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INDIAN CLAIMS COMMISSION APPROPRIATIONS FOR FISCAL YEAR 1976

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GOVERNMENT TS
Storage
HEARING

STATE UNIVERSITY BEFORE THE

SUBCOMMITTEE ON INDIAN AFFAIRS
OF THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS
UNITED STATES SENATE

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

S. 876

A BILL TO AUTHORIZE APPROPRIATIONS FOR THE INDIAN
CLAIMS COMMISSION FOR FISCAL YEAR 1976

APRIL 18, 1975



Printed for the use of the
Committee on Interior and Insular Affairs

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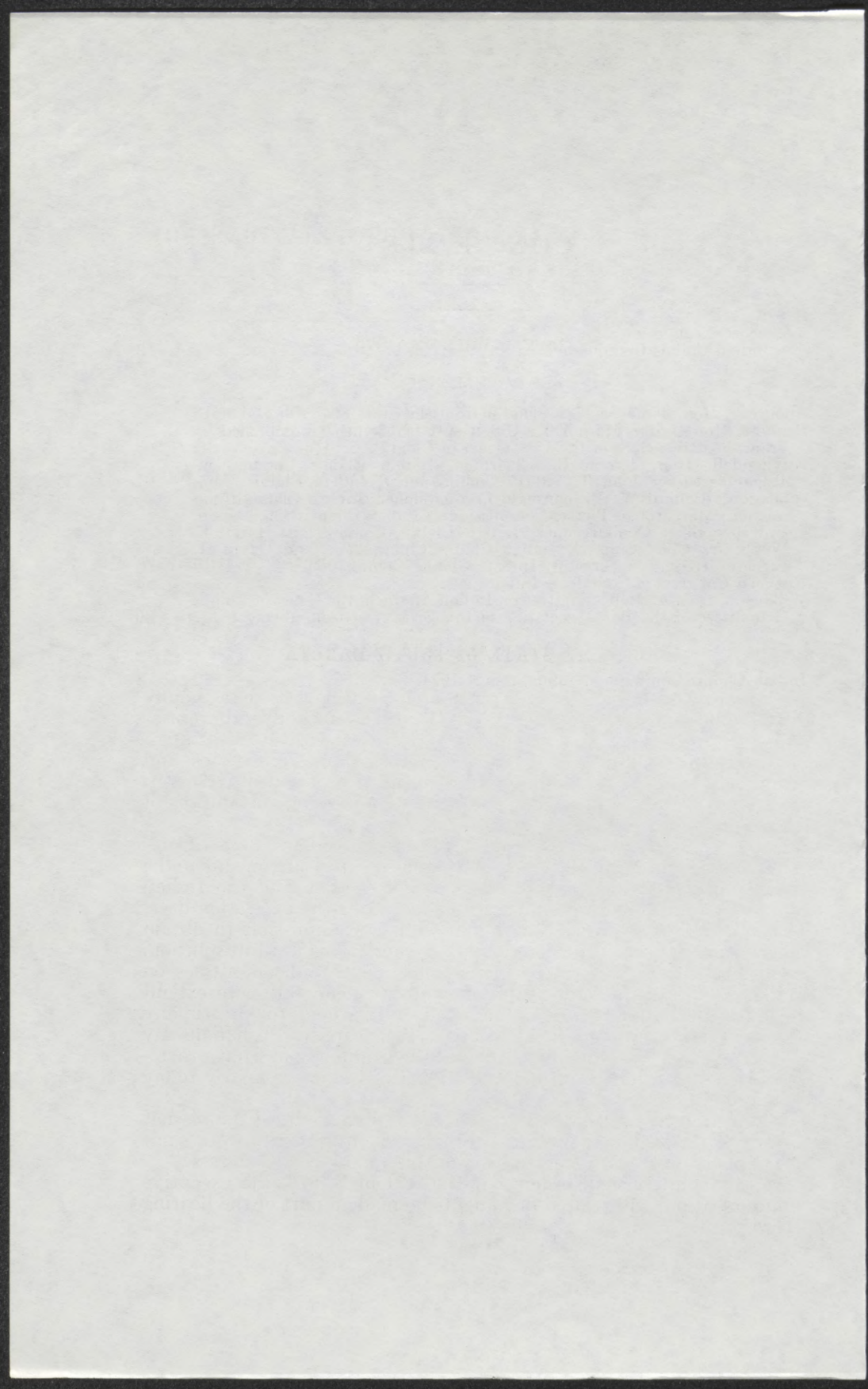
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INDIAN CLAIMS COMMISSION APPROPRIATIONS FOR FISCAL YEAR 1976

FRIDAY, APRIL 18, 1975

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 9:30 a.m., in room 3110, Dirksen Office Building, Hon. James Abourezk presiding.

Present: Senator Abourezk.

Also present: Forrest Gerard, professional staff member.

Senator ABOUREZK. The Indian Affairs Subcommittee hearing will come to order.

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

Senator ABOUREZK. This is an open public hearing to take testimony from public and private witnesses on S. 876, to authorize appropriations for the Indian Claims Commission for fiscal year 1976. In addition, the subcommittee is interested in obtaining the views and recommendations of the witnesses on the question of how any remaining Indian claims cases should be handled following dissolution of the Commission on April 10, 1977.

Public Law 92-265, extended the life of the Indian Claims Commission through April 10, 1977, and conferred jurisdiction upon the U.S. Court of Claims to adjudicate, under section 2 of the Indian Claims Commission Act, any cases pending after the expiration date. The act further required the Indian Claims Commission to obtain congressional approval for its annual appropriations until dissolution.

During hearings before the House and Senate Subcommittees on Indian Affairs in the 92d Congress to consider legislation to extend the life of the Indian Claims Commission, neither body took testimony from the U.S. Court of Claims to assess their capacity to handle any remaining cases following dissolution of the Commission. I have therefore invited a witness from the U.S. Court of Claims to testify today on this question.

In addition, the committee expects the Indian Claims Commission to present the members with a thorough accounting of its work since their appearance before this subcommittee in the last Congress.

At this point, I shall order that the text of S. 876, the executive communication, and related documents be made a part of the hearing record.

[The material referred to above follows:]

S. 876, 94th Cong., 1st sess.

A BILL To authorize appropriations for the Indian Claims Commission for fiscal year 1976

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 year 1976, such sums as may be necessary to continue the program of the Indian Claims Commission.

INDIAN CLAIMS COMMISSION,
Washington, D.C., February 5, 1975.

