the Thorntown Reservation ceded under the Miami Treaty of February 11, 1828 (7 Stat. 309) to the United States. On December 3, 1968, pursuant to a compromise settlement agreement among the parties, a final award was entered on this claim to the two Miami groups as representatives of the Miami Tribe.

Docket No. 256, The Miami Tribe of Oklahoma, et al., and Docket Nos. 124-D, 124-E and 124-F, The Miami Indians of Indiana, et al., consolidated cases. The petitions by the two groups of Miami plaintiffs asserted claims for additional compensation for the Miami interest in lands in Indiana ceded to the United States under the Treaties of October 23, 1834 (7 Stat. 458, 463), November 6, 1838 (7 Stat. 569), and November 28, 1840 (7 Stat. 528). On December 3, 1968, pursuant to a compromise settlement agreement among the parties, a final award was entered on these claims to the two Miami groups as representatives of the Miami Tribe as the same existed on November 28, 1840, in the sum of \$1,373,000.00.

Osage Cases

Docket No. 9, The Osage Nation of Indians. Claim for additional compensation for land in Kansas ceded to the United States by the Treaty of September 29, 1865 (14 Stat. 687). On March 1, 1955, a final award was entered on this claim in the sum of \$864,107.55.

Docket Nos. 105, 106, 107, 108, The Osage Nation. In Docket Nos. 105, 106, and 107, the plaintiff sought additional compensation for lands ceded to the United States under the Treaties of November 10, 1808 (7 Stat. 107), September 25, 1818 (7 Stat. 183), and June 2, 1825 (7 Stat. 240), respectively. In Docket No. 108 the plaintiff sought to recover costs incurred in preventing ratification of a treaty of May 27, 1868. On September 15, 1970, in accordance with a compromise settlement agreement between the parties, the Commission entered a final judgment on these claims in the sum of \$13,250,000.00.

Docket No. 126, The Osage Nation of Indians. Claim to recover \$1,092,338.71 paid from Osage oil and gas royalty funds to the County of Osage, Oklahoma for construction and maintenance of roads and bridges in that county. The Court of Claims had previously determined that the Osage Tribe had no right to recover on this claim. On July 30, 1959, the Commission dismissed this claim.

Docket No. 127, The Osage Nation of Indians. Claim to recover \$829,940.11 paid by the plaintiff to the State of Oklahoma under a 3% State levy on gross production of oil and gas produced in Osage County, Oklahoma. On November 21, 1963, this claim was dismissed on the plaintiff's motion.

Otoe-Missouria Cases

Docket No. 11, The Otoe and Missouria Tribe of Indians. On February 17, 1956, a final award in the sum of \$1,156,034.35 was entered in this case on the plaintiff's claims for additional compensation for lands ceded to the United States by the Treaties of September 21, 1833 (7 Stat. 429), and March 15, 1854 (10 Stat. 1038).

Docket No. 11-A, The Otoe and Missouria Tribe of Indians. On April 14, 1964, a final award in the sum of \$1,750,000.00 was entered in this case on the plaintiff's claim for additional compensation for its interest in lands in Iowa and Missouri ceded to the United States by the Treaty of July 15, 1830 (7 Stat. 328).

Ottawa Cases

Docket No. 68, The Ottawa Tribe of Oklahoma. Claim for the amount shown to be due under a general accounting from the defendant of its management of the plaintiff's funds and properties. Defendant rendered an accounting except as to matters involved in the plaintiff's claims before the Commission in other dockets. The accounting indicated that no amounts were due to the plaintiff under the accounting claims exclusively asserted in this case and it was dismissed on January 11, 1961.

Docket No. 133, Ottawa Tribe of Oklahoma, et al. On January 26, 1957, the Commission entered an order in this docket directing the severance of the 3 causes of action remaining in this case, assigned to those causes Docket Nos. 133-A, 133-B and 133-C, which are listed below, and dismissed the original petition in Docket No. 133.

Docket No. 133-A, Ottawa Tribe of Oklahoma, et al. Claim for additional compensation for the Ottawa interest in lands in Ohio ceded to the United States by the Treaty of July 4, 1805 (7 Stat. 87). This claim and a duplicate thereof in Docket No. 302 were tried on land title issues with the overlapping or related claims of other Indian groups in 8 other dockets. It is submitted to the Commission for its decision on those issues along with the other cases involved in the title proceedings.

Docket No. 133-B, Ottawa Tribe of Oklahoma, et al. Claim for additional compensation for the Ottawa interest in lands in Ohio and Michigan ceded to the United States by the Treaty of November 17, 1807 (7 Stat. 105). This claim was tried on land title issues in consolidation with the overlapping or related claims of other Indian groups in 4 other dockets. It is submitted to the Commission for its decision on those issues along with the other cases involved in the title proceedings.

Docket No. 133-C, Ottawa Tribe of Oklahoma, et al. Claim for additional compensation for the Ottawa interest in lands in Ohio and Michigan ceded to the United States by the Treaties of November 25, 1808 (7 Stat. 112), September 29, 1817 (7 Stat. 160), and September 17, 1818 (7 Stat. 178). This claim was tried on land title issues in consolidation with the overlapping or related claims of other Indian groups in 10 other dockets. It is submitted to the Commission for its decision on those issues along with the other cases involved in the title proceedings.

Ottawa Cases, Continued

Docket No. 302, Ottawa Tribe of Oklahoma, et al. The petition in this case asserts claims identical to those mentioned above under Docket Nos. 133-A, 133-B and 133-C, and the one mentioned below under Docket No. 338. See comments on this case under Docket No. 133-A.

Docket No. 303, Ottawa Tribe of Oklahoma, et al. Suit on claims under the Treaties of June 24, 1862 (12 Stat. 1237) and February 23, 1867 (15 Stat. 513, 517) involving some 21,000 acres of Ottawa trust lands in Kansas and accountings from the defendant under certain articles of the two treaties. A final award was entered on these claims on February 11, 1965, that amounted to \$406,166.19.

Docket No. 304, Ottawa Tribe of Oklahoma, et al. Claim for additional compensation for 2 tracts of land in Ohio ceded to the United States by the Maumee Band of Ottawa Indians under the Treaty of February 18, 1833 (7 Stat. 420). On March 17, 1971, an interlocutory award of \$200,560.00, less any offsets thereafter determined to be deductible, was entered on this claim. The question of offsets allowable to the defendant is set for trial on March 26, 1973.

Docket No. 305, Ottawa Tribe of Oklahoma, et al. Claim for additional compensation for parcels of land in northwestern Ohio ceded under the Treaty of August 30, 1831 (7 Stat. 359) and a claim for an accounting of the proceeds from the sale of this land. Plaintiffs failed to establish the failure of the defendant to account for the monies acquired from the sale of the land and the accounting claim was dismissed on March 15, 1972. On the same date an interlocutory award in the sum of \$80,585.76, less any allowable offsets, was entered on the claim for additional compensation. The question of offsets allowable to the defendant is set for trial on March 26, 1973.

Docket No. 338, Ottawa Tribe of Oklahoma, et al. Claim for additional compensation for the Ottawa interest in lands ceded by the Treaty of August 3, 1795 (7 Stat. 49). This case was tried on land title issues in consolidation with the competing or related claims of other Indian groups in 12 other dockets. It is submitted to the Commission for its decision on those issues with the other cases involved in the title proceedings.

Pawnee Case

Docket No. 10, Pawnee Indian Tribe of Oklahoma. Claims for additional compensation for lands in Kansas and Nebraska ceded to the United States under the Treaties of October 9, 1833 (7 Stat. 448), August 6, 1848 (9 Stat. 949), and September 24, 1857 (11 Stat. 727), and claims for the value of 3 small separate tracts of reservation lands in Oklahoma allegedly sold by the United States without the consent of the Pawnee Tribe. A final award was entered in this case on July 6, 1962, that amounted to \$7,316,097.70.

Peoria Cases

The Peoria Tribe of Oklahoma named as plaintiff in the following cases is also known as the Confederated Tribe of Peoria, Kaskaskia, Wea, and Piankeshaw Indians.

Docket No. 65, The Peoria Tribe of Indians of Oklahoma, et al. Claim for the amount shown to be due under a full accounting from the defendant that involved, among other things, the allegation that the commuted value of the annuities set forth in Article 6 of the Treaty of May 30, 1854 (10 Stat. 1082) was less than the fair value thereof, and a claim involving the allegation that the defendant breached its duty to plaintiffs under Article 4 of the 1854 Treaty when it failed to sell the Peoria lands at public auction. In respect to the accounting claim, the Commission found that the defendant fulfilled its obligations under Article 6 of the Treaty of May 30, 1854, and that the payments, as provided in the treaty, did not represent unfair value for the commuted annuities. On November 13, 1968, a final award was entered on the claim under Article 4 of the 1854 Treaty that with interest to date of payment amounted to \$1,139,532.91.

Docket No. 66, The Peoria Tribe of Indians of Oklahoma and Fred Ensworth on behalf of the Kaskaskia Nation. By the Commission's order of May 6, 1957, entered upon a stipulation by all of the parties to the claims in Docket Nos. 66 and 313, the plaintiffs' petition in Docket No. 66 was dismissed and the claim pleaded therein was included by an amendment in the plaintiffs' petition in Docket No. 313.

Docket No. 99, The Peoria Tribe of Indians of Oklahoma, et al. Claim for additional compensation in behalf of the Piankeshaw Nation for 2,622,000 acres of land in the Wabash Valley in Illinois ceded to the United States under the Treaty of December 30, 1805 (7 Stat. 100). A final award of \$3,270,400.00 was entered in this case on February 11, 1970.

Docket No. 289, The Peoria Tribe of Indians of Oklahoma, et al. Claim in behalf of the Piankeshaw Nation for additional compensation for its interest in lands in Indiana ceded to the United States by the Treaty of August 27, 1804 (7 Stat. 83). A final award of \$1,501,294.35 was entered on this claim on February 24, 1971.

Docket No. 313, The Peoria Tribe of Indians of Oklahoma, et al. Claims in behalf of the Peoria and Kaskaskia Nations for additional compensation for the plaintiffs' interest in lands in Illinois ceded by the Treaties of August 13, 1803 (7 Stat. 78) and September 25, 1818 (7 Stat. 181). This case was tried on land title issues in consolidation with the overlapping or related claims of other Indian groups in 14 other dockets and is submitted to the Commission for its decision on those issues along with other cases involved in the title proceedings.

Docket No. 314, The Peoria Tribe of Indians of Oklahoma, et al. Claim on behalf of the Wea Nation for additional compensation for the Wea interest in land in Indiana ceded to the United States under the Treaty of October 2, 1818 (7 Stat. 186). A final award of \$876,477.30 was entered on this claim on July 29, 1963.

Peoria Cases, Continued

Docket No. 314-A, The Peoria Tribe of Indians of Oklahoma, et al.
Claim in behalf of the Wea Nation for additional compensation for the Wea interest in lands in Illinois and Indiana ceded to the United States under the Treaty of October 2, 1818 (7 Stat. 186). This case was tried on land title issues in consolidation with the overlapping or related claims of other Indian groups in 14 other dockets and is submitted to the Commission for its decision on those issues along with other cases involved in the title proceedings.

Docket No. 314-B, The Peoria Tribe of Indians of Oklahoma, et al.
Claim in behalf of the Wea Nation for additional compensation for the Wea interest in land in Indiana exclusive of that involved in Docket No. 314-A ceded to the United States under the Treaty of October 2, 1818 (7 Stat. 186). This case was tried on land title issues in consolidation with the overlapping or related claims of other Indian groups in 13 other dockets and is submitted to the Commission for its decision on those issues along with the other cases involved in the title proceedings.

Docket No. 314-C, The Peoria Tribe of Indians of Oklahoma, et al.
Claim in behalf of the Wea Nation for additional compensation for the Wea interest in two tracts of land straddling the Illinois-Indiana border that were ceded to the United States under the Treaties of September 30, 1809 (7 Stat. 113), December 9, 1809 (7 Stat. 117) and October 2, 1818 (7 Stat. 1818). A final award of \$349,750.00 was entered on this claim on January 28, 1970.

Docket No. 314-D, The Peoria Tribe of Indians of Oklahoma, et al.
Claim in behalf of the Wea Nation for additional compensation for the Wea interest in lands in Indiana ceded to the United States under the Treaties of August 21, 1805 (7 Stat. 91) and October 26, 1809 (7 Stat. 116). A final award of \$1,209,900.00 was entered in this case on January 8, 1970.

Docket No. 314-E, The Peoria Tribe of Indians of Oklahoma, et al.
Claim in behalf of the Wea Nation for additional compensation for a tract of land of some 27,300 acres in Indiana ceded to the United States under the Treaty of August 11, 1820 (7 Stat. 209). A final award of \$33,262.92 was entered in this case on July 18, 1967.

Docket No. 338, The Peoria Tribe of Indians of Oklahoma, et al.
Claim in behalf of the Kaskaskia, Wea and Piankeshaw Nations for additional compensation for their interest in lands ceded to the United States by the Treaty of August 3, 1795 (7 Stat. 49). This case was tried on land title issues in consolidation with the overlapping or related claims of other Indian groups in 12 other dockets and is submitted to the Commission for its decision on those issues along with the other cases involved in the title proceedings.

Ponca Cases

Docket No. 322, The Ponca Tribe of Oklahoma, et al. Claim for additional compensation for lands in Nebraska and South Dakota ceded to the United States by the Treaty of March 12, 1858 (12 Stat. 997). A final award of \$1,878,500.00 was entered in this case on September 8, 1971.

Ponca Cases, Continued

Docket No. 323, The Ponca Tribe of Oklahoma, et al. Claim for just compensation for Ponca reservation lands in Nebraska allegedly acquired by the United States without the consent of the tribe and without payment of any compensation involving, among others, the Treaty of April 29, 1868 (15 Stat. 635). On August 23, 1972, a final award in the sum of \$1,004,589.49 was entered in this case, plus an additional amount measured at interest at 5% on a principal sum of \$174,327.06 from June 30, 1972, until the date of payment. We understand that funds have not as yet been appropriated to pay this award.

Docket No. 324, The Ponca Tribe of Oklahoma, et al. Claim for the amount shown to be due under a general accounting of all sums required to be expended on behalf of the Ponca Tribe by reason of treaty, contract or other arrangements. On August 27, 1965, a final award of \$2,458.30 was entered in this case.

Potawatomi Cases

Docket No. 71, Citizen Band of Potawatomi Indians of Oklahoma, et al. Claim for additional compensation for the plaintiffs' interest in lands ceded to the United States by the Treaty of September 26 and 27, 1833 (7 Stat. 431, 442) between the United States and the United Nation of Chippewa, Ottawa and Potawatomi Indians. This case was tried on land title and related issues in consolidation with claims under the same treaty of the Prairie Band of Potawatomis in Docket No. 15-C, the Hannahville and Forest County Potawatomi communities in Docket No. 29-A, and the Chippewa Red Lake Band in Docket No. 18-H. In an interlocutory decision on those issues entered in the consolidated cases on September 20, 1972, the Commission determined, among other things, that the Potawatomi plaintiffs in Docket Nos. 15-C, 29-A and 71 are entitled to maintain their claims in the consolidated proceeding in a representative capacity for and on behalf of the Potawatomi Tribe or Nation, that the Chippewa plaintiffs in Docket No. 18-H are not proper parties to the proceeding under the 1833 Treaty and dismissed the plaintiffs petition in that docket, and granted a petition of the Potawatomi Indians of Indiana and Michigan Inc. to intervene in this proceeding in Docket Nos. 15-C, 29-A, and 71. These consolidated dockets are set for trial of the value of the lands involved on January 21, 1974.

Docket No. 71-A, Citizen Band of Potawatomi Indians of Oklahoma, et al. Claim for additional compensation for lands in Iowa and Kansas ceded to the United States by the Treaty of June 5 and 17, 1846 (9 Stat. 853). This case and a consolidated case under the same treaty of the Prairie Band of Potawatomi Indians [of Kansas] et al. in Docket No. 15-J were disposed of by a single final award in the sum of \$3,288,974.90 entered in Docket Nos. 15-J and 71-A on February 26, 1959, for the benefit of all descendants of members of the Potawatomi Nation as created by the Treaty of June 5 and 17, 1846.

Docket No. 96, Citizen Band of Potawatomi Indians of Oklahoma. Claim for the value of some 362,500 acres of the Potawatomi reservation left over after allotments in severalty had been selected by the Potawatomi Indians and opened to settlement under the homestead laws in 1889. A final award in the sum of \$797,508.99 was entered in this case on August 27, 1968.

Potawatomi Cases, Continued

Docket No. 101, Citizen Band of Potawatomi Indians of Oklahoma, et al. Claim for \$30,387.34 allegedly due plaintiffs under treaties prior to 1819, and a claim for the amount shown to be due to plaintiffs by a complete accounting of the distribution to the members of the Citizen Band of their pro rata share of the assets of the Potawatomi Nation as provided under the terms of the Treaty of November 15, 1861 (12 Stat. 1191), as modified by the Treaty of February 27, 1867 (15 Stat. 531). Defendant rendered a complete accounting on both of the claims and it was determined that nothing was due to the plaintiffs under the claims. The case was dismissed on September 14, 1964.

Docket No. 111, Citizen Band of Potawatomi Indians of Oklahoma, et al. Claims arising from the disposition of surplus Potawatomi reservation lands in Kansas under the Treaties of November 11, 1861 (12 Stat. 1191) and February 27, 1867 (15 Stat. 1531). This case was tried in consolidation with substantially identical claims under the same treaties of the Prairie Band of Potawatomi Indians /of Kansas/ et al. in Docket No. 15-B. In its final decision entered in the consolidated cases on August 8, 1955, the Commission found the plaintiffs entitled to recover on 3 of the 5 causes of action asserted in their petitions and entered an award in the two dockets to the "Pottawatomie Tribe of Indians" that with certain interest accruals totaled \$359,460.60. Of this amount, the Citizen Band received \$233,154.36 and the Prairie Band received \$126,306.24.

Docket No. 128, Citizen Band of Potawatomi Indians of Oklahoma, et al. Claim for additional consideration for the plaintiffs' interest in lands in Indiana ceded to the United States under the Treaty of October 16, 1826 (7 Stat. 295). This case was tried on land title issues in consolidation with other overlapping or related tribal claims in 13 other dockets and is submitted to the Commission for its decision on those issues along with the other cases involved in the title proceedings.

Docket No. 146, Citizen Band of Potawatomi Indians of Oklahoma, et al. Claim for additional compensation for the plaintiffs' interest in lands in Indiana and Michigan ceded to the United States by the Treaty of August 29, 1821 (7 Stat. 218). This case is proceeding in consolidation with substantially identical claims of the Prairie Band of Potawatomi Indians in Docket No. 15-M, and Hannahville Indian Community of Wilson, Michigan and Forest County Potawatomi Community of Crandon, Wisconsin, et al. in Docket No. 29-K. The Potawatomi Indians of Indiana and Michigan, Inc. are parties plaintiff by intervention in Docket No. 29-K. An interlocutory award in the sum of \$2,320,370.70, less any allowable offsets, has been entered on the claim. The consolidated cases are set for trial on the issue of offsets allowable to the defendant on September 10, 1973.

Docket No. 216, Citizen Band of Potawatomi Indians of Oklahoma, et al. Claim for additional compensation for the plaintiffs' interest in lands in Illinois ceded to the United States by the Treaty of August 24, 1816 (7 Stat. 146). This case has been tried on land title issues in consolidation with overlapping or related claims under the same treaty of other tribal groups in 5 other dockets, including the substantially identical claims of the Prairie Band of Potawatomi Indians in Docket No. 15-L and Hannahville Indian Community of Wilson, Michigan and Forest County Potawatomi Community of Crandon, Wisconsin, et al. in Docket No. 29-I. It is submitted to the

Potawatomi Cases, Continued

Commission for its decision on those issues along with the other cases involved in the title proceedings.

Docket No. 217, Citizen Band of Potawatomi Indians of Oklahoma, et al. Claim for additional compensation for the plaintiffs' interest in lands in Illinois and Wisconsin ceded to the United States by the Treaty of July 29, 1829 (7 Stat. 320). This case is proceeding in consolidation with substantially identical claims of the Prairie Band of Potawatomi Indians in Docket No. 15-K, and Hannahville Indian Community of Wilson, Michigan and Forest County Potawatomi Community of Crandon, Wisconsin, et al. in Docket No. 29-J. The Potawatomi Indians of Indiana and Michigan, Inc. are parties plaintiff by intervention in Docket No. 29-J. A final award of \$2,094,573.02 entered for the plaintiffs in Docket Nos. 217, 15-K and 29-J "on behalf of the United Nation of Chippewas, Ottawas, and Potawatomie Indians of the Waters of the Illinois, Milwaukee and Manitouck Rivers" has been remanded by the Court of Claims for further proceedings in respect to the valuation of the lands involved. The case in Docket Nos. 217, 15-K and 29-J is submitted to the Commission for its decision on remanded valuation and related matters.

Docket No. 306, Citizen Band of Potawatomi Indians of Oklahoma, et al. Claim for additional compensation for the plaintiffs' interest in lands in Illinois ceded to the United States by the Treaty of October 20, 1832 (7 Stat. 378). This case was tried on land title issues in consolidation with overlapping or related claims in 14 other dockets, including substantially identical claims of the Prairie Band of Potawatomi Indians in Docket No. 15-P, and Hannahville Indian Community of Wilson, Michigan and Forest County Potawatomi Community of Crandon, Wisconsin, et al. in Docket No. 29-N. It is submitted to the Commission for its decision on those issues along with other cases involved in the title proceedings.

Docket No. 307, Citizen Band of Potawatomi Indians of Oklahoma, et al. Claim for additional compensation for the plaintiffs' interest in lands in Ohio and Michigan ceded to the United States by the Treaties of July 4, 1805 (7 Stat. 87), and November 17, 1807 (7 Stat. 105). It was determined that the plaintiffs had no interest in this claim under the 1805 and 1807 Treaties and the case in Docket No. 307 was dismissed by the Commission's order of May 11, 1959.

Docket No. 308, Citizen Band of Potawatomi Indians of Oklahoma, et al. Claim for additional compensation for the plaintiffs' interest in lands in Ohio and Michigan ceded to the United States by the Treaty of September 29, 1817 (7 Stat. 160). This case was tried on land title issues in consolidation with overlapping or related claims of other Indian groups in 10 other dockets, including substantially identical claims of the Prairie and Hannahville Potawatomi groups in Docket Nos. 15-I and 29-G, respectively. It is submitted to the Commission for its decision on those issues along with the other cases involved in the title proceedings.

Potawatomi Cases, Continued

Docket No. 309, Citizen Band of Potawatomi Indians of Oklahoma, et al. Claims for additional compensation for the plaintiffs' interest in (1) lands in Indiana ceded to the United States under the Treaties of October 26, 1832 (7 Stat. 394) and October 27, 1832 (7 Stat. 399) and (2) lands reserved under the 1832 treaties that were subsequently ceded to the United States under the Treaties of December 4, 1834 (7 Stat. 467, December 10, 1834 (7 Stat. 467), December 16, 1834 (7 Stat. 468), December 17, 1834 (7 Stat. 469), March 26, 1836 (7 Stat. 490), March 29, 1836 (7 Stat. 498), April 11, 1836 (7 Stat. 499), April 22, 1836 (7 Stat. 500), April 22, 1836 (7 Stat. 501), August 5, 1836 (7 Stat. 505), September 20, 1836 (7 Stat. 513), September 22, 1836 (7 Stat. 514), and September 23, 1836 (7 Stat. 515). This case was tried on land title issues in respect to the lands ceded under the Treaties of October 26 and 27, 1832, in consolidation with the overlapping or related claims in 13 other dockets, including essentially identical claims under the 1832 Treaties of the Prairie Band of Potawatomi Indians in Docket Nos. 15-Q and 15-R, and Hannahville Indian Community of Wilson, Michigan and Forest County Potawatomi Community of Crandon, Wisconsin, et al. in Docket Nos. 29-O and 29-P. Docket No. 309 is submitted to the Commission for its decision on those land title issues with the other dockets involved in the title proceedings.

Docket No. 310, Citizen Band of Potawatomi Indians of Oklahoma, et al. Claims for additional compensation for the plaintiffs' interest in lands in Indiana and Michigan ceded to the United States under the Treaty of September 20, 1828 (7 Stat. 317). This case was tried on land title issues in consolidation with the overlapping or related claims in 13 other dockets, including substantially identical claims under the 1828 Treaty of the Prairie Band of Potawatomi Indians in Docket No. 15-O, and Hannahville Indian Community of Wilson, Michigan and Forest County Potawatomi Community of Crandon, Wisconsin, et al. in Docket No. 29-M. Docket No. 310 is submitted to the Commission for its decision on land title issues along with the other dockets involved in the title proceedings.

Docket No. 311, Citizen Band of Potawatomi Indians of Oklahoma, et al. Claim for additional compensation for the plaintiffs' interest in Illinois and Indiana ceded to the United States under the Treaty of October 2, 1818 (7 Stat. 185). This case was tried on land title issues in consolidation with overlapping or related claims in 14 other dockets, including substantially identical claims under the 1828 Treaty of the Prairie Band of Potawatomi Indians in Docket No. 15-D, and Hannahville Indian Community of Wilson, Michigan and Forest County Potawatomi Community of Crandon, Wisconsin, et al. in Docket No. 29-B. It is submitted to the Commission for its decision on those issues along with other dockets involved in the title proceedings.

Docket No. 312, Citizen Band of Potawatomi Indians of Oklahoma, et al. Plaintiffs' petition asserted a general claim for compensation for damage suffered by the plaintiffs as a result of the course of action adopted by the United States during the period from 1789 to August 13, 1946. Counsel for the plaintiffs stated in a hearing before the Commission that the accounting report submitted to plaintiffs by the defendant complied with all requests made in plaintiffs' petition and suggested that since this report had supplied material for use in other cases filed by the plaintiffs the petition in Docket No. 312 had served its purpose and should be dismissed. Counsel was directed to advise the plaintiffs of the proposed dismissal,

Potawatomi Cases, Continued

the reasons for it, and to obtain approval of the dismissal. Such approval was obtained and the petition in Docket No. 312 was dismissed with prejudice by the Commission's order of December 22, 1966.

Docket No. 338, Citizen Band of Potawatomi Indians of Oklahoma, et al. Claim for additional compensation for the plaintiffs' interest in lands ceded to the United States by the Treaty of August 3, 1795 (7 Stat. 49). This case was tried on land title issues in consolidation with overlapping or related claims of other Indian groups in this docket and 12 other dockets, including substantially identical claims of the Prairie Band of Potawatomi Indians in Docket No. 15-E, and Hannahville Indian Community of Wilson, Michigan and Forest County Potawatomi Community of Crandon, Wisconsin, et al. in Docket No. 29-C. It is submitted to the Commission for its decision on those issues along with the other cases involved in the title proceedings.

Quapaw Case

Docket No. 14, The Quapaw Tribe of Indians, et al. Plaintiffs' petition asserted 2 claims in separate counts. Count I for the value of more than 43,520,000 acres of land allegedly ceded by the Quapaw Tribe to the United States by the Treaty of August 24, 1818 (7 Stat. 176). Count II for additional compensation for 1,163,604.75 acres of Quapaw reservation land in what was then Arkansas territory that the Quapaw Tribe ceded to the United States by the Treaty of November 15, 1824 (7 Stat. 232). On May 7, 1954, the Commission dismissed the claim in Count I of the plaintiffs' petition for lack of proof that the Quapaw Tribe had aboriginal title to the claimed land, and entered a final award on the claim in Count II of the petition in the sum of \$927,668.04.

Sac and Fox Cases

Docket No. 83, The Sac and Fox Tribe of Indians of Oklahoma, et al. Claim for additional compensation for some 15 million acres of land in Illinois, Wisconsin and Missouri ceded to the United States by the Treaty of November 3, 1804 (7 Stat. 84). The Sac and Fox Tribe of Missouri, and the Sac and Fox Tribe of the Mississippi in Iowa are the other tribal plaintiffs in this case. The claim is in the valuation stage. The attorneys for the plaintiffs have requested additional time for the filing of their reply brief on the valuation issues. When the reply brief is filed or the time allowed for such filing has expired the case will become submitted to the Commission for its decision on the value of the lands involved.

Docket No. 95, The Sac and Fox Tribe of Indians of Oklahoma, et al. Other tribal plaintiffs in this case are The Sac and Fox Tribe of Missouri and the Sac and Fox Tribe of the Mississippi in Iowa. Claim for the amount shown to be due under a complete accounting from the defendant of, among other things, various sums alleged by plaintiffs as being due, but not paid, under various treaties and congressional acts. On December 27, 1971, the Commission entered an interlocutory decision and award on the claim in the sum of \$20,421.78, less any allowable gratuitous offsets. The case is now pending before the Court of Claims on cross appeals from that decision and award.

Sac and Fox Cases, Continued

Docket No. 135, The Sac and Fox Tribe of Indians of Oklahoma, The Sac and Fox Tribe of Missouri, and the Sac and Fox Tribe of the Mississippi in Iowa. Claim for additional compensation for lands in Missouri ceded to the United States by the Treaty of August 24, 1824 (7 Stat. 229). A final award in the sum of \$965,560.39 was entered on this claim on May 7, 1965.

Docket No. 135-A, The Sac and Fox Tribe of Indians of Oklahoma, The Sac and Fox Tribe of Missouri, and the Sac and Fox Tribe of the Mississippi in Iowa. Claim for the value of a tract of land mentioned in the 1st article of the Treaty of August 4, 1824 (7 Stat. 229) that was held by half-breeds of the Sac and Fox Nation and for, among other things, an accounting of all profits realized by the United States from the disposition of this land. The Commission determined, among other things, that the land was the property of the half-breeds, and that the plaintiffs' cause could not be maintained as a tribal claim, even assuming they were entitled to present the grievances of the Sac and Fox half-breeds in respect to the subject tract as this matter consisted of a collection of individual claims that the Commission had no jurisdiction to determine. The claim in Docket No. 135-A was dismissed by the Commission's order of May 8, 1961.

Docket No. 138, The Sac and Fox Tribe of Indians of Oklahoma, The Sac and Fox Tribe of Missouri, and the Sac and Fox Tribe of the Mississippi in Iowa. Claim for additional compensation for the Sac and Fox interest in lands in Missouri and Iowa ceded to the United States by the Treaties of September 17, 1836 (7 Stat. 511), September 27, 1836 (7 Stat. 516) and two Treaties of October 21, 1837 (7 Stat. 540; 7 Stat. 543). A final award in the sum of \$1,096,533.42 was entered on this claim on March 2, 1965, in consonance with a settlement agreement among the parties.

Docket No. 143, The Sac and Fox Tribe of Indians of Oklahoma, The Sac and Fox Tribe of Missouri, and the Sac and Fox Tribe of the Mississippi in Iowa. Claim for additional compensation for land in Iowa relinquished to the United States by the Treaty of July 15, 1830 (7 Stat. 328). On May 19, 1965, a final award was entered on this claim for the plaintiffs on behalf of the Sac and Fox Nation in the sum of \$1,789,201.45.

Docket No. 153, The Sac and Fox Tribe of Indians of Oklahoma, The Sac and Fox Tribe of Missouri, and the Sac and Fox Tribe of the Mississippi in Iowa. Claim for additional compensation for the interest of the Sac and Fox Nation in lands in Iowa ceded to the United States by the Treaties of October 21, 1837 (7 Stat. 540) and October 11, 1842 (7 Stat. 596). On February 4, 1970, a final award in the sum of \$10,601,282.66 was entered on this claim.

Docket No. 158, The Sac and Fox Tribe of Indians of Oklahoma, The Sac and Fox Tribe of Missouri, and the Sac and Fox Tribe of the Mississippi in Iowa. Claim for additional compensation for the interest of the Sac and Fox Nation in lands in Iowa ceded to the United States under the Treaty of September 21, 1832 (7 Stat. 374). On May 12, 1969, a final award was entered on this claim in the sum of \$3,530,578.21. The Sac and Fox plaintiffs appealed from the award to the Court of Claims. This case is now before the Commission on remand from the Court of Claims for further proceedings in respect to the valuation of the land involved.

Sac and Fox Cases, Continued

Docket No. 209, The Sac and Fox Tribe of Indians of Oklahoma, The Sac and Fox Tribe of Missouri, and the Sac and Fox Tribe of the Mississippi in Iowa. Claim for additional compensation for the Sac and Fox undivided one-half interest in a tract of 217,600 acres of land in southeastern Iowa ceded to the United States under the Treaty of September 28, 1836 (7 Stat. 520). The Commission found that the Sac and Fox interest in this land had a fair market value of \$136,000.00 as of October 13, 1837, the effective date of the cession, and that the United States agreed to pay and did pay \$193,056.12 to the Sac and Fox Nation for its interest in the land, a sum in excess of the fair market value of that interest at the time, and entered an order dismissing this claim on May 12, 1969. The Sac and Fox plaintiffs appealed from the dismissal order to the Court of Claims. This case is now before the Commission on remand from the Court for further proceedings in respect to the valuation of the land.

Docket No. 219, Sac and Fox Tribe of the Mississippi in Iowa, The Sac and Fox Tribe of Indians of Oklahoma, et al. Claim arising under the Treaty of October 1, 1889 (15 Stat. 467) for the difference between the fair market value of some 285,000 acres of Sac and Fox reservation lands in Kansas sold by the United States under the treaty and the proceeds realized by the Sac and Fox from the sale of the land; and a claim for additional compensation for the residue of the reservation lands in Kansas, 132,718 acres, ceded to the United States by the Treaty of February 18, 1867 (15 Stat. 495). A final award to the plaintiffs for and on behalf of the Sac and Fox of the Mississippi in the sum of \$899,408.54 was entered in this case on September 29, 1967.

Docket No. 220, The Sac and Fox Tribe of Indians of Oklahoma, et al. Claim for additional compensation for the sale under an agreement of June 12, 1890 (26 Stat. 749) of 391,188 acres of surplus unallotted lands of the Sac and Fox reservation in Oklahoma. A final award was entered on this claim on February 14, 1967, for the Sac and Fox Tribe of Oklahoma in the sum of \$692,564.15.

Docket No. 231, The Sac and Fox Tribe of Indians of Oklahoma, The Sac and Fox Tribe of Missouri, the Sac and Fox Tribe of the Mississippi in Iowa, et al. Claim for additional compensation for the Sac and Fox interest in lands in east central Iowa ceded to the United States under the Treaty of October 21, 1837 (7 Stat. 540). On May 12, 1969, a final award was entered on this claim in the sum of \$943,799.79. The Sac and Fox plaintiffs appealed from the award to the Court of Claims. This case is now before the Commission on remand from the Court of Claims for further proceedings in respect to the valuation of the lands involved.

Docket No. 232, The Sac and Fox Tribe of Indians of Oklahoma, The Sac and Fox Tribe of Missouri, the Sac and Fox Tribe of the Mississippi in Iowa, et al. The plaintiffs' petition asserted claims for compensation for damages suffered by the Sac and Fox as a result of the course of action adopted by the United States during the period from 1789 to August 13, 1946. It was a catch-all petition and the claims therein duplicated those filed by the Sac and Fox plaintiffs under separate docket numbers. The petition was dismissed on March 2, 1965, in connection with the settlement of the Sac and Fox case in Docket No. 138.

Seminole Cases

Docket No. 53, The Seminole Nation. Claim for some \$500,000.00, the alleged value on March 3, 1905, of the townsite of Wewoka located on Seminole lands in Oklahoma plus interest from that date, or a total of more than \$1,500,000.00. The townsite was established by the Seminoles pursuant to an act passed by the General Council of the Seminole Nation on April 23, 1897. The townsite Commission appointed by the General Council was not successful in selling the townsite lots. Some 3,127 out of a total of 4,234 lots remained unsold. A member of the Commission, A. J. Brown, who owned a one-fourth interest in the townsite, offered to purchase the unsold lots for himself and his brother, John F. Brown, the Principal Chief of the Seminole Nation for \$12,000.00. The offer was accepted and the lots were conveyed to John F. Brown. This conveyance was ratified by a resolution passed by the General Council of the Seminole Nation, which resolution was ratified and confirmed by the Act of March 3, 1905 (33 Stat. 1048, 1088). The Indian Claims Commission concluded that the United States was not liable to the plaintiff for, or on account of, any of the matters set forth in the plaintiff's petition and the petition was dismissed by the Commission's order of April 22, 1952.