HON. NELSON A. ROCKEFELLER,
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 1976." 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 1976 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 year 1976 program requirements, we propose that such sums as may be necessary to continue the program of the Indian Commission be authorized. There is need for enactment of this authorization in order for work to proceed during the next fiscal year.

The Office of Management and Budget has advised that this proposed legislation is consistent with the program of the President.

Sincerely yours,

JEROME K. KUYKENDALL,
Chairman.

Enclosure.

A BILL To authorize appropriations for the Indian Claims Commission for fiscal year 1976

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 year 1976, such sums as may be necessary to continue the program of the Indian Claims Commission.

**ANNUAL
REPORT
1974**



**INDIAN
CLAIMS
COMMISSION**

INDIAN CLAIMS COMMISSION

RIDDELL BUILDING, 6TH FLOOR
1730 K STREET NW.
WASHINGTON, D.C. 20006



TO THE PRESIDENT OF THE UNITED STATES SENATE

and

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

Dear Sirs:

For the purpose of keeping the Congress informed of its work and progress, the Indian Claims Commission respectfully submits herewith its Annual Report for the fiscal year July 1, 1973, to June 30, 1974.

Sincerely,

Jerome K. Kuykendall
Chairman

John T. Vance
Commissioner

Richard W. Yarborough
Commissioner

Margaret H. Pierce
Commissioner

Brantley Blue
Commissioner

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INDIAN CLAIMS COMMISSION

1974

ANNUAL REPORT

HIGHLIGHTS

During fiscal year 1974 the Indian Claims Commission entered 96 decisions affecting 254 dockets. They added more than three volumes (1,822 pages) to the Commission's official reports: Vol. 31, pages 1 through 560; Vol. 32, pages 1 through 534; Vol. 33, pages 1 through 510; and Vol. 34, pages 1 through 218. (In fiscal year 1973, 85 decisions involving 233 dockets and comprising 1,344 pages were entered.) Single copies of individual decisions may be obtained from the Commission on request.

Included in these 96 determinations were dismissals of 11 dockets and the entry of 20 final awards involving 24 dockets. (See appendices 1 and 2, pages 9 and 10.) The total sum awarded in fiscal year 1974 was in excess of 46 million dollars. (In fiscal year 1973 awards totaled 40.5 million dollars.)

Two important developments outside of but important to the Commission took place during the year. First, the General Services Administration's Indian Trust Accounting Division, formerly the Indian Claims Division, was reactivated. (See our comment under STATUS OF THE WORK.) Second, Congress appropriated an additional sum of \$900,000 for the expert assistance loan fund within the Bureau of Indian Affairs. The latter development should expedite our work by assisting the claimant tribes to employ expert witnesses.

EFFORTS TO EXPEDITE THE WORK

The Commission held another calendar conference on January 28, 1974, which was attended by counsel for the plaintiffs and the defendant. On this occasion the status of each pending matter was again reviewed, the need for future trials was considered, and agreements were reached wherever practicable as to the timing of the trials of the various phases of the cases.

Early in the fiscal year the Commission issued two landmark decisions which contain definitive rulings on issues present in most of the pending accounting claims. Both parties have appealed one of these decisions to the Court of Claims. A definitive and final ruling on the questions involved in this case is a prerequisite to the final disposition of some fifty other accounting cases.

As one step in preparing for the processing of the accounting claims the Commission has employed an accountant with expertise in the field of Indian trust accounting.

STATUS OF THE WORK

Many of the 370 claims which have been filed with the Commission allege more than one cause of action. In order to process these causes it was necessary for the Commission to separate many of them and assign them separate docket numbers. As a result, 611 dockets had been established by the end of fiscal year 1974. As of that time 183 dockets had been finally dismissed, 242 had resulted in final money judgments totaling more than

\$486,700,000, and 186 remained to be completed. (See Appendix 4.) The 186 pending dockets include, among others, (1) all cases on appeal from the Commission's final determinations, and (2) other cases having final determinations entered in which the right of appeal has not expired. There were 23 cases in these two categories. If that number were to be deducted from the total of remaining cases the number of pending dockets would be 163 rather than 186.

The 96 decisions entered by the Commission during the year include, in addition to final determinations, numerous decisions on other matters which must be resolved before a case can finally be completed. Issues of this type include those relating to land title or liability, valuation, payments on the claim and allowable gratuitous offsets. Decisions have been entered on one or more of these issues in the remaining 186 dockets. Other necessary decisions may relate to such matters as: motions for summary judgment or partial summary judgment--particularly in accounting cases; procedural motions; questions remanded to the Commission by the Court of Claims; and attorneys' claims for compensation for services rendered and reimbursement of litigation expenses.

Twenty decisions by the Commission, some involving several consolidated dockets, were appealed to the Court of Claims during fiscal year 1974. As of the end of this fiscal year, nineteen of these appeals involving sixty-nine dockets were still pending.

In fiscal year 1974, the Court of Claims issued eight decisions or orders relating to nine cases involving seventeen dockets which had been

appealed to it from the Indian Claims Commission. The Court affirmed the Commission in three cases; modified and affirmed the Commission's decision in one case involving six dockets; affirmed in part, reversed in part and remanded one case involving only one docket; reversed and remanded another involving only one docket; and dismissed the appeals in three cases involving six dockets.

At the end of fiscal year 1974, 70 of the then pending 186 dockets were before the Court of Claims on appeal or were involved in appeals. The number of cases now involved in appeals constitute over 37 percent of the remaining pending cases. This fact is a matter of concern to the Commission. Whenever a case is remanded, further work by the Commission must be performed. Any appeal from any decision necessarily delays completion of the case.

The Commission has been deeply concerned about the ability of GSA's Indian Trust Accounting Division to provide required accounting information as promptly as needed. However, between June 1973 and January 1974 the Division's staff grew from 75 to 118 and the Commission is hopeful that its fears of further and undue delays will not materialize.

In fiscal year 1974 the Commission operated within a personnel ceiling of 44 positions and an appropriation of \$1,164,000. For fiscal year 1975, the maximum number of personnel remains 44; and \$1,324,000 has been appropriated by Congress. Since this appropriation does not provide for anticipated Government-wide salary increases, it is probable that some supplemental funds will have to be requested. The Commission was fully staffed at the end of the fiscal year.