Docket No. 121, Lincoln Burden, Willie Haney, and Buddig Little, for themselves and as members and representatives of The Loyal Seminole Group of American Indians. Claim for payment of \$213,888.95, with interest thereon from March 21, 1866, at 5% per annum, less payments totaling \$236,000.00, as compensation for losses suffered by the plaintiffs during the Civil War. The Commission found that the issues involved in the claim had previously been determined by the United States Senate and that this matter was res judicata by reason of the award of the United States Senate under the Agreement ratified on July 1, 1898 (30 Stat. 567). This claim was dismissed on February 27, 1958.

Docket No. 150, The Seminole Nation. Claim for the alleged value of 320 acres of Oklahoma land known as the Emahaka School Tract over and above the amount received for this land from the sale thereof by the United States for the benefit of the plaintiff. A final award in the sum of \$34,053.66 was entered on this claim on June 4, 1958.

Docket No. 151, The Seminole Nation of The State of Oklahoma. Claim for additional compensation for 23,892,626 acres of aboriginal lands in Florida ceded to the United States by the Treaty of September 18, 1823 (7 Stat. 224), and 5,865,000 acres of Florida reservation lands ceded to the United States by the Treaty of May 9, 1832 (7 Stat. 368). This case is consolidated for all purposes with a wholly overlapping claim of The Seminole Indians of the State of Florida in Docket No. 73. Cross appeals from a final award in the sum of \$12,262,780.63 entered on this claim on October 22, 1970, were taken to the Court of Claims. The Court remanded this matter to the Commission for further proceedings in respect to the valuation of the tracts involved, and directed that Dockets 73 and 151 be consolidated with an overlapping claim by the Creek Nation East of the Mississippi in Docket No. 280 so that the overlapping claims can be resolved in the consolidated proceeding. Trial has been had on the issue of title to the overlap area and the attorneys for the parties are briefing that issue. The case is submitted to the Commission for its decision on a motion by the

Seminole Cases, Continued

plaintiffs in Docket No. 280 for amendment of their petition and on a motion by the Seminole plaintiffs for dismissal of the overlapping Creek claim.

Docket No. 152, The Seminole Nation. Claim arising under the Treaty of March 21, 1866 (14 Stat. 755) for the amount of plaintiff's funds, together with interest thereon, and the value of Seminole land given by the United States to freedmen of African descent who were former Seminole slaves. The same claim had previously been heard and determined on the merits by the Court of Claims (Seminole Nation v. United States, 90 Ct. Cl. 151 (1940)). The Commission concluded, among other things, that the plaintiff failed to prove a case upon which relief could be granted and dismissed the claim on August 22, 1962.

Docket No. 204, The Seminole Nation. Claim for compensation for loss of mineral rights and royalties involving the Seminole Agreement of December 16, 1897 (30 Stat. 567) and, inter alia, the Act of May 27, 1908 (35 Stat. 312) and allegations that the United States actionably wronged the Seminole Nation by certain actions of the Dawes Commission relating to the allotment of Seminole land and by terminating the interest of the Seminole Nation in an "equalization fund" to be financed by one-half of all oil or mineral royalties accruing to the allotments of land. On May 31, 1972, the Commission entered a decision and order in Docket No. 204 dismissing this claim. An order denying the plaintiff's motion for a rehearing was entered on January 26, 1973. Appeal time of 3 months from the dismissal order is running from the latter date.

Docket No. 205, The Seminole Nation. Claim for \$249,731.88 of plaintiff's annuities disbursed by the United States during the Civil War for the relief of refugee Indians in Kansas that included some Seminoles and for \$50,000.00 of Seminole funds appropriated by the United States pursuant to Article 3 of the Treaty of March 21, 1866 (14 Stat. 755) to pay for losses suffered by loyal refugee Seminole Indians during the Civil War, together with interest to date of payment on the aforementioned sums. The Commission found nothing presented in the evidence adduced in this case showing the defendant guilty of something less than fair and honorable dealings and dismissed the claim on November 7, 1963.

Docket No. 247, The Seminole Nation. Claim based on allegations that the United States acted unfairly and dishonorably towards the Seminole Nation in failing to enforce against 3 railroad companies rights reserved to the Seminole Nation in certain acts of Congress authorizing the railroad companies to construct lines through the lands of the Seminole Nation in Oklahoma. Among other things, plaintiff seeks to recover the value of the lands trespassed upon by the railroad companies, together with the rents and profits derived from those lands. On the basis of the facts established and the evidence adduced in this suit and the holding of the Supreme Court in prior litigation between the plaintiff and the United States (reported at 318 U.S. 629, 637), the Commission concluded, inter alia, that the plaintiff's claim should be dismissed. An order of dismissal was entered in the case on March 24, 1972. The plaintiff's motion for a rehearing was denied by an order dated January 26, 1973. Appeal time of 3 months is running from the latter date.

Seminole Cases, Continued

Docket No. 248, The Seminole Nation. Claim for the fair market value of an oil and gas lease covering 320 acres of land known as the Mekasuky Mission School Tract located in Seminole County, Oklahoma. A final award in the sum of \$63,680.00 was entered on this claim on December 23, 1964.

Seneca-Cayuga Cases

Docket No. 84, The Seneca-Cayuga Tribe of Oklahoma, et al. Claim for the amount of money, together with interest thereon, found to be due to the plaintiffs under a full and complete accounting from the defendant of the plaintiffs' funds and properties that have been under the custody and control of the defendant. Other plaintiff tribal groups involved in this docket are The Six Nations, The Seneca Nation of Indians, The Cayuga Nation, The Oneida Nation, The Oneida Nation of New York, The Oneida Tribe of Wisconsin, and The Tuscarora Nation. The case in Docket No. 84 is proceeding in consolidation with the accounting claim of The Stockbridge Munsee Community, et al. in Docket No. 300-B. After trial, and briefing by the attorneys for the parties, of issues raised by the plaintiffs' exceptions to the defendant's accounting reports, the Commission entered an interlocutory award in Docket Nos. 84 and 300-B for all of the plaintiffs in the sum of \$36,718.42, less offsets allowable to the defendant, and a separate interlocutory award to the Seneca Nation in the sum of \$25,399.50, less any allowable offsets. The two consolidated dockets are submitted to the Commission for its decision on the issue of offsets allowable to the defendant against the awards.

Docket No. 89, The Seneca-Cayuga Tribe of Oklahoma, et al. Claim for additional compensation for the interests of the plaintiffs in lands in Illinois, Indiana, New York, Ohio and Pennsylvania acquired by the United States under the Treaties of October 22, 1784 (7 Stat. 15), November 11, 1794 (7 Stat. 44), January 9, 1789 (7 Stat. 433), January 21, 1785 (7 Stat. 16), and January 31, 1786 (7 Stat. 26), and for the reasonable value for use, occupancy and control of relinquished properties during the period from October 22, 1784, to November 11, 1794. This case has been tried on land title issues in respect to claimed lands in Ohio and Indiana with the overlapping or related claims in 31 other dockets. It is submitted to the Commission for decision on those issues with other cases involved in the title proceedings in 3 separate groups of consolidated cases. The other tribal plaintiffs involved in this case are those named under Docket No. 84 above.

Docket No. 341, The Seneca-Cayuga Tribe of Oklahoma, et al. The Commission's order of January 15, 1958, required that the 6 causes of action alleged in the plaintiffs' petition in this case be severed from such petition and be set forth in 5 separate petitions assigned Docket Numbers 314-A through 341-E. Separate petitions were duly filed in Docket Nos. 341-A, 341-B, 341-C and 341-D restating, as required by the order of January 15, 1958, what were originally the first five causes of action in the petition in Docket No. 341. Plaintiffs did not file a separate petition for the sixth cause of action assigned Docket No. 341-E, so it was stricken from the original petition and dismissed by an order dated September 4, 1958. All of the causes of action having been separated or stricken from the original petition in Docket No. 341, it was dismissed by another order dated September 4, 1958.

Seneca-Cayuga Cases, Continued

Docket Numbers 341-A and 341-B, The Seneca-Cayuga Tribe of Oklahoma, et al. Claims for additional compensation for reservation lands in Ohio ceded to the United States under the Treaties of February 28, 1831 (7 Stat. 348), and July 20, 1831 (7 Stat. 351) that were to be sold at public sale for the benefit of the Indians; and claims for amounts due to the plaintiffs under an accounting from the defendant in respect to its execution of the trust responsibilities imposed upon it by the aforementioned treaties. The Commission determined that the defendant committed certain breaches of its duties under the 1831 treaties and ordered that these cases proceed for the purpose of determining the fair market value of the lands involved and the resulting damages, if any, caused by such breaches. They are set for trial of issues as to the fair market value of the reservation lands and damages on April 16, 1973. An interlocutory award of \$42,021.12, less allowable offsets, if any, was entered on the accounting claims on December 7, 1972.

Docket Number 341-C, The Seneca-Cayuga Tribe of Oklahoma, et al. Claim for additional compensation for the plaintiffs' interest in lands in Ohio ceded to the United States under the Treaty of July 4, 1805 (7 Stat. 87). This case was tried on land title issues with the overlapping or related claims in 9 other dockets. It is submitted to the Commission for its decision on those issues along with the other cases involved in the title proceedings.

Docket No. 341-D, The Seneca-Cayuga Tribe of Oklahoma, et al. Claim for additional compensation for the plaintiffs' interest in lands in Ohio ceded to the United States under the Treaty of September 29, 1817 (7 Stat. 160). This case was tried in consolidation with the overlapping or related claims of other tribal groups in 10 other dockets on land title issues and is submitted to the Commission for its decision on those issues along with the other cases involved in the title proceedings.

Docket No. 341-E, The Seneca-Cayuga Tribe of Oklahoma, et al. The plaintiffs were ordered to file a separate petition in this docket setting forth a more definite statement of the sixth claim in its original petition in Docket No. 341. Such petition was not filed and the sixth claim was stricken from the petition in Docket No. 341 and dismissed by the Commission's order of September 4, 1958. The sixth claim was a general claim that was intended to cover all of the claims set forth in the other petitions filed for the plaintiff.

Docket No. 343, The Seneca-Cayuga Tribe of Oklahoma, et al. Plaintiffs' petition asserts 3 claims. The first claim is based on allegations that the United States breached its fiduciary obligations to the plaintiffs by failing to protect the Cayugas from improvidently selling their tribal lands to the State of New York on February 25, 1789. This claim was dismissed by the Commission's order of November 14, 1968. The second and third claims involve sales of Cayuga reservation lands to the State of New York under treaties entered into with the State on July 27, 1795 and May 30, 1807. Similar allegations of breaches of fiduciary obligations are made in respect to these sales. In an interlocutory decision entered in this case on July 20, 1972, the Commission determined that the defendant will be liable under the Trade

Seneca-Cayuga Cases, Continued

and Intercourse Act of 1790 (1 Stat. 137) if the Cayuga Nation received unconscionable consideration for its reservation lands and ordered this case to proceed to a determination of the value of the lands and the consideration paid for them. An appeal from this liability determination by the defendant is pending before the Court of Claims.

Docket No. 344, The Seneca-Cayuga Tribe of Oklahoma, et al. The other tribal plaintiffs in this case are named under Docket No. 84, above. The plaintiffs' petition in Docket No. 344 asserts 3 claims relating to 2 tracts of land in the northwest part of Pennsylvania. Area I, the tract in the first claim, allegedly contained some 7,250,000 acres. The tract involved in the second and third claims was known as the Erie Triangle and contained about 202,000 acres. The Commission determined, among other things, that Area I was not taken from the plaintiffs by the United States and was never part of the public domain of the United States, that the plaintiffs did not have Indian title to the Erie Triangle and that the defendant was not liable to the plaintiffs on the claims asserted in the petition. The case was dismissed by the Commission's order of March 1, 1963.

Docket No. 230, The Cayuga Nation of Indians of Oklahoma. The plaintiff's petition asserted 3 claims that are being litigated by the Seneca-Cayuga Tribe of Oklahoma, the successor in interest to the Cayuga Nation, in Docket Nos. 84, 341-A and 343. The plaintiff was not active in this case after 1964. Its petition was dismissed by the Commission's order of September 22, 1971.

Shawnee Cases

Docket No. 64, Shawnee Tribe of Indians of Oklahoma, et al. Claim for the value of the Shawnee interest in lands in Ohio and Indiana ceded to the United States by the Treaty of August 3, 1795 (7 Stat. 49). This case was tried on land title issues in consolidation with the overlapping or related claims in 12 other dockets. It is submitted to the Commission for its decision on those issues along with the other cases involved in the title proceedings.

Docket No. 64-A, Shawnee Tribe of Indians of Oklahoma, et al. Claim for additional compensation for the Shawnee interest in lands in Michigan, Ohio and Indiana ceded to the United States by the Treaty of September 29, 1817 (7 Stat. 160). This case was tried on land title issues in consolidation with overlapping or related claims of other Indian groups in 10 other dockets. It is submitted to the Commission for its decision on those issues along with the other cases involved in the title proceedings.

Docket No. 334, The Absentee Shawnee Tribe of Oklahoma and Riley M. Hood on behalf of The Shawnee Nation. Claim for additional compensation for 1,404,790 acres of Shawnee land in Kansas ceded to the United States by the Treaty of May 10, 1854 (10 Stat. 1053). A final award in the sum of \$1,269,338.02 was entered on this claim on May 29, 1961.

Docket No. 334-A, The Absentee Shawnee Tribe of Oklahoma, The Eastern Shawnee Tribe of Oklahoma, et al., on behalf of The Black Bob Band. Claim for compensation for the fair value of 33,392 acres of land in Kansas set aside

Shawnee Cases, Continued

for the Black Rob Band of Shawnee Indians under the Shawnee Treaty of May 10, 1854 (10 Stat. 1053). This claim is based on allegations to the effect that the United States violated its fiduciary obligations to the band by failing to protect it in the peaceful enjoyment of its lands and permitting, condoning and encouraging settlement thereon by trespassers and enacting legislation to quiet title in grantees who obtained the land by fraud and for inadequate consideration. It was determined that this case was a class action for claims of individuals over which the Commission has no jurisdiction. The plaintiffs' petition was dismissed by the Commission's order of March 22, 1963.

Docket No. 334-B, The Absentee Shawnee Tribe of Oklahoma (on behalf of the Shawnee Nation. Pursuant to a compromise settlement agreement between the parties, this case was finally disposed of by an award to the plaintiffs in the sum of \$300,000.00 entered on May 19, 1971. The award represents compensation for the fair market value of 22,140.70 acres of land in Kansas, the residue of lands set aside under the Treaty of May 10, 1854 (10 Stat. 1053) for Absentee Shawnees that was sold to occupying white settlers pursuant to the Joint Resolution of April 7, 1869 (16 Stat. 53).

Docket No. 335, Eastern Shawnee Tribe of Oklahoma, Absentee Shawnee Tribe of Oklahoma, et al., on behalf of the Shawnee Nation. Claim for fair value of lands in southeastern Ohio ceded to the United States under the Treaty of January 9, 1789 (7 Stat. 28) based on, inter alia, an alleged failure of consideration for the cession. This case was tried on land title issues in consolidation with the overlapping or related claims in 12 other dockets. It is submitted to the Commission for its decision on those issues along with the other cases involved in the title proceeding.

Docket No. 336, Eastern Shawnee Tribe of Oklahoma and the Absentee Shawnee Tribe of Oklahoma, et al. Claim for the amount shown due upon a complete accounting from the United States in respect to the funds and properties of the plaintiffs administered for the plaintiffs by the United States. After a hearing on the merits of this claim, it was dismissed by the Commission's order of November 26, 1968.

Docket No. 338, Eastern Shawnee Tribe of Oklahoma, Absentee Shawnee Tribe of Oklahoma, et al., as representatives of the Shawnee Nation. Claim for additional compensation for the Shawnee interest in lands ceded by the Treaty of August 3, 1795 (7 Stat. 49). This case was tried on land title issues in consolidation with the overlapping or related claims in 12 other dockets and is submitted to the Commission for its decision on those issues along with the other cases involved in the title proceedings.

Tonkawa--See Caddo case

Wichita--See Caddo case and Kiowa, Comanche and Apache case in Docket No. 257

Wyandotte Cases

Docket No. 120, Wyandotte Tribe of Oklahoma, et al. Claim for additional compensation for the Wyandotte interest in lands lying mainly in Ohio ceded to the United States by the Treaty of August 3, 1795 (7 Stat. 49), made with the Wyandotte, Delaware, Shawnee, Ottawa, Chippewa, Potawatomi, Miami, Eel-River, Wea, Kickapoo, Piankeshaw, and Kaskaskia Tribes of Indians. This case was tried on land title issues in consolidation with claims involving the same land of other Indian groups in 12 other dockets. It is submitted to the Commission for its decision on those issues along with the other cases included in the title proceedings.

Docket No. 139, Wyandotte Tribe of Oklahoma, et al. Claim for additional compensation for the Wyandotte interest in land in Ohio ceded by the Treaty of July 4, 1805 (7 Stat. 105), made with the Wyandotte, Ottawa, Chippewa, and Potawatomi Nations. This case was tried in consolidation with claims involving the same land of other tribal groups in 9 other dockets on land title issues. It is submitted to the Commission for its decision on those issues along with the other cases included in the title proceedings.

Docket No. 140, Wyandotte Tribe of Oklahoma, et al. Claim for additional compensation for the Wyandotte interest in lands in Ohio and Michigan ceded to the United States by the Treaty of November 17, 1807 (7 Stat. 105), made with the Wyandotte, Ottawa, Chippewa and Potawatomi Nations. This case was tried in consolidation with claims involving the same lands of other tribal groups in 4 other dockets on land title issues. It is submitted to the Commission for its decision on those issues along with the other cases involved in the title proceedings.

Docket No. 141, Wyandotte Tribe of Oklahoma, et al. Claim for additional compensation for the Wyandotte interest in lands in Ohio and Indiana ceded to the United States by the Treaty of September 29, 1817 (7 Stat. 160), made with the Wyandotte, Seneca, Delaware, Shawnee, Potawatomi, Ottawa, and Chippewa Tribes of Indians. This case was tried in consolidation with claims involving the same lands of other tribal groups in 10 other dockets. It is submitted to the Commission for its decision on those issues along with the other cases included in the title proceedings.

Docket No. 212, Wyandotte Tribe of Oklahoma, et al. Claim for additional compensation for Wyandotte reservation lands in Michigan and Ohio ceded to the United States by the Wyandotte Tribe under the Treaties of September 20, 1818 (7 Stat. 180) and March 17, 1842 (11 Stat. 581). This case is set for trial on February 19, 1974, on the question of the value of the lands and the consideration paid for them when they were acquired by the United States.

Docket No. 213, Wyandotte Tribe of Oklahoma, et al. Claim for additional compensation for Wyandotte reservation lands in Ohio ceded to the United States by the Wyandotte Tribe under the Treaties of January 19, 1832 (7 Stat. 364) and April 23, 1836 (7 Stat. 502). This case is set for trial on February 19, 1974, on the question of the value of the lands and the consideration paid for them when they were acquired by the United States.

RESPONSE TO REQUEST OF CHAIRMAN ABOUREZK
FOR REPORT ON DOCKET 132, SUQUAMISH TRIBE

As requested by Chairman Abourezk on behalf of the Subcommittee, the following report concerning the trip of the Tribal Chairman to Washington in response to a notice of hearing to be held by the Indian Claims Commission on February 15, 1973, is submitted.

This purported hearing concerned the petition of the tribe's attorney for fees and expenses in Indian Claims Commission Docket 132, Suquamish Tribe. The notice was sent not by the Commission but by the tribe's attorney, and no hearing was scheduled.

The background of the case is as follows. Final judgment in Docket 132 in favor of plaintiff Suquamish Tribe for \$42,170.49 was rendered by the Commission on October 22, 1970. Plaintiff appealed the judgment, but the United States Court of Claims affirmed it on March 17, 1972.

The tribe's attorney, Mr. Frederick W. Post, then filed on June 30, 1972, a petition for payment of compensation for attorney's fees and expenses. The Commission sent the tribe notification of Mr. Post's petition on July 5, 1972, and requested that comments on the matter, if any, be sent within two weeks. Mr. Belmont replied by letter dated July 10, 1972, suggesting the tribe might not accept the judgment, allowing that Mr. Post had a "just claim of 10%," but stating that since the tribe did not consider the final award just, "attorney's fees cannot

be paid out of this judgment." He requested copies of the attorney's contracts, and the Commission in reply advised that copies could be obtained from the Western Washington Agency of the Bureau of Indian Affairs.

The petition was not ready for hearing, however, because Mr. Post had not submitted properly substantiated vouchers and other required documentation. Nothing further occurred, therefore, until January 19, 1973, when the Commission issued an order setting a calendar conference for February 12, 1973, for counsel for the parties in all cases pending before the Commission. The order requested that each counsel submit to the Commission by February 5, 1973, the date of trial of the next phase of each case.

The Suquamish Tribe's counsel, Mr. Post, then prepared a document which he called a "Notice of Hearings." This document represented that Mr. Post's petition for attorney's fees and expenses would be heard by the Commission on February 15, 1973. The document was dated January 31, 1973, was addressed to Mr. Belmont, and was signed by Mr. Post. There was nothing on the document to indicate that it originated with the Indian Claims Commission. (In fact, there is nothing on the document to indicate that it was even sent to the Commission.) There is nothing in the Commission's rules allowing counsel to schedule hearings. The proper procedure is for the Commission to issue, when appropriate, an order for a hearing, signed by the Commissioners, with notice to the parties.

A copy of Mr. Post's document was received by the Commission on February 5, 1973. The Commission made no response, as it was assumed that the document was Mr. Post's response to the aforementioned calendar conference order's request for counsel to submit dates for the next phases of their cases, that he was thereby proposing that the hearing on his petition for attorney's fees and expenses be held on February 15, 1973, and that the matter would be settled at the February 12 calendar conference. Mr. Post, to the best of our knowledge, had followed a similar procedure at the calendar conference of February 18 and 19, 1969.

Matters relating to contracts between Indian tribes and their claims attorneys are governed by 25 U.S.C. § 81, and are within the jurisdiction of the Secretary of the Interior and the Commissioner of Indian Affairs. The Commission is without jurisdiction to act in any dispute between a claimant tribe and its attorney. While the Commission regrets any inconvenience caused by this dispute between the Suquamish Tribe and its attorney, it must be pointed out that the matter should have been discussed on that level before the Tribal Chairman undertook a trip to Washington with its attendant expense and inconvenience.

Docket 109 - The Duwamish TribeThe Claim

The Duwamish Tribe filed a claim (Docket No. 109) seeking additional compensation for its aboriginal lands which were included in lands which had been ceded to the United States by the Point Elliott Treaty of January 22, 1855. In the course of adjudicating the claim, the Commission conducted hearings at Seattle, Washington, and in Washington, D. C. On March 25, 1957, the Commission determined the area to which the Duwamish Tribe held aboriginal title. 5 Ind. Cl. Comm. 117. On July 6, 1959, the Commission determined that the Indians' aboriginal title area contained 54,790 acres and that the fair market value of those lands on March 8, 1859 (the effective date of the Point Elliott Treaty), was \$74,000.00. 7 Ind. Cl. Comm. 725. On July 20, 1962, the Commission approved a compromise settlement which provided that \$12,000.00 should be taken to include all counter claims and offsets, and that a final judgment should be entered in the sum of \$62,000.00, representing the net recovery after deduction of the \$12,000.00. The compromise had been unanimously approved by the tribe at its regular annual meeting on June 18, 1960. The final judgment was entered in the amount of \$62,000.00. 10 Ind. Cl. Comm. 442. On September 19, 1962, the plaintiff filed a notice of appeal to the United States Court of Claims. However, after the court affirmed the Commission's decision in the case of Nooksack Tribe v. United States, 162 Ct. Cl. 712 (1963), which involved a claim similar to that of the Duwamish Tribe, plaintiffs' attorney decided that it was not advisable

to continue with the appeal, and, with the approval of the Duwamish Tribe and the Commissioner of Indian Affairs, the appeal was dismissed on December 10, 1963. An amended final judgment in the amount of \$62,000.00 was entered on December 11, 1963. Congress appropriated funds to satisfy the judgment in 1964, and the Act of October 14, 1966, 80 Stat. 910, provided for distribution to the members of the Duwamish Tribe.

Protests from the Tribe

The Commission has not received any protests with respect to the claim of the Duwamish Tribe. The Commission has responded to two inquiries, both in 1960, concerning the status of the claim.

Docket 132 - The Suquamish TribeThe Claim

The Suquamish Tribe of Indians filed a claim (Docket 132) seeking additional compensation for its aboriginal lands in the State of Washington, which lands had been ceded to the United States by the Point Elliott Treaty of January 2, 1855. In the course of adjudicating the claim the Commission conducted hearings at Seattle, Washington, and Washington, D. C. Evidence was received and testimony presented on all phases of the claim. On March 25, 1957, the Commission determined the area to which the Suquamish Tribe held aboriginal title. 5 Ind. Cl. Comm. 140. On July 10, 1959, the Commission found that the Indians' aboriginal title area embraced 87,130 acres and that the fair market value of those lands on March 8, 1859 (the effective date of the Point Elliott Treaty), was \$78,500.00. 7 Ind. Cl. Comm. 747. On August 13, 1964, the Commission determined that that portion of the Point Elliott Treaty consideration which was allocable to the Suquamish Tribe was \$36,329.51, 13 Ind. Cl. Comm. 583, and on January 21, 1966, the Commission held that the Suquamish Tribe had been paid an unconscionable consideration for its lands and that the Indians were entitled to recover \$42,170.49 less allowable gratuitous offsets, if any. 16 Ind. Cl. Comm. 479. On October 22, 1970, the Commission determined that the defendant was not entitled to credit for any gratuitous offsets, and a final award was entered in the amount of \$42,170.49. 24 Ind. Cl. Comm. 34.

On January 18, 1971, the plaintiff filed a notice of appeal to the United States Court of Claims. The decision of the Commission was affirmed, 197 Ct. Cl. 775 (1972).

Protests from the Tribe

On February 5, 1971, the Commission received a copy of a memorandum from the Superintendent, Western Washington Agency, to the Area Director, Portland Area, which forwarded a resolution of the Suquamish Tribal Counsel requesting the claims' attorney, Mr. Frederick W. Post, to appeal the Commission's decision to the Court of Claims. The resolution was adopted by a vote of 15 to 14. Also attached was a statement complaining of certain determinations which the Suquamish Tribe believed were erroneous. The matters raised by the tribe in its statement were the basis for the appeal to the Court of Claims.

The Commission received a letter (dated July 10, 1972) from Richard W. Belmont, Jr., Suquamish Tribal Chairman, in which he objected to the amount of the award and stated that the findings of the Commission were not just. He requested copies of the attorneys' contracts and more information on the final judgment. Mr. Belmont's request was answered on July 27, 1972. The Commission sent him copies of those contracts which the Commission had in its files. Mr. Belmont was advised that the Western Washington Agency of the Bureau of Indian Affairs would supply him with a complete set of the contract papers. Mr. Belmont was also sent copies of the Commission's findings of fact, opinions, and orders with respect to the determinations on the Suquamish claim.

Deductions for Payments on the Claim

Reference has also been made to the deduction from the award in this case of some \$36,000.00, supposedly representing payment for "blankets and trinkets for 462 people". The lands involved in this case were ceded to the United States by the Treaty of Point Elliott. As consideration for the cession, the treaty provided for the payment of certain sums to the Indian tribes and provided for the creation of certain reservations for the Indians. The Indian tribes which participated in the Point Elliott Treaty had previously joined in a suit in the Court of Claims under a prior jurisdictional act. In that case, the Court of Claims determined the total amount of monetary consideration paid under the treaty and indicated that it should be allocated among the tribes in proportion to their respective population. 79 Ct. Cl. 530. The total monetary consideration was \$320,213.96. It was paid for such purposes as supporting agricultural and industrial schools; providing blacksmiths, carpenters, and farmers to instruct the Indians; and supplying physicians and medicine for the Indians. There is no indication that any amount was spent for "blankets and trinkets".

In allocating the monetary consideration, it was determined that the Suquamish Tribe had a population of 485 which represented 13.8 percent of the Indians which received the consideration payments. Accordingly, the Suquamish were charged with consideration payments of \$36,088.74. To this was added the sum of \$240.77 representing the Suquamish proportionate share of the value of the reservations which had been created pursuant to the treaty provisions. The total consideration was \$36,329.51 which was the amount deducted from the value of the Suquamish ceded lands to arrive at the final judgment of \$42,170.49.

Docket 197 - The Nisqually TribeThe Claim

The Nisqually Tribe filed a claim (Docket No. 197) seeking additional compensation for its aboriginal lands which were included in lands which had been ceded to the United States by the Medicine Creek Treaty of December 26, 1854. The Commission has conducted all of its hearings on this claim in Seattle, Washington. Evidence has been received and testimony presented on all phases of the claim which have been adjudicated as of this date. On June 25, 1969, the Commission determined the area to which the Nisqually Tribe held aboriginal title. 21 Ind. Cl. Comm. 173. On February 7, 1973, the Commission found that the Indians' aboriginal title area contained 152,500 acres and that the fair market value of those lands on March 3, 1855 (the effective date of the Medicine Creek Treaty), was \$160,000. The Commission also determined that the Nisqually share of the total consideration which had been paid under the Medicine Creek Treaty was \$78,893.92. Finding that the consideration paid was unconscionable, the Commission determined that the Nisqually Tribe was entitled to recover \$81,106.08, less gratuitous offsets, if any, allowable under Section 2 of the Indian Claims Commission Act. This claim is now set for trial on July 16, 1973, on the issue of gratuitous offsets.

Protests from the Tribe

The Commission has not received any protests with respect to the claim of the Nisqually Tribe. The Commission has received two letters of inquiry from Miss Patti McGuire concerning the Indians' fishing rights at Frank's Landing and along the Nisqually River. Miss McGuire's letters have been answered advising her that the Indian Claims Commission has no jurisdiction or power to return land or fishing rights and that matters concerning Indians' hunting and fishing rights have been involved in litigation in the State of Washington.

Docket 203 - The Puyallup TribeThe Claim

The claim of the Puyallup Tribe of Indians was filed August 6, 1951, and was designated as Docket No. 203. In its petition the claimant sought, among other things, additional compensation for its aboriginal lands which were ceded to the United States under the Treaty of Medicine Creek of December 26, 1854.

In its decision of April 25, 1966, 17 Ind. Cl. Comm. 1, the Commission determined the boundaries of the lands aboriginally owned by the Puyallups. The case was subsequently set for trial on the issues of acreage, value and consideration.

On January 1, 1970, attorney Frederick Post notified the Commission that his contract with the tribe had not yet been renewed, and asked that the case be stricken from the trial calendar. Again on November 16, 1970, Frederick Post moved the Commission to delay the Puyallup trial because his contract had not yet been renewed. Finally on December 7, 1970, Mr. Post informed the Commission that the tribe had informed him that it did not intend to renew his contract to prosecute the case. On October 25, 1972, noticing that the Puyallups were still without counsel, the Commission referred Docket 203 to its Investigation Division for appropriate action consistent with the rights of the tribe.

Protests from the Tribe

On November 10, 1966, the Commission received a letter from Frank Wright, Chairman of the Puyallup Tribe, seeking information on the status of Docket 203. Mr. Wright wished to know (1) when the case would come

up before the Court of Appeals, (2) whether the claim covered lands to which the tribe had title, and (3) whether the tribe could verify that the claim involved only lands it had already ceded.

Chief Commissioner Watkins replied to Mr. Wright on November 17, 1966. He stated that the Commission had issued its initial decision in the case on April 4, 1966; that the case was scheduled for trial on value on October 29, 1968; and that the Commission had no knowledge of any appeal in the case and thus there were no proceedings scheduled before the Court of Claims. Commissioner Watkins added that any other questions the tribe might have would be answered by reading the decision of the Commission he was enclosing.

On March 12, 1971, the Puyallup Tribe filed notice with the Commission that at a General Tribal Meeting held on May 24, 1969, the tribe had voted to reject and withdraw from the claim; that the members of the tribe had no intention of selling any of their remaining lands or fishing rights, and wished to maintain their tribal existence, tribal government, tribal culture, and Indian identity; and that the tribe had not had an attorney representing it since 1966, and had not authorized any attorney or official of the Bureau of Indian Affairs to appear on its behalf in any court proceeding. Attached to this notice were the minutes of the tribal meeting at which the decision to withdraw from the case was made. The relevant portion of the minutes read as follows:

Silas Cross reported on the Court of Claims. He mention and showed by map that the Court would give them about 10,000 acres of land. The Court had also ordered that the Indians be paid the same price for the land as it was in 1855 which

would be about \$6,000 and the attorneys would take all of that. It was further pointed out that the fishing rights and other rights would be included in the Court of Claims. . . .

On April 1, 1971, the Commission received a copy of a letter written by the Bureau of Indian Affairs to Silas Cross, Chairman of the Puyallup Tribal Council. In the letter it was stated that it was not in the best interest of the tribe for the Bureau to approve or support a resolution calling for withdrawal from a claim until it was satisfied that the tribal members were fully advised and understood the claim, and were aware of what the tribe had to gain or lose by withdrawing from the case. The letter concluded that, because the Bureau was not satisfied that the members who had voted on the resolution were adequately advised and understood the claim in Docket 203, it was not approving the resolution.

At a hearing held April 13, 1971, in Seattle, Washington, Mr. Silas Cross, Chairman of the Puyallup Tribal Council, and Mr. Frank Wright, Chairman of the Puyallup Tribe, appeared on behalf of the tribe. They complained orally that they had not received notification that the hearing in Docket 203, originally scheduled for April 12, had been rescheduled. Chairman Kuykendall stated that the tribe's failure to receive notice was unfortunate, but had occurred because it did not have an attorney. He promised that in the future both Mr. Cross and Mr. Wright would receive written notice of all Commission actions affecting their claim.

At the hearing Mr. Cross and Mr. Wright filed two documents on behalf of the tribe, which were received and made part of the record. One of these documents was a written protest of the Commission's failure to notify the tribe that its hearing was rescheduled. The other document contained a reassertion of the tribe's objection to the entire proceeding before the Commission. In this document the tribe stated (1) that under the Treaty of Medicine Creek it holds certain reserved Indian lands; (2) that the Medicine Creek Treaty was a contract binding on both the United States and the Puyallup Tribe; (3) that the provisions of the treaty are not subject to renegotiation; (4) that the Indian Claims Commission does not have the power to renegotiate the Medicine Creek Treaty, or enter into a new treaty with the tribe; (5) that the Puyallup Tribe does not consent to any sale of any of the rights reserved to it under the treaty; (6) that the tribe's contract with attorneys Post and McLeod had not been renewed, and the tribe had not authorized any other attorney to act in its behalf; (7) that the tribe had voted to reject Docket 203 because it would lose its fishing rights and other rights under the claim; (8) that the Commission's title decision would leave the tribe with only 10,900 acres of its land, and would result in the tribe being terminated; (9) that Docket 203 amounted to a forced sale of the tribe's land, and is a fraud on the tribe by its attorney; and (10) that the tribe reserves all of its rights which might be involved in the claim. The tribe also requested that the case be continued indefinitely until it

notified the Commission of its intention to proceed.

Commission's Plan for Completing Docket 203

As has already been stated, the Puyallup claim has been assigned to the Commission's Investigation Division. This procedure will enable the Commission to ascertain the facts and to decide the case on its merits despite the fact that the tribe had no counsel and had not presented its case to us in an adversary proceeding in the traditional manner in which cases are litigated before the Commission. That division has examined the evidence of record in this docket and in dockets involving claims of tribes whose land was adjacent to that of the Puyallup Tribe. The Investigation Division is currently preparing a report to the Commission stating its conclusions on the acreage of the Puyallup cession, its fair market value when ceded, and the consideration received by the tribe under the Medicine Creek Treaty. This report will also contain a recommendation as to whether the United States is liable to the Puyallup Tribe.

In accordance with the usual procedure of the Commission and the requirements of the Indian Claims Commission Act, after the report of the Investigation Division has been received and reviewed by the Commission, a copy will be forwarded to officers of the Puyallup Tribe for their consideration.

The Puyallup Tribe will be given ample opportunity to examine the evidence and to comment on the report of the Investigation Division, which comment will be considered by the Commission in reaching its decision in this docket.

Docket 207 - The Stillaguamish TribeThe Claim

The claim of the Stillaguamish Tribe of Indians was filed August 6, 1951, and was designated as Docket No. 207. In its petition the claimant sought additional compensation for its aboriginal lands which had been ceded to the United States under the Point Elliott Treaty of January 22, 1855. The Commission received evidence on the issues of the tribe's title to its lands, and the portion of the consideration paid by the United States chargeable against the tribe, at trials held both in Seattle, Washington, and Washington, D. C.