APPENDIX 1

FISCAL YEAR TOTALS OF DOCKETS COMPLETED AND AWARDS 1/

Fiscal Year	Number of Dockets Completed		Number Of Awards	Total Amount Of Awards	Cumulative Total Of Awards
	By Dismissals	By Awards			
1947	---	---		\$ ---	\$ --- <u>2/</u>
1948	---	---		---	---
1949	7	---		---	---
1950	12	---		---	---
1951	7	---	2	3,489,843.58	3,489,843.58
1952	8	3	3	2,998,220.02	6,488,063.60
1953	7	---	---	---	6,488,063.60
1954	8	1	1	927,668.04	7,415,731.64
1955	4	1	1	864,107.55	8,279,839.19
1956	1	3	3	1,515,494.95	9,795,334.14
1957	12	1	1	433,013.60	10,228,347.74
1958	10	4	4	6,860,238.54	17,088,586.28
1959	12	2	1	3,288,974.90	20,377,561.18
1960	7	13	8	21,588,007.51	41,965,568.69
1961	5	5	5	14,926,255.11	56,891,823.80
1962	5	2	3	18,063,859.65	74,955,683.45
1963	9	8	9	18,319,187.20	93,274,870.65
1964	7	9	11	15,796,254.69	109,071,125.34
1965	7	27	17	57,019,352.93	166,090,478.27
1966	2	12	11	38,701,569.58	204,792,047.85
1967	2	7	6	21,497,766.74	226,289,814.59
1968	3	23	16	43,576,732.73	269,866,547.32
1969	23	24	20	32,025,817.01	301,892,364.33
1970	2	14	13	44,254,099.43	346,146,463.76
1971	4	22	17	58,884,341.24	405,030,805.00
1972	11	14	10	33,078,111.56	438,108,916.56
1973	11	32	18	40,544,266.98	478,653,183.54
1974	11	24	20	46,223,334.34	524,876,517.88
	<u>197</u>	<u>253</u>	<u>200</u>		

1/ This appendix includes final awards and dismissals of dockets entered by the Commission through June 30, 1974. The 253 dockets shown as completed by awards include 11 dockets not as yet reported to the Congress as concluded. They are Docket Nos. 15-M, 18-R, 29-K, 73, 146, 151, 158, 209 (see footnote 8 on page 6 of Appendix 2), 231, 350-F, and 363. The 197 dockets shown as completed by dismissals include 14 dockets not as yet reported to the Congress as dismissed. They are Docket Nos. 13-G, 18-J, 18-K, 18-L, 18-M, 40-F, 73-B, 89, 140, 204, 221-B, 341-C, 341-D, and 350-B.

2/ The first Commissioners took their oaths of office on April 10, 1947.

APPENDIX 2

INDIAN CLAIMS COMMISSION AWARDS
(Grouped by Fiscal Year)

<u>FY</u>	<u>Docket Number</u>	<u>Tribe, Band or Group</u>	<u>Net Final Award</u>	<u>Date of Award</u>
1951	16	Choctaw	\$ 2,587,835.47	July 14, 1950
	23	Chickasaw	902,008.11	July 14, 1950
1952	1	Creek, Loyal	600,000.00	Oct. 19, 1951
	33	Kaw	1,600,220.02	May 15, 1952
	35	Kaw	798,000.00	May 15, 1952
1954	14	Quapaw	927,668.04	May 7, 1954
1955	9	Osage	864,107.55	March 1, 1955
1956	15-B	Potawatomi, Prairie	126,306.24	Aug. 8, 1955
	111	Potawatomi, Citizen	233,154.36	Aug. 8, 1955
	11	Otoe & Missouri	1,156,034.35	Feb. 17, 1956
1957	63	Shoshone, Wind River	433,013.60	April 22, 1957
1958	32	Kiowa, Comanche & Apache	2,067,166.00	July 18, 1957
	81	Coeur d'Alene	4,342,778.03	May 6, 1958
	150	Seminole, Oklahoma	34,053.66	June 4, 1958
	239	Confederated Tribes of Siletz Indians	416,240.85	June 17, 1958
1959	15-J) 71-A)	Potawatomi Nation (of 1846)	3,288,974.90	Feb. 26, 1959
1960	269	Chickasaw	190,934.78	July 17, 1959
	17	Paiute (Malheur Res.)	567,000.00	Dec. 4, 1959
	225-A)			
	225-B)	Omaha	2,900,000.00	Feb. 11, 1960
	225-C)			
	225-D)			
	181	Colville	1,000,000.00	March 1, 1960

Appendix 2 (pg. 2)

<u>FY</u>	<u>Docket Number</u>	<u>Tribe, Band or Group</u>	<u>Net Final Award</u>	<u>Date of Award</u>
1960	154	Kootenai	425,000.00	April 25, 1960
Cont'd	44&45	Ute, Uintah	7,700,000.00	June 13, 1960
	175-A	Nez Perce	4,157,605.06	June 17, 1960
	67)	Miami Nation	4,647,467.67	June 30, 1960
	124)			
1961	180-A	Nez Perce	3,000,000.00	July 5, 1960
	54	Crow	10,242,984.70	May 29, 1961
	334	Shawnee, Absentee	1,269,338.02	May 29, 1961
	124-A	Miami, Indiana	64,738.80	May 31, 1961
	251	Miami, Oklahoma	349,193.59	May 31, 1961
1962	87	Paiute, Northern (Snake Paiute Tract)	3,650,000.00	July 3, 1961 <u>1/</u>
	173	Cherokee, Oklahoma	14,364,476.15	Sept. 14, 1961
	46	Nooksack	49,383.50	Feb. 9, 1962
1963	10	Pawnee	7,316,097.70	July 6, 1962
	240	Tillamook, Nehalem Band	72,162.50	Aug. 27, 1962
	240	Tillamook, Tillamook Band	97,025.00	Aug. 27, 1962
	21	Creek Nation (1814)	3,913,000.00	Sept. 10, 1962
	94	Kalispel	3,000,000.00	March 21, 1963
	155	Quileute and Hoh	112,152.60	April 17, 1963
	242	Quinaielt and Queets	205,172.40	April 17, 1963
	296	Skokomish	373,577.00	May 24, 1963
	329-D	Arapaho, Northern	3,230,000.00	June 27, 1963
1964	314	Peoria (Wea)	876,477.30	July 29, 1963
	337	Delaware (1818 Treaty)	1,627,244.64	Aug. 5, 1963
	237	Chehalis	754,380.00	Oct. 7, 1963
	98	Muckleshoot	80,377.00	Oct. 18, 1963
	329-C	Cheyenne, Northern	4,360,886.19	Nov. 27, 1963
	109	Duwamish	62,000.00	Dec. 11, 1963
	100	Klamath and Modoc Tribes and Yahooskin Band of Snake Indians	2,500,000.00	Jan. 31, 1964
	11-A	Otoe & Missouriia	1,750,000.00	April 14, 1964
	138	Omaha	1,750,000.00	April 14, 1964 <u>2/</u>

1/ Two more awards were entered in Docket No. 87 in FY 1966.