On August 13, 1964, the Commission issued a decision in which it found that under the Point Elliott Treaty the plaintiff had received \$15,890.03 as compensation for its lands. 13 Ind. Cl. Comm. 583. In its decision of February 26, 1965, 15 Ind. Cl. Comm. 1, the Commission determined the boundaries of the lands aboriginally owned by the Stillaguamish. While the case was scheduled for trial on the value of the tribe's land, the parties indicated that the case was in the process of being settled.

In response to a Stipulation and Joint Motion for Entry of Final Judgment, submitted by the parties on September 11, 1969, the Commission, on January 8, 1970, entered findings of fact on the compromise settlement and a final award. 22 Ind. Cl. Comm. 361. In its findings the Commission found that the tribe had approved the compromise by a resolution first adopted July 24, 1965, and readopted on September 10, 1966, and again on December 28, 1969; that the terms of the settlement were fully understood

by the tribal members; and that the settlement was fair both to the claimant and the United States. Final judgment was entered in the amount of \$48,570.00.

Protests from the Tribe

At 3:55 p.m. on January 8, 1970, several hours after the Commission had issued its decision approving the compromise settlement in Docket 207, the Commission received a letter from John P. Silva, Chairman of the Stillaguamish Tribe. In his letter Mr. Silva challenged the validity of the resolution of December 28, 1969, reapproving the settlement. Mr. Silva stated that of the tribe's seventy-five members only eighteen persons voted on the resolution and that did not constitute a quorum; that the affirmative vote of only sixteen members was insufficient to bind the tribe; that the resolution was not presented to the entire tribal body for study and consultation; that a representative of the Bureau of Indian Affairs was not present at the meeting at which the resolution was adopted; and that the person who signed the resolution as "Secretary" was not the duly elected secretary of the tribe. A copy of Mr. Silva's letter was also forwarded to the Commission as part of an inquiry by Senator Jackson of Washington.

In a letter dated January 16, 1970, Harry E. Webb, Jr., the Commission's Chief Counsel, replied to Mr. Silva. Mr. Webb stated that Mr. Silva's letter had not been received until after the Commission had entered its final award in the Stillaguamish case, and that, after receiving his letter, the Commission had reexamined the record and was unable to see any alternative to its decision.

On January 21, 1970, Chairman Kuykendall replied to Senator Jackson's inquiry. He stated that final award had been entered in the case prior to receipt of Mr. Silva's letter; that prior to the resolution of December 28, 1969, the tribe had approved the compromise on two other occasions; that the settlement had been approved by the Department of Justice and the Bureau of Indian Affairs; and that, after having reviewed the record, the Commission was still convinced that the compromise settlement was fair.

On January 22, 1970, the final award in Docket 207 was certified and reported to the President of the Senate and the Speaker of the House of Representatives in compliance with Section 21 of the Indian Claims Commission Act, 25 U.S.C. § 70t. On July 6, 1970, the Congress appropriated funds to satisfy the judgment, 84 Stat. 376.

On January 30, 1970, Chairman Kuykendall received another letter from John Silva. Mr. Silva stated that he believed that the Commission, in issuing its final award, had failed to take into consideration the views expressed in his earlier letter; and that he stood firm in his position that in submitting the compromise settlement to the Commission the tribe's attorney had acted without authorization from the tribal membership. Mr. Silva further stated his objection to the tribal attorney receiving any part of his fee until the matter was resolved to the tribe's satisfaction.

Chairman Kuykendall replied to Mr. Silva on February 3, 1970, stating that at the time the tribe's attorney filed his petition for allowance of his fee the tribe would be notified and given the opportunity to comment.

On the same day, Chairman Kuykendall replied to another inquiry from Senator Jackson. In his letter the Chairman referred to his letter of January 21, and stated again that the Commission had reviewed the record and was still of the opinion that the settlement was fair to all parties, and that the proper procedures were followed in settling the case.

On March 5, 1970, the Commission received a copy of a document titled "Termination of Attorney's Contract". In this document the Stillaguamish Tribe gave notice that it was terminating its contract with Frederick Post for "non-compliance" and "performance adverse and contrary to the direction and will" of the tribe and adverse to their interests. The decision to terminate was made at a meeting held February 14, 1970, by a vote of thirty-eight in favor, none opposed.

Attorney's Fee and Reimbursement for Expenses

On March 31, 1970, the Commission gave notice to John Silva that Frederick Post had filed a petition for payment of his fee and reimbursement of expenses, and that the tribe would have two weeks in which to file its comments. Notice of the petition was also forwarded to the Justice Department and the Bureau of Indian Affairs. Although the United States filed a comment on Mr. Post's petition, the Stillaguamish Tribe did not do so.

On March 3, 1971, having found that Frederick Post was employed under a contract providing that he was to receive as compensation 10% of any amount recovered for the tribe; that the United States had not objected to the payment of the fee; and that Frederick Post had rendered valuable

services in his prosecution of the tribe's claim, the Commission awarded Frederick Post \$4,857.00 in attorney's fees. 24 Ind. Cl. Comm. 471.

On July 14, 1971, after a hearing held in Seattle, Washington, of which the tribe was notified, the Commission awarded Frederick Post \$1,738.04, as payment for unreimbursed expenses he had incurred on behalf of the tribe. 26 Ind. Cl. Comm. 8.

Docket 263 - The Kikiallus TribeThe Claim

The claim of the Kikiallus Tribe of Indians was filed August 9, 1951, and was designated as Docket No. 263. In its petition the claimant sought, among other things, additional compensation for its aboriginal lands ceded to the United States under the Point Elliott Treaty of January 22, 1855. The Commission received evidence in all phases of the case at trials held both in Seattle, Washington, and Washington, D. C.

On April 13, 1959, the Commission issued a decision in which it determined the boundaries of the land aboriginally owned by the Kikiallus. 7 Ind. Cl. Comm. 456. In its decision of August 13, 1964, 13 Ind. Cl. Comm. 583, the Commission found that under the Point Elliott Treaty the plaintiff had received \$5,973.31 as compensation for its lands.

In its value decision, issued March 26, 1971, the Commission determined that the lands of the Kikiallus Tribe ceded under the Point Elliott Treaty had a fair market value of \$12,000, and that plaintiff was entitled to recover the difference between this value and the consideration it actually received (\$5,973.31), less any allowable offsets. 25 Ind. Cl. Comm. 83. On June 7, 1972, the Commission decided that the United States was not entitled to any gratuitous offsets, and entered a final award in favor of the Kikiallus in the amount of \$6,026.69. 28 Ind. Cl. Comm. 159.

On September 8, 1972, the final award in Docket 263 was certified and reported to the President of the Senate and the Speaker of the House of Representatives in compliance with Section 21 of the Indian Claims

Commission Act, 25 U.S.C. § 70t. On October 31, 1972, the Congress appropriated funds to satisfy the Judgment, 86 Stat. 1498.

Protests from the Tribe

On March 9, 1953, Senator Magnuson forwarded to the Commission a letter from Mr. Alfonso Sampson, along with a resolution of the Kikiallus Tribe, which apparently complained that the tribe's claim was not being litigated quickly enough.

In a letter dated March 11, 1953, Chief Commissioner Witt replied to Senator Magnuson. Commissioner Witt stated that hearings had been held on the Kikiallus claim in June 1952; that the tribe's attorneys had not yet indicated that they had concluded the presentation of their evidence; that the defendant would present its evidence after the close of proof by the plaintiff; and that after all evidence was submitted the parties would brief the case and submit it to the Commission for decision. Commissioner Witt concluded that there was no indication in the record that either the Justice Department or the Commission had caused delay in the litigation of the case.

OPINION REGARDING COMMISSION'S POWER TO IMPOSE
LIABILITY ON THE UNITED STATES IN THE EVENT THE
UNITED STATES FAILS TO ACCOUNT WHEN SO ORDERED
BY THE COMMISSION

At the February 16, 1973, hearing before the Subcommittee on Indian Affairs of the Senate Committee on Interior and Insular Affairs, Senator Abourezk asked that the Commission submit to the Subcommittee within thirty days an opinion on the above-captioned question.

The question was asked within the context of a discussion of the supplemental accountings ordered by the Commission in several dockets and currently being prepared by the Indian Tribal Claims Branch of the General Services Administration. See Transcript, at 32-37.

This question has yet to arise in any case pending before the Commission. The Commission has not, therefore, had occasion to consider formally this issue. The Commission is convinced that an opinion on an important issue such as this should be deferred until presented to the Commission in an actual case where the Commission would have the benefit of briefing and argument by counsel for those parties whose interests would actually be affected by such an opinion. This procedure is in accord with the well established rule delimiting the function of our judicial tribunals to the resolution of actual cases and controversies.

The Indian Tribal Claims Branch of the General Services Administration is currently preparing those supplemental accountings ordered by the Commission. We, therefore, see no reason to suppose that the United States will fail to account in these cases. However, should the United States so fail to account, it is possible that many of these cases can proceed to judgment on the basis of other evidence available to the Commission in such cases.

**INDIAN
CLAIMS
COMMISSION**

APPROPRIATION JUSTIFICATION FISCAL YEAR 1974

JUSTIFICATION OF 1974 BUDGET ESTIMATE

Requirements for FY 74. The Indian Claims Commission is requesting an appropriation of one million eighty six thousand dollars, of which \$1,001 thousand is for personnel costs and \$85 thousand is for other purposes.

Establishment and Adjudicatory Duties of the Commission. The Indian Claims Commission is an independent quasi-judicial agency, created by the Indian Claims Commission Act of August 13, 1946, (60 Stat. 1049), codified as Section 70 of Title 25, United States Code. The Commission consists of five members appointed by the President by and with the advice and consent of the Senate. It is responsible for the hearing and adjudication of claims existing up to and including August 13, 1946, as defined under Section 2 of the Act.

Status of Work. A total of 611 claims of Indian Tribes, bands or other identifiable groups of American Indians have been docketed. On December 31, 1972, 384 dockets had been finally disposed of, and 227 dockets were pending.

OBJECT CLASSIFICATION STATEMENT

11. Personnel Compensation. It is estimated that \$923 thousand will be required for personnel compensation. This amount is unchanged from FY 1973, reflecting continuing limitations on personnel costs.

12. Personnel Benefits. It is estimated that \$78 thousand, an increase of \$1 thousand, will be required under this object to cover the Government's contribution, in accordance with existing legislation, to employees' group life insurance, group health benefits, retirement, and FICA taxes.

21. Travel and Transportation of Persons. The Commission may require up to \$15 thousand for travel, principally for the conduct of hearings in the field. The requested increase of \$5 thousand will afford the Commission needed latitude with respect to hearing locations.

23. Rent, Communications, and Utilities. It is anticipated that \$15 thousand, an increase of \$1 thousand, will be required for these expenditures. This amount will cover telephone service including FTS, telegraph service and penalty mail.

24. Printing and Reproduction. It is estimated that \$1 thousand will again be required for this object to cover the cost of obtaining stationery and other material printed or bound outside the Commission.

25. Other Services. It is estimated that \$42 thousand, an increase of \$2 thousand, will be required for this object to cover such costs as court reporting services; xerox rental; maintenance of office machines; and other administrative services.

26. Supplies and Materials. It is anticipated that \$10 thousand will be required to cover the cost of miscellaneous office supplies. This represents an increase of \$1 thousand.

31. Equipment. It is estimated that \$2 thousand will be needed for this purpose. The additional \$1 thousand will permit needed replacement of typewriters.

SALARIES AND EXPENSES

Appropriation FY 1972	\$1,045,000
Appropriation FY 1973	1,075,000
Budget Estimate FY 1974	1,086,000

REQUIREMENTS FOR FISCAL YEAR 1974

The estimate for funds allowed by the Office of Management and Budget to operate the Indian Claims Commission in fiscal year 1974 is \$1,086,000.

SUMMARY OF INCREASES, 1974 (in thousands of dollars)

Personnel Compensation	0
Personnel Benefits	+1
Travel	+5
Rent, Communications and Utilities	+1
Printing and Reproduction	0
Other Services	+2
Supplies and Materials	+1
Equipment	+1
	+11

PERSONNEL COMPENSATION (dollar amounts in thousands)

	1972 Actual	1973 Estimate	1974 Estimate	Change in 1974 from 1973
1. Number of permanent positions	42	42	42	0
2. Number of other positions	2	2	2	0
3. Salary cost of permanent positions	\$922	\$978	\$982	+\$4
4. Salary cost of other positions	\$18	\$22	\$19	-\$3
Total personnel services	\$940	\$1,000	\$1,001	+\$1

PERSONNEL SUMMARY

	1972 Actual	1973 Estimate	1974 Estimate
Total number of permanent positions	42	42	42
Full-time equivalent of other positions	2	2	2
Average paid employment	44	44	44
Average GS-grade	11.7	12.2	12.2
Average GS-salary	\$19,283	\$19,816	\$19,900

OBJECT CLASSIFICATION
(in thousands of dollars)

	1972 Actual	1973 Estimate	1974 Estimate	Change in 1974 from 1973
11. Personnel Compensation	\$ 871	\$ 923	\$ 923	\$0
12. Personnel Benefits	69	77	78	+1
21. Travel	4	10	15	+5
23. Rent, Comm. and Utilities	20	14	15	+1
24. Printing and Reproduction	1	1	1	0
25. Other Services	37	40	42	+2
26. Supplies	8	9	10	+1
31. Equipment	2	1	2	+1
Total Obligations	\$1,012	\$1,075	\$1,086	+\$11

ANALYSIS BY ACTIVITIES
(in thousands of dollars)

Activities	Amount Available 1972	Amount Available 1973	Estimate 1974	Change in 1974 from 1973
Hearing and adjudication of claims	\$1,012,000	\$1,075,000	\$1,086,000	+\$11,000
Unobligated balance no longer available	33,000	-	-	-
Total	\$1,045,000	\$1,075,000	\$1,086,000	+\$11,000

Note: Explanation of language change--It is proposed that the limitation on travel be increased from \$10,000 to \$15,000 per year as set forth in the estimate for fiscal year 1974.

INDIAN CLAIMS COMMISSION

SUMMARY OF INDIAN CLAIMS CASES ON FEBRUARY 16, 1973

	<u>Number of Dockets</u>
CLAIMS FILED	
Received through August 13, 1951.....	370
Causes severed from original claims and redocketed as separate claims.....	<u>241</u>
Total docketed.....	611
CLAIMS DISPOSED OF	
By awards certified to the Treasury Department totaling \$425,314,794.92.....	209
By orders of dismissal.....	<u>176</u>
Total disposed of.....	<u>385</u>
PENDING CLAIMS CASES.....	<u>226</u>
SUMMARY OF THE STATUS OF PENDING INDIAN CLAIMS	
Final award with appeal time running in the amount of \$5,465,615.04 in Docket Nos. 342-A and 368-A.....	2
Final awards on remand from the Court of Claims totaling \$18,531,731.65 in Docket Nos. 73 and 151; 153, 217, 15-K and 29-J; and 231.....	7
<u>On appeal in the Court of Claims from:</u>	
Final determinations and awards totaling \$30,759,756.15 in Docket Nos. 30 and 48, 30-A and 46-A, 137, 173-A, 283 and 295, and 350-F.....	9
Interlocutory decisions in Docket Nos. 74 and 332-C; 87-A; 95; 113, 191, 221, 246, 350-B and 350-C; 228; 257; 272; 301; and 343.....	15
Orders of dismissal in Docket Nos. 49, 352, and 369.....	3
Cases having orders of dismissal entered on which appeal time is running in Docket Nos. 204 and 247.....	2
Other cases before the Commission in various stages of litigation.....	<u>188</u>
Total number of pending Indian claims.....	<u>226</u>

INDIAN CLAIMS COMMISSION

Page 1

SUMMARY OF INDIAN CLAIMS CASES ON DECEMBER 31, 1972

	<u>Number of Dockets</u>
CLAIMS FILED	
Received through August 13, 1951.....	370
Causes severed from original claims and redocketed as separate claims.....	<u>241</u>
Total docketed.....	611
CLAIMS DISPOSED OF	
By awards certified to the Treasury Department totaling \$423,926,883.92.....	208
By orders of dismissal.....	<u>176</u>
Total disposed of.....	384
PENDING CLAIMS CASES.....	<u>227</u>
SUMMARY OF THE STATUS OF PENDING INDIAN CLAIMS	
<u>Final awards with appeal time running</u> totaling \$6,854,526.04 in Docket Nos. 175-B, 342-A and 368-A.....	3
<u>Final awards on remand from the Court of Claims</u> totaling \$18,831,731.65 in Docket Nos. 73 and 151; 158; 217, 15-K and 29-J; and 231.....	7
<u>On appeal in the Court of Claims from:</u>	
Final determinations and awards totaling \$30,759,756.15 in Docket Nos. 30 and 48, 30-A and 48-A, 137, 173-A, 283 and 295, and 350-F.....	9
Interlocutory decisions in Docket Nos. 73-A; 74 and 332-C; 87-A; 95; 113, 191, 221, 246, 350-B and 350-C; 228; 257; 272; 300; 301; and 343.....	17
Orders of dismissal in Docket Nos. 49, 352, and 369.....	<u>3</u>
Subtotal on appeal.	29
<u>Cases ordered dismissed pending on motions to rehear in</u> Docket Nos. 204 and 247.....	2
Other cases before the Commission in various stages of litigation.....	<u>186</u>
Total number of pending Indian claims.....	<u>227</u>

PENDING INDIAN CLAIM CASES

December 31, 1972

Explanation of symbols: The letter "x" marks the phase or phases in which the case is pending. The letter "c" indicates that the case is consolidated with one or more other cases. The letter "b" indicates that the case is in the post-trial briefing stage. The letter "s" indicates that the case is submitted to the Commission for its decision.

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
13-A	Chippewa, Saginaw. Involves claim identical to that in Docket 18-C. Dismissal possible.	x				Jun 1973
13-E	Chippewa, Saginaw.	x s c				Sep 1975
13-F	Chippewa, Saginaw.	x s c				Dec 1975
13-G	Chippewa, Saginaw.	x s c				Sep 1975
13-K	Chippewa, Saginaw.	x s c				Sep 1975
15-C	Potawatomi, Prairie. Time within which to appeal from title decision is running.		x c			Mar 1975
15-D	Potawatomi, Prairie.	x s c				Dec 1975
15-E	Potawatomi, Prairie.	x s c				Sep 1975
15-I	Potawatomi, Prairie.	x s c				Sep 1975
15-K	Potawatomi, Prairie. Appeals from the Commission's final determinations and award of \$2,094,573.02 in this case and consolidated Docket Nos. 29-J and 217 were taken to the Court of Claims. The three consolidated dockets are pending on valuation issues remanded by the Court.		x s c (Remand)			Mar 1973
15-L	Potawatomi, Prairie.	x s c				Sep 1975

Page 3.

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Account- ing	Offsets	Projected Com- pletion Date
15-M.	Potawatomi, Prairie. Offsets trial will be set in this docket and consolidated Docket Nos. 29-K and 146 when the issue of what Potawatomi groups defendant may claim offsets against is settled in connection with the disposition of the question of the political structure of the Potawatomi Indians.				x c	Sep 1973
15-N	Potawatomi, Prairie.	x s c				Mar 1976
15-O	Potawatomi, Prairie.	x s c				Mar 1976
15-P	Potawatomi, Prairie	x s c				Dec 1975
15-Q	Potawatomi, Prairie.	x s c				Mar 1976
15-R	Potawatomi, Prairie	x s c				Mar 1976
18-C	Chippewa, Minnesota on behalf of Mississippi and Lake Superior Bands.				x s	Mar 1973
18-D	Chippewa, Bois Forte.		x s			Mar 1974
18-F	Chippewa, Bay Mills.		x b			Jun 1974
18-J	Chippewa, Red Lake.	x s c				Jun 1973
18-K	Chippewa, Red Lake.	x s c				Jun 1973
18-L	Chippewa, Red Lake.	x s c				Mar 1973
18-M	Chippewa, Red Lake.	x s c				Sep 1975
18-P	Chippewa, Red Lake.	x s c				Sep 1975
18-R	Chippewa, Bay Mills.		x b			Jun 1974
18-S	Chippewa, Minnesota on behalf of Mississippi and Lake Superior Bands.		x s			Mar 1974

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
18-U	Chippewa, Minnesota for Lake Superior Bands. After a forthcoming decision on a motion for rulings concerning the government's claim for offsets, further trial of some offset issues might be required.				x b	Sep 1974
19	Chippewa, Minnesota. Consolidated for all purposes with Docket Nos. 189-A and 189-B. Some issues have been decided, others are being framed. Among other things, plaintiffs seek supplemental accountings.			x c		Apr 1977
22-C	Lipan Apache, et al., plaintiffs; Pueblo de San Antonio de la Ysleta del Sur, et al., and Tonkawa of Oklahoma, et al., plaintiffs by intervention.	x s				Jan 1976
22-G	Mescalero Apache, et al. Supplement to defendant's accounting awaited. Submitted for decision on issues in respect to defendant's liability to pay interest on Indian funds.			x		Apr 1977
22-H	San Carlos Apache, et al. Issues in trespass and accounting claims are being framed. Among other things, plaintiffs seek a supplemental accounting.			x		Apr 1977
22-K	Jicarilla Apache. Plaintiff seeks, among other things, a complete up to date accounting.			x		Apr 1977
27	Delaware.	x s c				Dec 1975
27-B	Delaware.	x s c				Sep 1975
27-E	Delaware.	x s c				Sep 1975
28	Potawatomi, Hannahville. Held in abeyance pending disposition of the question of the political structure of the Potawatomi Indians.			x		Apr 1977

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Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
			x c			Mar 1975
29-A.	Potawatomi, Hannahville. Time within which to appeal from title decision is running.					
29-B	Potawatomi, Hannahville.	x s c				Dec 1975
29-C	Potawatomi, Hannahville.	x s c				Sep 1975
29-D	Potawatomi, Hannahville.	x s c				Sep 1975
29-E	Potawatomi, Hannahville.	x s c				Dec 1975
29-G	Potawatomi, Hannahville.	x s c				Dec 1975
29-I	Potawatomi, Hannahville.	x s c				Sep 1975
29-J	Potawatomi, Hannahville. See comments under Docket No. 15-K, above.		x s c (Remand)			Mar 1973
29-K	Potawatomi, Hannahville. Consolidated with Dockets 15-M and 146. See comments under Docket No. 15-M, above.				x c	Sep 1973
29-L	Potawatomi, Hannahville.	x s c				Mar 1976
29-M	Potawatomi, Hannahville.	x s c				Mar 1976
29-N	Potawatomi, Hannahville.	x s c				Dec 1975
29-O	Potawatomi, Hannahville.	x s c				Mar 1976
29-P	Potawatomi, Hannahville.	x s c				Mar 1976
30	Fort Sill Apache, et al. An appeal from a final judgment of \$521,796.00 entered in this case and consolidated Docket No. 48 on Aug 25, 1971 is pending in the Court of Claims.					Sep 1974
30-A	Fort Sill Apache, et al. An appeal from a final judgment of \$15,967,300.00 entered in this case and consolidated Docket No. 48-A on Aug 25, 1971 is pending in the Court of Claims.					Sep 1974

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Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date	
						Sep 1975	Sep 1975
40-F	Ottawa.	x s c					
40-I	Ottawa.	x s c					Sep 1975
48	Apache, Chiricahua, Warm Springs, et al. On appeal in Court of Claims. See comments under Docket 30, above.						Sep 1974
48-A	Apache, Chiricahua, Warm Springs, et al. On appeal in Court of Claims. See comments under Docket 30-A, above.						Sep 1974
49	Apache, Fort Sill, et al. On appeal in the Court of Claims from the Commission's order of dismissal.						Sep 1974
57	Chippewa, Saginaw.		x s				Mar 1974
59	Chippewa, Saginaw.	x s c					Dec 1975
60-A	Makah. Trial set for Jan 15, 1973.		x				Sep 1974
64	Shawnee.	x s c					Sep 1975
64-A	Shawnee.	x s c					Dec 1975
69	Navajo. Awaiting plaintiff's exceptions to defendant's accounting report. Plaintiff is without legal counsel.			x			Apr 1977
71	Potawatomi, Citizen. Time within which to appeal from title decision is running.		x c				Mar 1975
73	Seminole Indians of Florida. Cross appeals from a final award of \$12,262,780.63 in this case and Docket No. 151 were taken to the Court of Claims. The Court remanded the case in Docket Nos. 73 and 151 to the Commission for more specific findings and reasoning as to valuation of the tracts involved and ordered this case consolidated with an overlapping Creek case in Docket No. 280 to the extent of the overlap.	x b c (As to overlap area.)					Sep 1976

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Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
73-A	Seminole Indians of Florida. Pending before the Court of Claims on appeals from the Commission's title determinations.					Dec 1976
74	Sioux Nation. On cross appeals with Docket No. 332-C before the Court of Claims from the Commission's determinations in respect to title and related issues. Docket 74 was being briefed on value when the appeals were taken.					Dec 1976
74-B	Sioux Nation.		x s			Jul 1974
80-A	Mission Indians of California, et al., and Soboba Band of Mission Indians. Soboba cause is proceeding separately from the other causes.	x s				Dec. 1976
80-B	Mission Indians of California. Proceedings have been postponed pending outcome of Federal Court suit. No exceptions to defendant's accounting have been filed.			x		Dec 1975
83	Sac and Fox Tribes.		x b			Jul 1974
84	Six Nations, et al.				x s c	Feb 1973
87-A	Northern Paiute Nation, et al. On appeal in the Court of Claims from Commission's determination that defendant is liable for resources removed from plaintiffs' lands prior to extinguishment of plaintiffs' aboriginal title.					Jan 1977
89	Six Nations.					Dec 1975
95	Sac and Fox Tribes. Pending on cross appeals in the Court of Claims from the Commission's interlocutory decision and award on plaintiffs' accounting claim.	x s c				Dec 1974
100-B	Klamath, Modoc, and Yahooskin. Set for trial on Sep 11, 1973.			x		Jun 1975

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
102	Papago. Awaiting supplement to defendant's accounting that defendant has been ordered to supply.			x		Apr 1977
113	Chippewa, Turtle Mountain. On cross appeals in the Court of Claims with Docket Nos. 191, 221, 246, 350-B and 350-C from the Commission's determinations of title and related issues in respect to claims arising from the McCumber Agreement of 1892 involving North Dakota lands. A portion of this case relating to land in the valley of the Red River of the North was completed with an award in consolidation with Docket Nos 18-A and 191.					Dec 1975
115	Sioux of Crow Creek Reservation, S.D. Issues to be decided are being developed. Plaintiff requests, among other things, an accounting beyond June 30, 1951.			x		Dec 1976
116	Sioux of Lower Brule Reservation, S.D. Same comment as under Docket No. 115, above.			x		Dec 1976
117	Sioux of Pine Ridge Reservation, S.D. Same comment as under Docket No. 115, above.			x		Dec 1976
118	Sioux of Rosebud Reservation, S.D. Same comment as under Docket No. 115, above.			x		Dec 1976
119	Sioux of Standing Rock Reservation, S.D. Same comment as under Docket No. 115, above.			x		Dec 1976
120	Wyandotte.	x s c				Sep 1975
123	Cherokee Freedmen. Plaintiffs' cause is involved in the appeals to the Court of Claims mentioned under Docket No. 173-A, below.					Jul 1974
124-B	Miami of Indiana.	x s c				Mar 1976

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Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
124-H	Miami of Indiana.	x s c				Dec 1975
128	Potawatomi, Citizen	x s c				Mar 1976
130	Miami of Indiana	x s c				Sep 1975
133-A	Ottawa	x s c				Sep 1975
133-B	Ottawa.	x s c				Dec 1975
133-C	Ottawa	x s c				Dec 1975
134	S'Klallam (Challam). Awaiting plaintiff's reply to defendant's claim for offsets. Plaintiff's counsel is without authority to continue in the case as the tribe has allowed his contract to expire.				x	Jan 1974
137	Pueblos of Zia, Jemez and Santa Ana. Pending before the Court of Claims on defendant's appeal from so much of the Commission's final judgment and award of \$766,936.08 as pertains to offsets.					Mar 1974
139	Wyandotte.	x s c				Sep 1975
140	Wyandotte.	x s c				Dec 1975
141	Wyandotte.	x s c				Dec 1975
144	Chippewa, Pillager.		x s			Apr 1974
146	Potawatomi, Citizen. See comments under Docket No. 15-N, above.					
151	Seminole Indians of Oklahoma. See comments under Docket No. 73, above.	x b c			x	Sep 1973
158	Sac and Fox Tribes. The Sac and Fox appealed to the Court of Claims from, among other things,		x s c (Remand)			Sep 1973

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
158	(continued) final awards in Docket Nos. 158 and 231 in the respective amounts of \$3,530,578.21 and \$943,799.79, and the dismissal of the Sac and Fox claim in Docket No. 209. The Court's remand order of November 12, 1971, requiring further proceedings to supply more specific findings and reasoning as to valuations adopted for the Sac and Fox tracts involved in Docket Nos. 158, 209 and 231 is being carried out. Claims of the Iowa Tribes in Docket Nos. 158, 209, and 231 have been completed with awards that have been reported to the Congress.					
169	Creek Nation. Trial set for Feb 1, 1973.		x			Apr 1974
173-A	Cherokee Nation, Plaintiff, and The Cherokee Freedmen, et al., Plaintiffs by Intervention. Pending on cross appeals in the Court of Claims from the Commission's final determinations and award of \$4,266,309.00 in this case.					Jul 1974
175-B	Nez Perce. As this case now stands appeal time from a final award of \$1,387,911.00 will expire on Feb 28, 1973.					Feb 1973
178-A	Confederated Tribes of Colville Reservation. Awaiting post-June 30, 1951 accounting from defendant.			x		Apr 1977
179-A	Nez Perce. Awaiting post-June 30, 1951 accounting from defendant.			x		Apr 1977
181-C	Confederated Tribes of Colville Reservation. Pending on defendant's motion for summary judgment or for determination of points of law.	x				Sep 1976
182	Apache, Fort Sill, Chiricahua, and Warm Springs. Claims for removal and use of resources from aboriginal lands prior to Sep. 4, 1886 are	x b		x		Apr 1977

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
182	(Continued) being briefed. Issues in respect to claims for damages arising from defendant's alleged dealings with and disposition of plaintiffs' reservation lands and property and for a general accounting are being framed. Plaintiffs request, among other things, an up to date accounting.					
184	Fort Peck Indians. Set for trial of some accounting issues on January 22, 1973. Awaiting defendant's supplemental accounting in respect to certain other issues. Also pending on motion to rehear certain accounting issues dealt with in decision of June 14, 1972.			x		Apr 1977
186	Confederated Tribes of Colville Reservation for Nez Perce Joseph Band. The attorneys for the parties have reached agreement as to the value of the lands involved and a hearing on the agreement is anticipated. The final disposition of other issues will probably depend upon the outcome of certain appeals now before the Court of Claims.		x			Sep 1974
188	Chippewa, Minn., et al. Consolidated for all purposes with Docket No. 189-C. Some issues have been decided, others are being framed. Among other things, plaintiffs seek supplemental accountings.			x c		Apr 1977
189	Chippewa, Red Lake.		x s			Oct 1973
189-A	Chippewa, Red Lake. Consolidated for all purposes with Docket Nos. 19 and 189-B. See comments under Docket No. 19, above.			x c		Apr 1977
189-B	Chippewa, Red Lake. Consolidated for all purposes with Docket Nos. 19 and 189-A. See comments under Docket No. 19, above.			x c		Apr 1977

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Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date	
						Apr 1977	
189-C	Chippewa, Red Lake. Consolidated for all purposes with Docket No. 188. See comments under Docket No. 188, above.			x c		Apr 1977	
191	Chippewa, Little Shell. On cross appeals in the Court of Claims with Docket Nos. 113, 221, 246, 350-B and 350-C from the Commission's determinations of title and related issues in respect to claims arising from the McCumber Agreement of 1892 involving North Dakota lands. A portion of this case relating to land in the valley of the Red River of the North was completed with an award in consolidation with Docket Nos. 18-A and 113. Another part of this case relating to land in Montana was tried on land title issues consolidated with Docket No. 221-B and is submitted to the Commission for a decision on those issues.	x s c				Dec 1976	
196	Hopi. Tried on land title issues in consolidation with the overlapping part of the Navajo case in Docket No. 229. To be set for trial of value after disposition of pending Hopi motion for amendment of the Commission's determinations as to land boundaries and dates of taking in the consolidated case. Accounting issues are being framed.		x	x		Dec 1976	
197	Nisqually.		x s			Nov 1973	
198	Confederated Tribes of Warm Springs Reservation Oregon. Time is running within which defendant may submit its claim, if any, for offsets against an interlocutory award of \$1,336,317.30.				x	Sep 1973	
202	Delaware, Absentee.	x s c				Sep 1975	

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
203	Puyallup. Plaintiff is without legal counsel. Remaining questions in the case are under study by the Commission's investigation division.		x			Mar 1974
204	Seminole Nation. Dismissed by the Commission on May 31, 1972. Plaintiff's motion for rehearing set for argument before the Commission on Jan 9, 1973.					Jun 1973
206	Squaxin. Time is running within which defendant may submit its claim, if any, for offsets against an interlocutory award of \$7,847.47.					Sep 1973
208	Steilcoom.		x s			Dec 1973
209	Sac and Fox Tribes. See comments under Docket No. 158, above.		x s c (Remand)			Sep 1973
212	Wyandotte. Concerned with reservation tracts within aboriginally claimed areas involved in other cases of same plaintiff Valuation proceedings are held in abeyance pending outcome of aboriginal land cases.		x			Apr 1976
213	Wyandotte. Same comment as under Docket No. 212, above.		x			Apr 1976
216	Potawatomi, Citizen.	x s c				Sep 1975
217	Potawatomi, Citizen. See comments under Docket No. 15-K, above.		x s c (Remand)			Mar 1973
218	Cowlitz. Commission's determinations regarding extinguishment of aboriginal title affirmed by Court of Claims on October 13, 1972. A settlement agreement is being negotiated by the parties. The projected completion date applies if the case must be fully litigated.		x			Jan 1975

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Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
221	Chippewa Cree and Little Shell. On cross appeals in the Court of Claims with Docket Nos. 113, 246, 350-B and 350-C from the Commission's determinations of title and related issues in respect to claims arising from the McCumber Agreement of 1892 involving North Dakota lands.					Dec 1975
221-A	Chippewa Cree, et al. Dismissal possible. Issues involved are being determined in other cases.	x				Jun 1974
221-B	Chippewa Cree, et al. See last sentence of comments under Docket No. 191, above.	x s c				Dec 1976
221-C	Chippewa Cree, et al. Plaintiff's exceptions to defendant's accounting were accepted for filing by order of Nov 15, 1972. Defendant has 60 days from that date in which to answer the exceptions. Among other things, plaintiffs seek a supplemental accounting.			x		Dec 1976
226	Caddo Tribe of Okla., et al., plaintiffs; Alabama-Coushatta Indians of Texas and Coushatta Indians of Louisiana, Wichita Tribe of Oklahoma and others, and Tonkawa Tribe of Indians of Oklahoma are parties plaintiff by intervention. After decision on value, a 1969 order vacated an earlier order dismissing counts II and IV of plaintiffs' petition asserting an aboriginal land claim and allowed plaintiffs to amend their petition setting out the extent of the lands in that claim. Thereafter, the above-named intervenors became parties to the case and trial was had of land title and related issues involved in the reinstated aboriginal land claim. The parties are now briefing those issues. The lands involved are in Texas and Louisiana.	x b				Sep 1975

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
228	Gila River Pima-Maricopa Indian Community, et al. On cross appeals in the Court of Claims from the Commission's determinations concerning extinguishment of plaintiffs' aboriginal title					Dec 1975
229	Navajo. Part of the trial on land title issues was in consolidation with an overlapping Hopi claim in Docket No. 196. To be set for trial of value after disposition of pending Hopi motion for amendment of the Commission's determinations as to land boundaries and dates of taking in the consolidated case.		x			Jul 1975
231	Sac and Fox Tribes. See comments under Docket No. 158, above.		x s c (Remand)			Sep 1973
235	Indians of Maricopa-Ak Chin Reservation, et al. Submitted for the Commission's decision on the issue of the defendant's liability for failure to develop water resources. Issues in the accounting claim are being framed--plaintiffs seek, among other things, supplemental accountings.	x s		x		Dec 1976
236-A	Gila River Indian Community. This docket and Docket No. 236-B were consolidated for proceedings in the liability phase since both suits arose out of the placing of a relocation center for west coast evacuees on the plaintiff's reservation. Cross appeals from the Commission's determinations as to defendant's liability were taken to the Court of Claims. On Oct 13, 1972, the Court affirmed the Commission's determinations, except with respect to defendant's demand for credit for certain road expenditures and remanded the cases for, among other things, further consideration of that demand. Docket Nos. 236-A and 236-B are set for trial of		x			Oct 1974