2/ Separate awards for the Omaha, Sac and Fox, and Iowa were entered in Docket No. 138. The Sac and Fox and Iowa awards were in FY 1965.

Appendix 2 (pg. 3)

<u>FY</u>	<u>Docket Number</u>	<u>Tribe, Band or Group</u>	<u>Net Final Award</u>	<u>Date of Award</u>
1964	18-A)	Chippewa, Red Lake (18-A)	1,797,761.74	April 24, 1964
Cont'd	113)	Chippewa, Pembina		
	191)	(18-A, 113 & 191)	237,127.82	April 24, 1964 <u>3/</u>
1965	31	Indians of California)		
	37	Indians of California)		
	176	Yokiah)		
	215	Yana)	29,100,000.00	July 20, 1964
	333	Shasta)		
	80	Mission Indians)		
	80-D	Mission Indians)		
	347	Pit River Indians)		
	75	Emigrant New York Indians (Oneida, and Stockbridge-Munsee Community)	1,313,472.65	Aug. 11, 1964
	248	Seminole, Oklahoma	63,680.00	Dec. 23, 1964
	88)			
	330)	Paiute, Southern	7,253,165.19	Jan. 18, 1965
	330-A)			
	351)	Chemehuevi	996,834.81	Jan. 18, 1965
	351-A)			
	303	Ottawa, Oklahoma	406,166.19	Feb. 11, 1965
	327	Ute, Confederated Band	7,908,586.16	Feb. 18, 1965
	349	Ute, Uncompahgre	300,000.00	Feb. 18, 1965
	157	Shoshone, Wind River	120,000.00	Feb. 24, 1965
	138	Sac and Fox	1,096,533.42	March 2, 1965*
	195	Sac and Fox of Missouri	192,000.00	March 10, 1965
	138	Iowa	1,372,267.50	March 22, 1965*
	161	Yakima)		
	222	Colville)	3,446,700.00	April 5, 1965
	224	Colville)		
	135	Iowa	633,193.77	May 7, 1965
	135	Sac and Fox	965,560.39	May 7, 1965
	143	Sac and Fox	1,789,201.45	May 19, 1965
	47-A	Yakima	61,991.40	June 25, 1965

3/ A single judgment for \$2,034,889.56 was divided into separate awards for the Red Lake and Pembina Bands. The judgment disposed of Docket No. 18-A, and partially completed Docket Nos. 113 and 191.

* See footnote 2 on page 2 of this appendix.

Appendix 2 (pg. 4)

<u>FY</u>	<u>Docket Number</u>	<u>Tribe, Band or Group</u>	<u>Net Final Award</u>	<u>Date of Award</u>
1966	18-B	Chippewa, Mississippi Bands	1,671,262.18	July 27, 1965
	18-B	Chippewa, Pillager and Lake Winnibigoshish Bands	2,260,942.90	July 27, 1965
	319	Quechan (Fort Yuma)	520,000.00	Aug. 5, 1965
	324	Ponca	2,458.30	Aug. 27, 1965
	162	Yakima	49,000.00	Aug. 31, 1965
	329-A)	Cheyenne-Arapaho, Okla.	15,000,000.00	Oct. 18, 1965
	329-B)			
	87	Paiute, Northern (Mono Tract)	935,000.00	Nov. 4, 1965
	87	Paiute, Northern (Paviotso Tract)	15,790,000.00	Nov. 4, 1965 ^{4/}
	264)			
	264-A)	Umatilla	2,450,000.00	Feb. 11, 1966
	264-B)			
	79	Iowa	11,394.67	Feb. 28, 1966
145	Kickapoo	11,511.53	April 21, 1966	
1967	61	Salish and Kootenai, Flathead Reservation	4,431,622.18	Aug. 5, 1966
	276	Creek, Oklahoma	1,037,414.62	Aug. 17, 1966
	220	Sac and Fox of Okla.	692,564.15	Feb. 14, 1967
	331)	Spokane	6,700,000.00	Feb. 21, 1967
	331-A)			
	125	Snohomish	136,165.79	March 30, 1967
	22-B	Apache, Mescalero	8,500,000.00	April 27, 1967
1968	314-E.	Peoria (Wea)	33,262.92	July 18, 1967
	142	Sioux, Sisseton and Wahpeton	5,097,575.00	July 25, 1967
	359	Sioux: Sisseton & Wahpeton Medawakanton and Wahpakoota	776,464.50	July 25, 1967
	360	Sioux, Medawakanton	776,464.50	July 25, 1967
	361	Sioux, Medawakanton	1,129,359.00	July 25, 1967
	362	Sioux, Medawakanton & Wahpakoota	64,680.00	July 25, 1967
			4,338,517.00	July 25, 1967

^{4/} The two awards shown above together with an award entered in FY 1962 completed Docket No. 87.

Appendix 2 (pg. 5)

<u>FY</u>	<u>Docket Number</u>	<u>Tribe, Band or Group</u>	<u>Net Final Award</u>	<u>Date of Award</u>
1968 Cont'd	363	Sioux, Medawakanton & Wahpakoota	66,940.00	July 25, 1967 <u>5/</u>
	181-A) 181-B)	Colville	3,500,000.00	Sept. 7, 1967
	219	Sac and Fox of the Mississippi	899,408.54	Sep. 29, 1967
	316	Kickapoo	771,441.26	Sept. 29, 1967
	258) 259)	Kiowa, Comanche and Apache	6,000,000.00	Jan. 29, 1968
	326-D	Shoshone-Bannock)		
	326-E	Shoshone-Bannock)		
	326-F	Shoshone-Bannock)		
	326-G	Shoshone-Bannock)	15,700,000.00	Feb. 13, 1968
	326-H	Shoshone-Bannock)		
	366	Bannock)		
	367	Bannock)		
	193	Kickapoo	540,000.00	Feb. 29, 1968
	40-K	Ottawa, Grand River	932,620.01	March 27, 1968
	90) 122)	Hualapai	2,950,000.00	June 18, 1968
1969	279-A	Blackfeet and Gros Ventre	8,679,814.92	Aug. 23, 1968 <u>6/</u>
	279-A	Sioux of Fort Peck	1,161,354.41	Aug. 23, 1968 <u>6/</u>
	96	Potawatomi, Citizen	797,508.99	Aug. 27, 1968
	92	Skagit, Upper	385,471.42	Sept. 23, 1968
	93	Snoqualmie - Skykomish	257,698.29	Sept. 23, 1968
	65	Peoria	1,139,532.91	Nov. 13, 1968
	47) 164)	Yakima	2,100,000.00	Nov. 14, 1968
	255	Miami, Oklahoma)	66,966.00	Dec. 3, 1968
	124-C	Miami, Indiana)		

5/ The award disposed of part of the case in Docket No. 363. A portion denominated the "Second Claim" is pending. See award in FY 1974.