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
236-A	(continued) value, that is, the amount of damages sustained by the plaintiff, on Jul 16, 1973.					
236-B	Gila River Indian Community. See note under Docket No. 236-A, above.		x			Oct 1974
236-C	Gila River Pima-Maricopa Indian Community, et al. Set for trial on Nov. 16, 1973, on the issue whether plaintiff was deprived of the use of Gila River water it could have beneficially used, and if so whether defendant is liable for that deprivation.	x				Jan 1976
236-D	Gila River Pima-Maricopa Indian Community, et al. Held in abeyance pending decision on similar issues in 236-C.	x				Dec 1976
236-E	Gila River Pima-Maricopa Indian Community, et al.	x s				Sep 1975
236-F	Gila River Pima-Maricopa Indian Community, et al.	x b				Nov 1975
236-G	Gila River Pima-Maricopa Indian Community, et al. Held in abeyance pending issuance of decision on similar issues in Docket No. 236-E.	x				Sep 1975
236-I	Gila River Pima-Maricopa Indian Community, et al.	x b				Nov 1975
236-N	Gila River Pima-Maricopa Indian Community, et al. Time is running within which the defendant may answer the plaintiffs' exceptions to defendant's accounting. Among other things, plaintiffs seek accountings to present time.			x		Dec 1976

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Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Com-	
						pletion Date	
246.	Chippewa, Pembina, et al. On cross appeals in the Court of Claims with Docket Nos. 113, 191, 221, 350-B and 350-C from the Commission's determinations of title and related issues.					Dec 1975	
247	Seminole Nation, Oklahoma. A final order of dismissal has been entered in this case. Argument on plaintiff's motion for a rehearing is set for January 9, 1973.					Jul 1974	
249	Choctaw Nation. Submitted for decision on several complex motions that will be disposed of by a forthcoming decision. Plaintiff has filed no exceptions to defendant's accounting			x		Dec 1976	
250-A	Fort Belknap Indian Community. Submitted for decision on complex motions that will be disposed of by a forthcoming decision. Among other things, plaintiffs seek supplemental accountings. Proceeding in consolidation with Docket No. 279-C.			x c		Apr 1977	
252	Miami of Oklahoma.	x s c				Sep 1975	
254	Miami of Oklahoma.	x s c				Mar 1976	
257	Kiowa, Comanche and Apache Tribes, plaintiffs, and Wichita Indian Tribe of Oklahoma, et al., plaintiffs by intervention. On appeal in the Court of Claims from the Commission's decision on title and related issues.					Dec 1975	
259-A	Kiowa, Comanche and Apache Tribes. Submitted for decision on value of certain lands. Plaintiffs seek, among other things, a supplemental accounting.		x s	x		Dec 1976	

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
272	Creek Nation, Oklahoma. On appeal in the Court of Claims from the Commission's decision on the issue of defendant's liability.					Sep 1975
273	Creek Nation, Oklahoma. Trial of the issue of legal consideration paid on the claim is set for Jan 11, 1973.	x	x			Mar 1974
277	Creek Nation, Oklahoma. Proceedings stayed pending outcome of similar case in Docket No. 247.	x		x		Jul 1975
278-B	Tlingit and Haida of Alaska. Damages sought for naval shelling. Set for trial in Jan 8, 1973.	x				Mar 1974
279-C	Blackfeet and Gros Ventre. See comments under Docket No. 250-A, above.			x c		Apr 1977
280	Creek Nation East of the Mississippi. Trial of land title issues was in consolidation with the Seminole claim in Docket Nos. 73 and 151 to the extent of the overlap between the Creek and Seminole Florida land claims. See comments under Docket No. 73, above.	x b c				Sep 1976
283	Mohave Indians of Colorado River Tribes. On appeal in the Court of Claims in consolidation with Mohave case in Docket No. 295 from the Commission's final determinations and award of \$428,358.07 in Docket Nos. 283 and 295.					Dec 1974
283-B	Mohave, et al. Submitted for decision on some accounting issues. Plaintiff is seeking supplemental accounting.			x s		Dec. 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
291	Salt River Pima-Maricopa. Part of this case has been dismissed. Issues to be decided in the remaining accounting claim are being framed. Among other things, plaintiffs seek supplemental accountings.			x		Dec. 1975
295	Mohave Tribe of Indians of Arizona, California, and Nevada. On appeal in the Court of Claims. See comments under Docket No. 283					Dec 1974
295-A	Mohave Tribe of Indians of Arizona, California, and Nevada. Parker Dam flood damage case. Value trial set to resume on Jan 3, 1973		x			Jun 1974
299	Navajo. Pending on, among other things, plaintiff's motion for partial summary judgment and for a complete accounting and defendant's motion to dismiss. Plaintiff is without legal counsel			x		Dec 1976
300	Stockbridge and Munsee. On appeal in the Court of Claims from the Commission's interlocutory award on plaintiffs' claim.					Sep 1974
300-A	Stockbridge and Munsee. Proceedings stayed pending disposition of the appeal mentioned below under Docket No. 301, which was taken from a decision on liability issues identical to those involved in this case.		x			Mar 1975
300-B	Stockbridge and Munsee.				x s c	Feb 1973
301	Oneida Nation of New York, et al. On appeal in the Court of Claims from the Commission's determinations as to defendant's liability.					Mar 1975
302	Ottawa.	x s c				Sep 1975
304	Ottawa. Offsets set for trial on Mar 15, 1973.				x	Dec 1973

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
305.	Ottawa. Offsets set for trial on Mar 15, 1973				x	Dec 1973
306	Potawatomi, Citizen.	x s c				Dec 1975
308	Potawatomi, Citizen.	x s c				Dec 1975
309	Potawatomi, Citizen.	x s c				Mar 1976
310	Potawatomi, Citizen.	x s c				Mar 1976
311	Potawatomi, Citizen.	x s c				Dec 1975
313	Peoria, Kaskaskia.	x s c				Dec 1975
314-A	Peoria, Wea.	x s c				Dec 1975
314-B	Peoria, Wea.	x s c				Mar 1976
315	Kickapoo, Kansas.	x s c				Dec 1975
320	Quechan. After trial and briefing of land title issues, plaintiff has moved for dismissal of its petition without prejudice on the ground that there was no perfected taking of the land involved. Defendant requests that the motion be denied unless dismissal be with prejudice.	x s				Dec 1974
321	Tuscarora. Time is running within which defendant may submit a claim for offsets against an interlocutory award.				x	Dec 1973
326-A	Te-Moak Bands of Western Shoshone of Nevada. Supplement to defendant's accounting awaited. Submitted for decision on issues in respect to the government's liability to pay interest on Indian funds.			x		Apr 1977

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Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
326-B	Confederated Tribes of Goshute Reservation It is possible that this case will be settled in conjunction with offsets in Docket No. 326-K. Plaintiffs' exceptions to defendant's accounting awaited.			x		Mar 1974
326-C	Shoshone-Bannock. Defendant's supplemental accounting awaited.			x		Apr 1977
326-J	Goshute Tribe, et al.		x s			Mar 1974
326-K	Shoshone, Te-Moak. Defendant has moved for rehearing on the Commission's interlocutory decision on value. Time is running within which the plaintiff may respond to the motion.		x			Mar 1974
332-C	Sioux, Yankton. On cross appeals with Docket No. 74 in the Court of Claims from the Commission's determinations in respect to title and related issues. Because of the appeals, a setting for trial of value in Docket No. 332-C had to be stricken from the calendar.					Mar 1976
332-D	Sioux, Yankton. Claims for an accounting for the period commencing July 1, 1951, and claims arising from sale of plaintiff's reservation lands under an 1892 agreement permitted to be severed from Docket No. 332-B and assigned Docket No. 332-D pursuant to an approved compromise settlement of other claims in Docket No. 332-B and an order of November 9, 1972. Time is running within which the defendant may answer the amended petition in this case.	x		x		Apr. 1977
335	Shawnee	x s c				Sep 1975

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
338	Delaware, Absentee, et al.	x s c				Sep 1975
341-A	Seneca-Cayuga. Proceeding in consolidation with Docket No. 341-B. An interlocutory award has been entered on an accounting part of the consolidated case. The other part is set for trial of value on 1973.		x c			Oct 1974
341-B	Seneca-Cayuga. See comments under Docket No. 341-A, above.		x c			Oct 1974
341-C	Seneca-Cayuga.		x s c			Sep 1975
341-D	Seneca-Cayuga.		x s c			Dec 1975
342-A	Seneca Nation. Appeal time from a final award of \$5,466,615.04 in this case and consolidated Docket No. 368-A expires in the month shown on the right.					Feb 1973
342-B	Seneca Nation. An interlocutory award has been entered in this case and consolidated Docket Nos. 342-C and 368. Under an approved agreement between the parties, final awards are not to be entered on the claims in Docket Nos. 342-B and 342-C until the decision of the Court of Claims on the appeal in the Oneida case, mentioned above under Docket No. 301, has become final. Set for trial of offsets on Feb 15, 1973.				x c	Dec 1973
342-C	Seneca Nation. Set for trial of offsets on Feb 15, 1973. See comments under Docket No. 342-B, above.				x c	Dec 1973
342-F	Seneca Nation. Set for trial of offsets on Feb 15, 1973				x	Aug 1973

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
342-G	Seneca Nation. Awaiting documented motion from plaintiff in respect to issue of defendant's liability to account, and defendant's accounting report.	x		x		Dec 1976
342-I	Seneca Nation. Set for trial of offsets on Feb 15, 1973.				x	Dec 1973
343	Seneca-Cayuga. On appeal in the Court of Claims from the Commission's determinations as to defendant's liability.					Jan 1976
345	Papago.		x b			Mar 1974
350-B	Three Affiliated Tribes of Fort Berthold Reservation. The expiration of appeal time from an order dismissing this case was stayed by its involvement in the cross appeals to the Court of Claims mentioned under Docket No. 113, above.					Dec 1973
350-C	Three Affiliated Tribes of Fort Berthold Reservation. On cross appeals in the Court of Claims with Docket Nos. 113, 191, 221, 246, and 350-B from the Commission's determinations of title and related issues.					Dec 1975
350-D	Three Affiliated Tribes of Fort Berthold Reservation. Decision on value deferred pending decision of the Court of Claims in the appeals mentioned under Docket No. 350-C.		x s			Jun 1974
350-F	Three Affiliated Tribes of Fort Berthold Reservation. On cross appeals in the Court of Claims from the Commission's final determinations and award of \$8,809,057.00 plus certain additional damages measured by simple interest rates.					Jul 1974

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Page 24	
						Projected Completion Date	
350-G	Three Affiliated Tribes of Fort Berthold Reservation. Among other things, plaintiffs seek supplemental accountings.			x		Dec 1976	
352	Aleut Community of St. Paul Island. On appeal in the Court of Claims from the Commission's order of dismissal. The projected completion date assumes affirmance of the dismissal order by the Court.					Mar 1974	
353	Navajo. Same comments as under Docket No. 299, above.			x		Dec 1976	
354	Pueblo of San Ildefonso. Plaintiff has right to move for rehearing of Commission's decision disallowing interest on the claim until 30 days after the Commission's decision on order to show cause in Docket No. 357-A.	x s				Oct 1975	
355	Pueblo of Santo Domingo. Same comment as under Docket No. 354, above.	x s				Oct 1975	
356	Pueblo of Santa Clara. Same comment as under Docket No. 354, above.	x s				Oct 1975	
357	Pueblo of Taos. To be tried on value at same time as Docket Nos. 354, 355, and 356.		x			Oct 1975	
357-A	Pueblo of Taos. Submitted for decision on issues involved in an order-to-show-cause why an interlocutory award on the claim should not be vacated. Same further comment as under Docket No. 354, above.	x s				Oct 1975	

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Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
357-B	Pueblo of Taos. Blue Lake aboriginal claim. In view of provisions in Public Law 91-550, approved December 15, 1970, destined for dismissal after the directive to the Commission in Section 4(d) of that Act is satisfied.		x			Oct 1975
358	Pueblo of Nambe. Removed from calendar for trial of value as settlement of valuation issues appeared likely. Plaintiff has right to move for rehearing of Commission's decision disallowing interest on the claim until 30 days after the Commission's decision on order to show cause in Docket No. 357-A		x			Oct 1975
363	Lower Sioux Indian Community in Minn., et al. Submitted on issue of defendant's liability under aboriginal land claims asserted as arising from an 1867 treaty and an 1872 agreement and on valuation issues on a claim relating to reservation lands. Among other things, plaintiffs seek a supplemental accounting under an accounting claim.	x s	x s	x		Apr 1977
364	Ottawa and Chippewa. Under study by Commission's Investigation Division as plaintiffs are without legal counsel.			x		Dec 1976
368	Seneca, Tonawanda. Set for trial of offsets on Feb 15, 1973, with Docket Nos. 342-B and 342-C. Estimated completion date is the same as that for Docket Nos. 342-B and 342-C with which this case is consolidated. See comments under Docket No. 342-B, above.				x c	Dec 1973

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<u>Docket Number</u>	<u>Plaintiff Tribe, Band or Group, and Comments</u>	<u>Liability or Title</u>	<u>Value</u>	<u>Account- ing</u>	<u>Offsets</u>	<u>Projected Com- pletion Date</u>
368-A	Sensca, Tonawanda. Appeal time from a final award of \$5,466,615.04 in this case and consolidated Docket No. 342-A expires in the month shown on the right.					Feb 1973
369	Aleut Tribe, et al. On appeal in the Court of Claims from Commission's order of dismissal. The projected completion date assumes affirmance of the dismissal order by the Court.					Dec 1973

Senator ABOUREZK. Mr. Chairman, I have one other question I neglected to ask you.

Is a dollar figure of \$1.2 million sufficient, including pay raises, to handle your work for the next year?

Mr. KUYKENDALL. Yes it is, Mr. Chairman.

Senator ABOUREZK. OK, thank you.

The next witness is Richard W. Belmont, who is chairman of the Suquamish Tribe in Washington State.

Would you come forward to the witness table, Mr. Belmont?

**STATEMENT OF RICHARD W. BELMONT, JR., SUQUAMISH INDIAN
TRIBE, BREMENTON, WASH.**

Mr. BELMONT. Yes, sir. I got a notice of hearing before the Indian Claims Commission, to come to Washington, D.C., on February 15, 1973, at 10 a.m., for a judgment of attorneys' fees against a judgment which the Suquamish Tribe went on record will never accept.

At the time of reaching the place of meeting at 10 o'clock, I was informed by the Indian Claims Commission they knew nothing about this hearing and this was a farce. They said it was written up by our lawyer, although they did have a record of this hearing notice, and I wondered why they didn't send us a notice telling us that this wasn't legal.

Senator ABOUREZK. Wait, Richard, I don't understand what you are saying now.

Mr. BELMONT. I have a notice of hearing to attend an Indian Claims Commission hearing.

Senator ABOUREZK. Is that one issued by the Indian Claims Commission?

Mr. BELMONT. No, this is issued by Frederick Post, but it says before the Indian Claims Commission notice of hearing.

Senator ABOUREZK. Who is Frederick Post?

Mr. BELMONT. He is our lawyer.

Senator ABOUREZK. So you came to Washington to attend a hearing?

Mr. BELMONT. That is correct.

Senator ABOUREZK. And what did the Indian Claims Commission tell you?

Mr. BELMONT. They said they didn't know anything about it and it was just made up by Mr. Post. All they did was have the same paper on file, and my question is, why didn't they send us a notice saying that this hearing wasn't scheduled, that it never had been scheduled.

Senator ABOUREZK. Well, your question is, why didn't the commission tell you that your lawyer sent you a notice, do I understand that?

Mr. BELMONT. Well, that could be the question, yes. The way I read this, it was sent by the Commission. I am not a lawyer myself, but when it says "Before the Indian Claims Commission," I assumed this was sent by the Indian Claims Commission to our lawyer.

Senator ABOUREZK. I am not sure that I understand that, that there ought to be an obligation on the part of the Commission to respond to an ex parte notice on the part of your lawyer. I really fail to understand that.

Mr. BELMONT. Also, I would like to go on record about our claim docket No. 132.

Senator ABOUREZK. Well, let me just ask Chairman Kuykendall if he would look into this matter and perhaps give us a report on what happened here.

Mr. KUYKENDALL. I would be very happy to do that.

Senator ABOUREZK. OK, go ahead with your second point.

Mr. BELMONT. Also in our docket, the Suquamish docket No. 132, which has been pending for 20 years now and reached a final judgment as of March, we have already gone on record that we will not accept the money appropriated for our claim simply because it is unfair.

In the 20 years of dealing with this Indian Claims Commission, I would say that they have spent more money fighting our tribe and being unfair than our complete settlement. We conceded 87,000 acres to the United States and we got back 90 cents an acre. Out of this they took out \$36,000 that they supposedly, and they say they have proof, that they gave to our tribe 100 years ago for blankets and trinkets.

Now, I ask you, 432 people in our tribe, \$30,000 worth of blankets is a lot of blankets. But they maintain that they have records of this, so I can't deny it. But our final settlement after 20 years is \$39,000, and I think this—

Senator ABOUREZK. There was \$30,000 charged for 432?

Mr. BELMONT. It was \$36,000 for 462 people, and I understand this was a percentage of the money that was supposed to have been allocated to our tribe for blankets and trinkets over a hundred years ago, and I hope the Commission—all they said is that they do have proof of this. But to me this seems like it is outrageous, \$36,000 worth of blankets and trinkets back a hundred years ago. Those blankets must have been awful thick or warm, or something, 100 percent virgin wool.

Senator ABOUREZK. It does seem high, I agree.

Have you appealed that case?

Mr. BELMONT. Yes; we have been appealing it for 20 years and I have sent a letter to the Commission stating that we would never accept the final judgment.

So back in December I got a letter that it was already finalized and Congress had already appropriated the money, but I think you can see here how incompetent our lawyer was by even sending me this notice. And I am wondering, I don't know that the Indian Claims Commission is responsible for the type of lawyers that represent Indians, but I think I can assure you that this is the problem that we had is our lawyer. Because he is apparently not representing us when he sends us a Notice of Hearing that nobody knows anything about and we spent over a thousand dollars to come here on behalf of our tribe.