6/ Three separate awards were entered in Docket No. 279-A. The third was entered on June 30, 1969, for the Assiniboine.

Appendix 2 (pg. 6)

<u>FY</u>	<u>Docket Number</u>	<u>Tribe, Band or Group</u>	<u>Net Final Award</u>	<u>Date of Award</u>
1969 Cont'd	256	Miami, Oklahoma)		
	124-D	Miami, Indiana)	1,373,000.00	Dec. 3, 1968
	124-E	Miami, Indiana)		
	124-F	Miami, Indiana)		
	251-A	Miami, Oklahoma	10,000.00	Jan. 9, 1969
	332-A	Sioux, Yankton	1,250,000.00	Jan. 28, 1969
	22-E)	Yavapai - Apache	5,100,000.00	March 13, 1969
	22-F)			
	158	Iowa	1,340,435.00	May 12, 1969 ^{7/}
	209	Iowa	168,555.00	May 12, 1969 ^{8/}
	231	Iowa	286,516.40	May 12, 1969 ^{7/}
	79-A	Iowa	1,377,207.27	May 21, 1969
	318	Kickapoo	273,250.00	June 11, 1969
	114	Sioux, Cheyenne River	1,300,000.00	June 18, 1969
	350-A)			
	350-E)	Fort Berthold	1,850,000.00	June 18, 1969
350-H)				
279-A	Assiniboine	3,108,506.40	June 30, 1969 ^{9/}	
1970	91	Havasupai	1,240,000.00	Aug. 6, 1969
	100-A	Klamath and Modoc Tribes and Yahooskin Band of Snake Indians	4,162,992.80	Sept. 2, 1969
	72	Delaware, Absentee)	9,194,364.99	Sept. 10, 1969
	298	Delaware)		
	253	Miami, Oklahoma)	3,826,660.20	Jan. 8, 1970
	131	Miami, Indiana)		
	314-D	Peoria (Wea)	1,209,900.00	Jan. 8, 1970
	207	Stillaguamish	48,570.00	Jan. 8, 1970
	314-C	Peoria (Wea)	349,750.00	Jan. 28, 1970

^{7/} Separate awards for the Iowa and Sac and Fox were entered in Docket Nos. 158 and 231. See the Sac and Fox awards in FY 1974.

^{8/} The Iowa award of \$168,555.00 is counted in Appendix 1 as an award that completed Docket No. 209. On Appendix 4 Docket No. 209 is counted as a pending case because a Sac and Fox claim in that docket is on appeal from the Commission's order of dismissal.

^{9/} Awards to two other claimants were entered in Docket No. 279-A on August 23, 1968.

Appendix 2 (pg. 7)

<u>FY</u>	<u>Docket Number</u>	<u>Tribe, Band or Group</u>	<u>Net Final Award</u>	<u>Date of Award</u>
1970	153	Iowa Nation	2,783,700.00	Feb. 4, 1970
Cont'd	153	Sac and Fox Nation	10,601,282.66	Feb. 4, 1970
	99	Peoria (Piankeshaw)	3,270,400.00	Feb. 11, 1970
	317	Kickapoo, Kansas	340,250.00	Feb. 11, 1970
	179	Colville (Nez Perce)	1,119,071.78	April 29, 1970
	266	Pueblo de Acoma	6,107,157.00	June 17, 1970
1971	243)			
	244)	Winnebago	4,600,000.00	Sept. 3, 1970
	245)			
	105)			
	106)	Osage	13,250,000.00	Sept. 15, 1970
	107)			
	108)			
	178	Colville	5,540,598.00	Sept. 17, 1970
	316-A	Kickapoo	125,209.61	Sept. 24, 1970
	73	Seminole, Florida)	12,262,780.63	Oct. 22, 1970 <u>10/</u>
	151	Seminole, Oklahoma)		
	110	Lummi	57,000.00	Oct. 22, 1970
	132	Suquamish	42,170.49	Oct. 22, 1970
	234	Chinook	48,692.05	Nov. 4, 1970
	288	Washoe	4,959,350.00	Dec. 2, 1970
	227	Pueblo of Laguna	900,000.00	Dec. 11, 1970
	289	Peoria (Piankeshaw)	1,501,294.35	Feb. 24, 1971
	289	Delaware	1,497,246.11	Feb. 24, 1971
	326-I	Lemhi (Shoshone)	4,500,000.00	March 8, 1971
	22-A	Apache, Jicarilla	9,150,000.00	April 21, 1971
	334-B	Shawnee	300,000.00	May 19, 1971
	167	Creek, Oklahoma	50,000.00	May 26, 1971
	148	Cabazon	100,000.00	June 16, 1971

10/ Cross appeals from the award 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 to be supplied as to valuation of the tracts involved and ordered this case consolidated with a Creek case in Docket No. 280 so that overlapping Creek and Seminole claims can be resolved (Appeal No. 1-71, decided February 18, 1972, 197 Ct. Cl. 350). In August of 1973 the Creek plaintiffs took an appeal to the Court of Claims from the Commission's order of July 5, 1973, in consolidated Docket Nos. 73, 151 and 280 denying a motion to amend their petition in Docket No. 280. This appeal, assigned No. 5-73 by the Court, was dismissed on February 11, 1974. Docket Nos. 73, 151 and 280 have returned to the Commission's jurisdiction and the remand directives in the Court's decision on Appeal No. 1-71 are being carried out.

Appendix 2 (pg. 8)

<u>FY</u>	<u>Docket Number</u>	<u>Tribe, Band or Group</u>	<u>Net Final Award</u>	<u>Date of Award</u>
1972	30	Apaches, Fort Sill, Chiri- cahua and Warm Springs)	521,796.00	Aug. 25, 1971
	48			
	30-A	Apaches, Fort Sill, Chiri- cahua and Warm Springs)	15,967,300.00	Aug. 25, 1971
	48-A			
	175	Nez Perce	3,550,000.00	Aug. 25, 1971
	322	Ponca	1,878,500.00	Sept. 8, 1971
	261	Samish	5,754.96	Oct. 6, 1971
	294	Skagit	74,856.50	Oct. 13, 1971
	27-A	Delaware)	435,873.86	Nov. 24, 1971
	241	Delaware, Absentee)		
	18-E	Ottawa and Chippewa of)	10,109,003.55	March 15, 1972
	58	Michigan)		
18-T	Chippewa, Mississippi and Lake Superior	529,000.00	May 31, 1972	
263	Kikiallus	6,026.69	June 7, 1972	
1973	233	Swinomish	29,000.00	July 6, 1972
	323	Ponca	1,013,425.24	Aug. 23, 1972 <u>11/</u>
	350-F	Fort Berthold	8,809,057.00	Aug. 23, 1972 <u>12/</u>
	275	Creek Nation	1,346,000.00	Aug. 23, 1972
	332-B	Sioux, Yankton	4,750,000.00	Sept. 8, 1972

11/ The Ponca award consists of a principal sum of \$174,327.06 plus interest thereon computed at 5 percent per annum for the period March 16, 1877, through July 5, 1973, the date of payment of the principal sum. Interest from July 1, 1972, through July 5, 1973, amounted to \$8,835.75.

12/ The final award includes additional amounts of damages to be measured by interest at the rate of 3 percent per annum on a principal sum of \$2,765,067.00, and at 5 percent per annum on a principal sum of \$318,614.00 computed from June 30, 1972, to date of payment of said principal sums. Cross appeals from the Commission's determinations were taken to the Court of Claims in November of 1972. The Court affirmed the Commission's decision (Appeal No. 17-72, decided March 29, 1974, rehearing denied May 31, 1974). Time was running at June 30, 1974, within which to seek certiorari review of the Court's decision.

Appendix 2 (pg. 9)

<u>FY</u>	<u>Docket Number</u>	<u>Tribe, Band or Group</u>	<u>Net Final Award</u>	<u>Date of Award</u>
1973	282-A)			
Cont'd	282-B)			
	282-C)			
	282-D)			
	282-E)			
	282-F)	Cherokee, Eastern Band	1,855,254.50	Sept. 11, 1972
	282-G)			
	282-H)			
	282-I)			
	282-J)			
	282-K)			
	282-L)			
	22-D	Apaches, San Carlos, White Mountain, et al.	4,900,000.00	Sept. 12, 1972
	22-J	Apaches, Northern Tonto, et al.	685,800.00	Sept. 12, 1972
	175-B	Nez Perce	1,387,911.00	Nov. 1, 1972
	342-A	Seneca Nation)	5,466,615.04	Nov. 22, 1972
	368-A	Seneca, Tonawanda Band)		
	321	Tuscarora Nation	91,428.80	Feb. 21, 1973
	273	Creek Nation	400,000.00	March 14, 1973
	218	Cowlitz	1,550,000.00	April 12, 1973
	217	Potawatomi, Citizen, et al.,)		
	15-K	Potawatomi, Prairie, et al.,)		
	29-J	Potawatomi, Hannahville, et al.,)	4,104,818.98	April 25, 1973
		on behalf of the Potawatomi)		
		Tribe or Nation as it existed)		
		between 1795 and 1833)		
	304	Ottawa	182,610.00	April 25, 1973
	305	Ottawa	80,585.76	April 25, 1973
	300	Stockbridge and Munsee	4,203.09	May 30, 1973
	173-A	Cherokee Nation and Cherokee Freedmen (Intervenors)	3,887,557.57	May 30, 1973
1974	57	Chippewa, Saginaw	8,117,608.00	Aug. 1, 1973
	189	Chippewa, Red Lake	1,859,306.87	Aug. 9, 1973
	283)	Mohave	468,358.07	Sept. 26, 1973 <u>13/</u>
	295)			

13/ A prior award of \$428,358.07 dated December 29, 1971, was superseded.

Appendix 2 (pg. 10)

FY	Docket Number	Tribe, Band or Group	Net Final Award	Date of Award
1974	198	Warm Springs	1,225,000.00	Oct. 17, 1973
Cont'd	144	Chippewa, Pillager	405,293.06	Oct. 25, 1973
	18-C	Chippewa, Mississippi and Lake Superior	9,027,559.60	Nov. 7, 1973
	158	Sac and Fox	3,530,578.21	Nov. 23, 1973 <u>14/</u>
	231	Sac and Fox	943,799.79	Nov. 23, 1973 <u>14/</u>
	278-B	Tlingit and Haida (Angoon, Alaska)	90,000.00	Nov. 26, 1973
	18-R	Chippewa, Sault Ste. Marie	15,000.00	Dec. 26, 1973 <u>15/</u>
	83	Sac and Fox	1,969,585.00	Dec. 26, 1973 <u>15/</u>
	84	Seneca Nation	25,399.50	Dec. 28, 1973
	84	Six Nations)	29,930.25	Dec. 28, 1973
	300-B	Stockbridge and Munsee)		
	137	Pueblos de Zia, Jemez and Santa Ana	749,083.75	Jan. 10, 1974 <u>16/</u>
	22-K	Apache, Jicarilla	7,000,000.00	Feb. 21, 1974
	363	Sioux, Sisseton and Wahpeton	8,286,991.54	<u>17/</u> Feb. 27, 1974 <u>15/</u>
	342-B	Seneca Nation)		
	342-C	Seneca Nation)	101,000.00	March 13, 1974
	368	Seneca, Tonawanda)		
	342-F	Seneca Nation	2,650.00	March 13, 1974
	342-I	Seneca Nation	79,320.00	March 13, 1974
	146	Potawatomi, Citizen Band, et al.,)		
	15-M	Potawatomi, Prairie Band, et al.,)		
	29-K	Potawatomi, Hannahville, et al.,) on behalf of the Potawatomi) Tribe or Nation)	2,296,870.70	April 19, 1974 <u>18/</u>

14/ The awards in Docket Nos. 158 and 231 were entered on remand and superseded prior awards in the same amounts dated May 12, 1969. An appeal by the Sac and Fox from the awards of Nov. 23, 1973, and the dismissal on remand on that date of a Sac and Fox claim in Docket No. 209 was pending before the Court of Claims at June 30, 1974.

15/ Pending before the Court of Claims at June 30, 1974, on appeal from the Commission's determinations.

16/ A prior award of \$766,936.08 dated September 15, 1971, was vacated.

17/ The award is on a claim for compensation for reservation land. The claim is one of four being prosecuted under what is denominated the "Second Claim" in the plaintiffs' petition. See footnote 5 on page 5 of this appendix. In addition to the sum of \$8,286,991.54, the award includes simple interest at 5 percent per annum on a principal sum of \$1,888,162.46 from January 1, 1974, until paid.