So I think there should be some guideline when the lawyers that are fighting for the Indians, we have one lawyer and there seems to be 20 lawyers from the Indian Claims Commission, fighting against us instead of fighting with us. And I feel everybody's interest here is to get these claims over with.

And I feel that 20 years ago if this Commission would have been fair to the Suquamish Tribe, we would have settled then and it would have been a lot cheaper in the long run.

Senator ABOUREZK. Well Richard, I think you have a point as to the cost of blankets and trinkets for 432 people, that is inconceivable that it could run up to that amount of money.

I would also like to ask the chairman if he would furnish the committee a full report in detail on this particular case.

Mr. KUYKENDALL. Yes, I will.

Senator ABOUREZK. And we would like to have that within, oh let's say 30 days.

Mr. KUYKENDALL. Very well.

Senator ABOUREZK. But so far as the attorney you hire, I am not sure that anybody would have the right to tell you which attorney you could have.

And if you have an attorney Richard, whom you don't feel is representing you, the best thing to do is change attorneys.

Mr. BELMONT. Well, I am sure after the people find out what happened here yesterday, there will be a change in attorneys. But like anything else when we first started these claims the attorney was working for 10 percent because we didn't have any money, and I think people can see now after 20 years that anybody could have done the job he did. And I think there should be some obligation on the Indian Claims Commission to let the Indians know when they feel the lawyer is doing a competent job, because we are relying on one man to get a settlement for 462 people, and if this man does a bad job, 462 people are going to suffer. And I thought it was the job of the Indian Claims Commission to see that we got a fair shake. Now maybe I am wrong.

Senator ABOUREZK. Well, in an adversary system like we have got, you know, I don't know if the agency that is on the other side of your claim would necessarily want to tell you when you are getting a raw deal or not. I just might suggest that we are going to consider, and hopefully pass a trust authority bill this year that would take care of Indians' trust rights and so on, that would be able to help you and advise all of the Indian people of these matters, as to whether the attorneys are doing their job properly and so on.

In respect to water rights, and it is unfortunate that some kind of trust authority has not been in existence for the last 100 years.

Mr. BELMONT. If I can make one more statement. This was voted on by our tribe, and several of the members that are 70 or 80 years old realized that they won't get anything out of this claim and they still voted against accepting, just on principle alone. Because after all, this was supposedly set up to get us back what was unlawfully taken from us.

But it seems like all they are interested in is trying to push it through and take a cloud off of the real ownership of this property. So, to me it is going to be a moral victory.

Some people will probably think we are silly because there is nothing else we can do, but at least we will have peace of mind that we didn't sell our own people out.

Senator ABOUREZK. OK. Thank you, Richard.

Perhaps the other Senators might want to ask you something. Senator Metcalf.

Senator METCALF. I have no questions.

Senator ABOUREZK. Senator Bartlett, do you have any questions?
 Senator BARTLETT. No.

Senator ABOUREZK. Thank you, Richard.

Mr. BELMONT. Thank you, sir.

Senator ABOUREZK. Now we will proceed into markup on this S. 721.

We have, the other Senators of the committee, we have another request for a witness who was not scheduled to testify.

I will ask the committee to allow him to testify, and he says he will be very brief.

So, without objection, we would like to ask Hank Adams, who is the National Director of the Survival of American Indians Association, 1464 Rhode Island Avenue, Washington, D.C. Go ahead, Mr. Adams.

STATEMENT OF HANK ADAMS, NATIONAL DIRECTOR OF THE SURVIVAL OF AMERICAN INDIANS ASSOCIATION, WASHINGTON, D.C.

Mr. ADAMS. Mr. Chairman, I just wanted to relate to a couple of the issues raised by Mr. Belmont, and which will be an issue that both this Congress and the Claims Commission will be dealing with for years if they don't at some point face up to it.

That is, in western Washington there are a number of tribal groups who have been represented throughout almost the life of the Claims Commission by just a couple of attorneys, Frederick Post, Malcolm McCloud.

And at this point in time, the Claims Commission is well aware that virtually all of these tribal clients are protesting the representation by their lawyers and the nature by which their awards were settled.

For instance, and I would charge that the Claims Commission has assisted this lawyer by removing, or not including in the records of their proceedings, a number of the protests lodged by tribes, the Stillaguamish, Kickiallus, Puyallup, Nisqually, Duwamish, Suquamish.

For instance, in the case of the Stillaguamish and the Kickiallus, both represented by Frederick Post, they didn't make a finding on just—they made a finding on where their territories were, but it was just because this one attorney represented two tribes, and he in his office decided which lands he would claim for one tribe and which lands he would allow for another.

The Claims Commission has ignored the tribal protests on these types of actions and went along and moved toward settlement on it.

I don't know, I understand the need to move toward settlement, but there has been complete departure from any due process in their proceedings in relationship to this particular attorney, and in relation to these cases in western Washington.

And not only are the Suquamish saying we won't accept this because it was arrived at unfairly, you have the Puyallup saying the same thing, you have the Stillaguamish saying the same thing, and even if these awards are made, even if they are appropriated by Congress, you are going to have these moneys sitting in the U.S. Treasury or somewhere for 20 or 30 years, because these tribes, these Indians, aren't going to touch that, because their claims aren't settled. Their claims were never adjudicated, and the Claims Commission has assisted these attorneys that are operating out there in trying to push some-

thing onto the tribes without any real relationship to what their claims actually are.

And then the other point is that this is absolutely the only reason that Mr. Belmont came to Washington, D.C., because he had notice of this hearing in the Claims Commission, and even though it is the attorney's fault, if the Claims Commission knows that something isn't going to be happening there, it shouldn't wait until Indians come into town, across the country, and spend either tribal resources or personal resources, before they tell them, you know, it's not so. I mean there is an obligation. The obligation doesn't start when the Indians start arriving in the office and telling them, you know—that if they know someone is going to come in because they have a notice, because they have got the same notice.

I think that there might be an obligation to either check into it or call up and say, "What is going on here?" rather than allowing a considerable expenditure for him to come into Washington, D.C., to find out that nothing is going on.

Senator ABOUREZK. Well Hank, I don't know. If someone on the Claims Commission were to receive a notice from a lawyer in town saying there was going to be a hearing, I am not sure that they would know or even could be held to know that someone was going to travel into Washington as a result of that particular notice.

I have had a little trouble with that. I can understand your frustration, believe me. But I have a little trouble trying to relate that kind of a duty to the Claims Commission.

I can understand the other parts of your testimony, and if protest has been lodged by the tribe with the Claims Commission, if they ignore that protest I think that is an abrogation of some kind of duty on their part, but I am not sure about this notice. I have real problems understanding why.

Mr. ADAMS. No; I would say it more as a courtesy than a duty in that case. But I do feel very certain that the Claims Commission has deleted a number of things from their records in some of these dockets, particularly and specifically the Stillaguamish, in order that they can hold the tribe by the communications that the lawyers make to the tribe, I mean to the Commission, and ignore what the tribe has said and ignore the attempts of a number of tribes to get rid of this attorney and to get an honest adjudication of the cases.

Senator ABOUREZK. Yes, if a protest has been lodged and they have ignored it, I think that in that case it would be a breach of some sort of duty.

I wonder if, Mr. Kuykendall, if you have heard these allegations that were just made by Mr. Adams?

Mr. KUYKENDALL. Yes, I have. I know nothing of my own personal knowledge about what he is saying, so I couldn't comment right now.

Senator ABOUREZK. I wonder if, Mr. Adams, you might state specifically which tribes have lodged objections with regard to the handling of their cases that have been ignored.

Could you name the tribes now?

I will ask the Commission to take the hearing record of these today, and provide the committee again within 30 days. This is a very serious charge.

And if you would provide the committee within 30 days a report as to what has happened in these particular cases that Mr. Adams is enumerating here. Would you just state the tribes that you know of?

Mr. ADAMS. Pretty much all the tribes from the Stillaguamish on the Upper Puget Sound near the Straits of Wanafuka, down to the Nisqually, the Puyallup Tribe, and virtually all the tribes represented either at this time or in the past by Frederick Post and Malcolm McCloud in Western Washington, all the adjoining tribes in Puget Sound, in the area, in the State of Washington, the Stillaguamish, Kickiallus, Puyallup, Nisqually, Duwamish and Suquamish.

Senator ABOUREZK. Mr. Adams, I think to help all of us, before Monday I wonder if you would be able to provide the committee with the names of these tribes in writing, and we will forward that on to the Claims Commission.

Mr. ADAMS. Yes, I will.

Senator BARTLETT. Mr. Chairman.

Senator ABOUREZK. Senator Bartlett.

Senator BARTLETT. Is it just my observation as a geological engineer, and not a lawyer, that in this protest that is being made that this should be made to the bar association, or could be made to the bar association, if you wanted to make it.

Senator ABOUREZK. To the ethics committee of the D.C. Bar Association, that is correct.

Mr. ADAMS. Well, there have been.

Senator BARTLETT. And I wouldn't think, and again I am speaking as a geological engineer, that this would not be the prerogative of the Commission to determine this condition that you allege. But it would be the prerogative of the ethics committee as the chairman added to my suggestion, of the bar association.

Mr. ADAMS. I would think that if it was critical impact on the outcome and the unacceptability of awards before the Claims Commission, and if the bar association seems to accept the process because the Claims Commission sees no objection in the practices, that then it is a matter for some concern beyond either the bar association and the Claims Commission.

And I think this committee—

Senator METCALF. Mr. Chairman.

Senator ABOUREZK. Senator Metcalf.

Senator METCALF. It would seem to me that over the years many of us have been critical of the Bureau of Indian Affairs, especially on insisting that representation of the tribe be a certain group of attorneys. And most of us have said it should be up to the tribes themselves to have an opportunity to interview and employ their own attorney. And so, we have rather withdrawn from this proposition of dictating to the tribes as to whom shall be their representation.

Now, if the client files a formal protest with the Commission, I would certainly think that the Commission would be within its power to say, that the attorney would be removed or the tribe can name another attorney.

But unless you file a protest, the Commission isn't going to say, "Well look, you aren't very well represented."

And in this self-determination that we hope that the Indians will have, they should be allowed to go out and hire any attorney they want.

And, as the Senator from Oklahoma says, "If you don't feel that you are represented, you go to the bar association" and say, "Look, this guy did us in."

But I would strongly oppose, Mr. Chairman, any way in which we dictate to the Indian tribes as to whom will be their representative before a court before the Commissions.

And, sometimes we have had some sorry experiences in Montana that I know particularly about. But nevertheless, those experiences have been better than to say, "Well now look, you have to go hire your attorney from a certain list or a certain prescribed group."

And more and more in the self-determination, the Indians have to go shopping for an attorney just like the rest of us when we have a case before a court or a commission.

Mr. ADAMS. Mr. Senator, I would agree with that, but might the committee inquire how many protests the Commission has received from tribal governing bodies in the State of Washington with respect to these attorneys and their inability to wash their hands of it.

Senator ABOUREZK. I think that is fair enough.

Thank you, Mr. Adams. I will make that request of the Commission at this time.

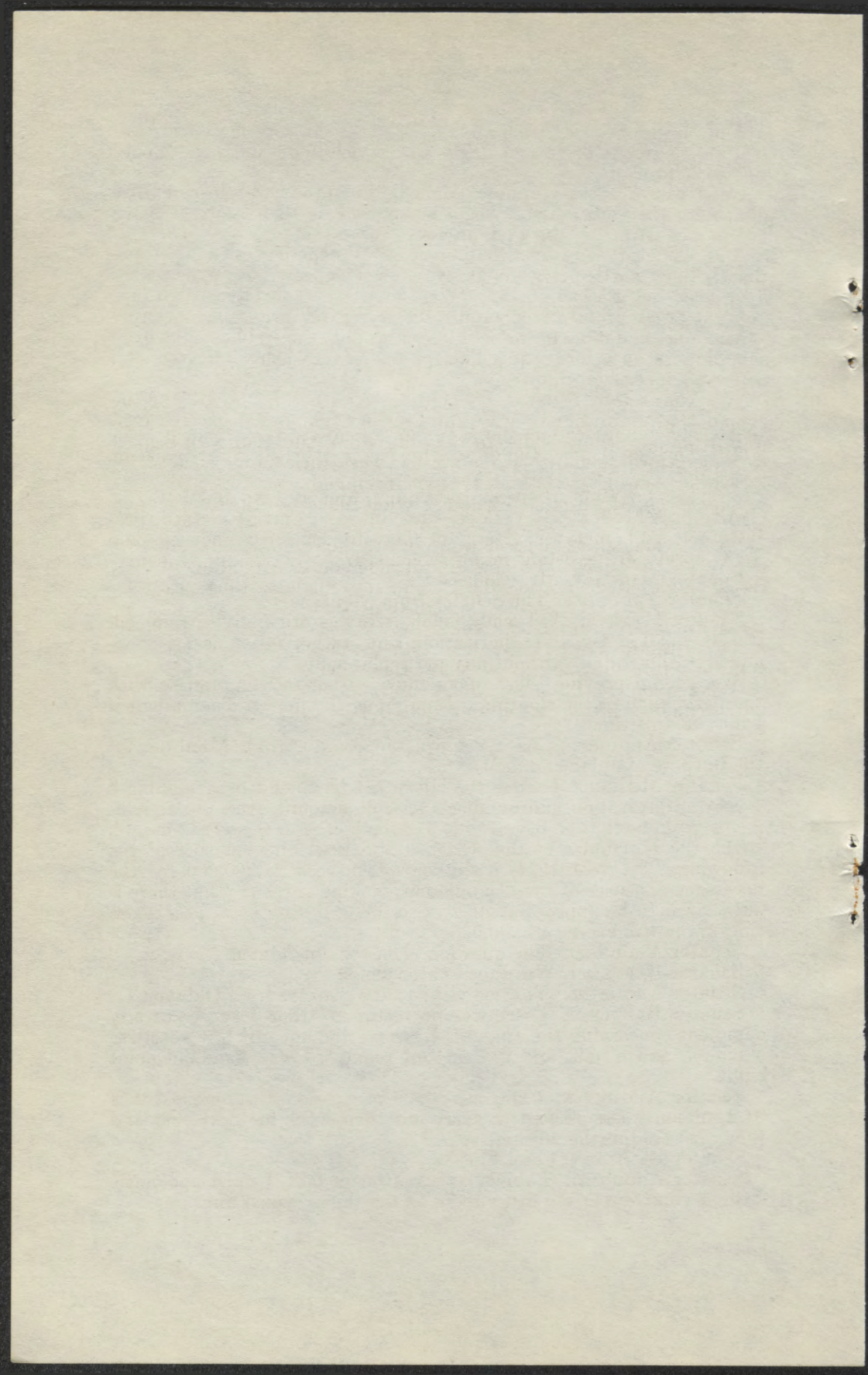
Mr. Kuykendall, if you would provide to the committee the number of protests the tribes have lodged, protests about the handling of their cases, and what disposition the Commission made to those protests.

Mr. KUYKENDALL. I would be glad to do that.

Senator ABOUREZK. Thank you.

Now I think we are finally done with the hearing part of it and we will move into the markup session at this time.

[Whereupon, at 11:25 a.m., the subcommittee was adjourned, to reconvene in markup session immediately.]



MARKUP OF S. 721

FRIDAY, FEBRUARY 16, 1973

U.S. SENATE,
SUBCOMMITTEE ON INDIAN AFFAIRS,
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 11:25 a.m., in room 3110, Dirksen Office Building, Hon. James Abourezk, chairman, presiding.

Present: Senators Abourezk [presiding], Metcalf, and Bartlett.

Also present: Jerry T. Verkler, staff director; Forrest Gerard, professional staff member; Harrison Loesch, minority counsel; and W. O. Craft, Jr., assistant minority counsel.

Senator METCALF. Mr. Chairman.

Senator ABOUREZK. The Senator from Montana.

Senator METCALF. As I read the bill, as it was originally introduced, it is a bill for 4-year authorization, and authorization is an open-ended authorization without any particular sums.

We seldom provide those open-ended authorizations, and so with the permission of the chairman, I am going to offer an amendment if I may at this time.

Senator ABOUREZK. We recognize the Senator from Montana for the purpose of an amendment.

Senator METCALF. I move the bill S. 721 be amended by making a 1-year authorization and making a specific amount. And the amendment would be that on page 1, line 5 of the bill, after the word "fiscal", strike the remainder of the sentence and insert in lieu thereof the following: The year 1974, a sum not to exceed \$1,200,000 for the necessary expenses of the Commission, making it read: "that there is authorized to be appropriated" and so forth, during fiscal year 1974, the sum not to exceed \$1,200,000.

Senator ABOUREZK. The question is on the amendment.

Senator BARTLETT. Will the Senator yield?

Senator ABOUREZK. Yes, we yield to the Senator from Oklahoma.

Senator BARTLETT. There was no testimony that I heard, or any comment concerning the amount. I believe the amount last year was a million and a half, and the amount requested was a million point eight.

Senator ABOUREZK. I did ask the Commissioner at one point if \$1.2 million was sufficient to carry out their work for next year and they answered in the affirmative.

Senator BARTLETT. I see. Fine.

Senator ABOUREZK. I think, as a matter of fact, I must apologize. I think you were in the other room at the time I asked him.

Senator METCALF. And there was testimony in the record Senator, that at least \$50,000 more would be needed over the amount that was suggested in the budget. This rounds it out to \$100,000 more, and I am sure that since this is an authorization bill, it would give them the latitude that they need to justify this appropriation before the Appropriation Committee.

At the same time, it is not an open-ended appropriation and it is subject to review next year when it comes before the Congress.

Senator ABOUREZK. The question is on the amendment offered by the Senator from Montana.

Those in favor will say "aye."

[Chorus of ayes.]

Senator ABOUREZK. Those opposed?

[No response.]

Senator ABOUREZK. The amendment carried.

The question is now on the bill S. 721 as amended. Those in favor will say "aye."

[Chorus of ayes.]

Senator ABOUREZK. Those opposed?

[No response.]

Senator ABOUREZK. The bill is reported out to the full committee as amended.

Senator METCALF. Thank you, Mr. Chairman.

Senator ABOUREZK. The meeting is adjourned.

[Whereupon, at 11:35, the subcommittee was adjourned.]