18/ Appeal time from the final award was running at June 30, 1974.

APPENDIX 3
FINAL AWARD SUMMARIES

SUMMARY OF FINAL AWARDS -- FISCAL YEAR 1974:	Amount	No. of Dockets Disposed of by Final Awards
Final awards certified to the Treasury in Docket Nos. 30 and 48 (Apache); 30-A and 48-A (Apache); 173-A (Cherokee); 217, 15-K and 29-J (Potawatomi); 300 (Stockbridge and Munsee); 304 (Ottawa); 305 (Ottawa); and additional interest of \$8,835.75 in Docket 323 (Ponca).....	\$ 24,757,707.15	11
Final awards entered and certified to the Treasury in Docket Nos. 18-C (Chippewa); 22-K (Apache); 57 (Chippewa); 84 (Six Nations and Seneca) and 300-B (Stockbridge and Munsee); 137 (Pueblos de Zia, Jemez and Santa Ana); 144 (Chippewa); 189 (Chippewa); 198 (Warm Springs); 278-B (Angoon); 283 and 295 (Mohave); 342-B and 342-C (Seneca) and 368 (Tonawanda); 342-F (Seneca); and 342-I (Seneca).....	29,180,509.10	17
Final award entered having appeal time running at June 30, 1973, in Docket Nos. 146, 15-M and 29-K (Potawatomi).....	2,296,870.70	
Final awards entered that were on appeal in the Court of Claims at June 30, 1974, in Docket Nos. 18-R (Chippewa), 83 (Sac and Fox), 158 (Sac and Fox), 231 (Sac and Fox), and 363 (Sioux).....	14,745,954.54	
Totals	\$ 70,981,041.49	28
<u>CUMULATIVE SUMMARY OF FINAL AWARDS</u> AT JUNE 30, 1974:		
Final awards certified to the Treasury.....	\$ 486,761,855.01	242
Final award on remand from the Court of Claims in Docket Nos. 73 and 151 (Seminole).....	12,262,780.63	
Final award having appeal time running as stated in 1974 summary, above.....	2,296,870.70	
Final award with time running for seeking Supreme Court review of decision by the Court of Claims affirming the Commission's determinations in Docket No. 350-F (Fort Berthold).....	8,809,057.00	
Final awards on appeal before the Court of Claims as stated in 1974 summary, above.....	14,745,954.54	
Totals	\$ 524,876,517.88	242

APPENDIX 4

STATUS OF INDIAN CLAIMS CASES ON JUNE 30, 1974

<u>CLAIMS FILED</u>	<u>No. of Dockets</u>
Received through August 13, 1951.....	370
Causes severed from original claims and redocketed as separate claims.....	<u>241</u>
Total docketed.....	611
 <u>CLAIMS DISPOSED OF</u>	
By awards certified to the Treasury Department totaling \$486,761,855.01.....	242
By orders of dismissal.....	<u>183</u>
Total disposed of.....	<u>425</u>
 <u>PENDING CLAIMS</u>	
<u>Pending before the Court of Claims on appeal or involved in appeals from Commission decisions:</u>	
Cases with final awards totaling \$14,745,954.54 (Dockets 18-R, 83, 158, 231, and 363 in one of four causes).....	4
Cases with interlocutory decisions (Dockets 13-E, 13-F, 15-E, 15-I, 15-N, 15-O, 15-P, 15-Q, 15-R, 22-G, 27, 27-B, 27-E, 29-C, 29-D, 29-E, 29-G, 29-L, 29-M, 29-N, 29-O, 29-P, 59, 64, 64-A, 74, 74-B, 120, 128, 130, 133-A, 133-B, 133-C, 139, 141, 196, 202, 229, 252, 302, 306, 308, 309, 310, 326-A, 326-C, 326-J, 332-C, 335, 338, 354, 355, 356, and 357-A).....	54
Cases with orders dismissing the plaintiffs' claims (Dockets 13-G, 18-J, 18-K, 18-L, 18-M, 40-F, 73-B, 89, 140, 209 Sac and Fox, 341-C, and 341-D).....	<u>12</u>
Subtotal.....	<u>70</u>
 <u>Cases having time running within which to petition the Supreme Court for writs of certiorari to the Court of Claims (Docket 350-F with final award of \$8,809,057.00; Dockets 228, 113, 191, 221, 246, and 350-C with interlocutory decisions; and Dockets 204 and 350-B with final dismissal orders).....</u>	
	<u>9</u>
 <u>Pending under the Commission's jurisdiction:</u>	
Case with final award totaling \$2,296,870.70 having appeal time running (Consolidated Dockets 146, 15-M and 29-K).....	3
Case with final award of \$12,262,780.63 on remand from the Court of Claims (Consolidated Dockets 73 and 151).....	2
Case with appeal time running on order dismissing plaintiffs' claims (Docket 221-E).....	1
Other cases in various stages of litigation.....	<u>101</u>
Subtotal.....	<u>107</u>
Total number of pending Indian Claims.....	<u>186</u>

APPENDIX 5



Public Law 92-265
92nd Congress, H. R. 10390
March 30, 1972

An Act

To extend the life of the Indian Claims Commission, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 23 of the Act entitled "An Act to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes", approved August 13, 1946 (60 Stat. 1049, 1055), as amended (75 Stat. 92; 25 U.S.C. 70v), is hereby amended by striking said section and inserting in lieu thereof the following:

Indian Claims
Commission.
Termination date,
extension.
81 Stat. 11.

86 STAT. 114
86 STAT. 115

"DISSOLUTION OF THE COMMISSION AND DISPOSITION OF PENDING CLAIMS

"SEC. 23. The existence of the Commission shall terminate at the end of fifteen years from and after April 10, 1962, or at such earlier time as the Commission shall have made its final report to the Congress on all claims filed with it. Upon its dissolution the records and files of the Commission in all cases in which a final determination has been entered shall be delivered to the Archivist of the United States. The records and files in all other pending cases, if any, including those on appeal shall be transferred to the United States Court of Claims, and jurisdiction is hereby conferred upon the United States Court of Claims to adjudicate all such cases under the provisions of section 2 of the Indian Claims Commission Act: *Provided*, That section 2 of said Act shall not apply to any case filed originally in the Court of Claims under section 1505 of title 28, United States Code."

63 Stat. 102.

SEC. 2. Section 27(a) of such Act of August 13, 1946, as amended (25 U.S.C. 70v-1), is amended by striking said section and inserting in lieu thereof the following:

"TRIAL CALENDAR

"SEC. 27. (a) The Commission from time to time shall prepare a trial calendar which shall set a date for the trial of the next phase of each claim as soon as practical after a decision of the Commission or the United States Court of Claims or the Supreme Court of the United States makes such setting possible, but such date shall not be later than one year from the date of such decision except on a clear showing by a party that irreparable harm would result unless longer preparation were allowed."

SEC. 3. Section 27(b) of such Act of August 13, 1946, as amended (25 U.S.C. 70v-1), is amended by striking said section and inserting in lieu thereof the following:

"SEC. 27. (b) If a claimant fails to proceed with the trial of its claim on the date set for that purpose, the Commission may enter an order dismissing the claim with prejudice or it may reset such trial at the end of the calendar."

SEC. 4. The Act of August 13, 1946, as amended, is further amended by adding at the end thereof a new section as follows:

"SEC. 28. The Commission shall, on the first day of each session of Congress, submit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives, 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."

Report to
congressional
committees.
60 Stat. 1049.
25 USC 70.

APPENDIX 5 (pg 2.)

#6 STAT. 115 Pub. Law 92-265 - 2 - March 30, 1972

Appropriations. SEC. 5. Section 6 of such Act of August 13, 1946 (25 U.S.C. 70e),
60 Stat. 1051; is amended by adding at the end thereof the following: "There
81 Stat. 11. are authorized to be appropriated for the necessary expenses of the
Commission not to exceed \$1,500,000 for fiscal year 1973, and appro-
priations for succeeding fiscal years shall be made only to the extent
hereafter authorized by Act of Congress."

Approved March 30, 1972.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 92-895 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 92-682 accompanying S. 2408 (Comm. on Interior and
Insular Affairs).

CONGRESSIONAL RECORD, Vol. 118 (1972):

Mar. 6, considered and passed House.

Mar. 8, considered and passed Senate, amended, in lieu of S. 2408.

Mar. 16, House concurred in Senate amendment with an amendment.

Mar. 17, Senate agreed to House amendment.

APPENDIX 6

MEMBERS OF COMMISSION SINCE ITS ESTABLISHMENT

Edgar E. Witt (D-Texas) Appointed Chief Commissioner, April 10, 1947	April 10, 1947 - June 30, 1960
William M. Holt (R-Nebraska)	April 10, 1947 - June 30, 1968
Louis J. O'Marr (D-Wyoming)	April 10, 1947 - July 31, 1959
Arthur V. Watkins (R-Utah) Appointed Chief Commissioner, July 1, 1960	August 15, 1959 - Sept. 30, 1967
T. Harold Scott (D-Colorado)	July 1, 1960 - June 30, 1968
John T. Vance (D-Montana) Appointed Chairman March 19, 1968	December 19, 1967 -
Jerome K. Kuykendall (R-Virginia) Appointed Chairman June 11, 1969	December 19, 1967 -
Richard W. Yarborough (D-Texas)	December 28, 1967 -
Margaret H. Pierce (R-Wash., D.C.)	October 16, 1968 -
Theodore R. McKeldin (R-Maryland)	November 21, 1968 - May 1, 1969 (Interim Appointment)
Brantley Blue (R-Tennessee)	May 2, 1969 -

APPENDIX 7

HISTORY OF THE INDIAN CLAIMS COMMISSION

Beginning with the ratification of the Delaware Treaty in 1778 and continuing after the Constitution was adopted in 1789, the United States Government's general practice had been to bargain with Indian groups to obtain needed land rather than to take the land by force. These agreements usually were in the form of treaties. In March of 1871, however, Congress decided that thereafter all such agreements must be approved by both houses of Congress.

The many cessions of Indian lands to the United States form the basis of most of the alleged wrongs of fraud, duress, and unconscionable consideration for which today's Indian claimants seek redress. In addition, there are a considerable number of claims for compensation for the taking of lands and other Indian property without the consent of or payment to the Indians.

Prior to 1946, an Indian claim against the United States could be litigated only if the tribe obtained specific permission from Congress. The Court of Claims was given jurisdiction under these special jurisdictional acts; but often the Court's authority did not extend to all aspects of the tribe's claims, and many important matters went unresolved. To rectify this situation, Congress in 1946 passed the Indian Claims Commission Act (Public Law 79-726). This act created a judicial body--the Indian Claims Commission--expressly to resolve the large residue of Indian claims accruing prior to August 13, 1946. It also enlarged the scope of the claims which Indians could bring against the Government; and it specified a cut-off date of August 13, 1951, for the filing of all claims. The U. S. Court of Claims was given continuing jurisdiction over a narrower class of claims accruing after August 13, 1946.

Under the 1946 Act the Commission was given ten years to adjudicate all cases; but an initial 370 petitions evolved into 611 complex dockets and it was soon apparent that more time would be needed. It also became clear over a period of time that a larger Commission and staff, and improved procedures, would be needed if all of the claims were to be disposed of within a reasonable period. Congress therefore increased the Commission membership from three to five in 1967 and authorized substantial staff increases in Fiscal Years 1970 and 1971; and the Commission instituted a number of procedural changes designed to expedite the work. In Fiscal Year 1972 the life of the Commission was extended for another five year period, to April 10, 1977, with the provision that any cases still pending at that time were to be transferred to the United States Court of Claims.

NATURE OF THE COMMISSION'S WORK

As stated previously, most of the claims seek compensation for lands acquired by the United States by treaty, statute, or otherwise. Additional

claims include those arising under the Constitution, laws of the United States, Executive Orders of the President, claims sounding in tort or contract, and those which demand an accounting by the United States of its management of Indian property and money. In general the claims set forth wrongs alleged to have been inflicted upon Native Americans by a rapidly expanding and technologically more advanced group of people who required more and more land. The United States is represented in all cases by attorneys in the Department of Justice, and the claimants are represented by private attorneys of their choice whose contracts are approved by the Secretary of the Interior, or his authorized representative. If the Commission determines that the United States is liable, it awards to the Indian claimants whatever amounts it finds they are entitled to under the evidence and applicable law, less any consideration paid, less allowable offsets and less payments on the claim.

Land cases are normally tried in three phases, title, value, and offsets, although there may be preliminary issues for decision relating to the identity of the parties plaintiff and their capacity to sue. In the title phase, the Indian plaintiffs must show that they had a compensable property interest in the land which is the subject matter of the suit. In most of these cases the lands involved were held by the Indian tribes under what is known as aboriginal or Indian title, which is based on continuous tribal use and occupancy of a definable area of land "for a long time" prior to the date it was ceded or taken. Proof of land use and occupancy in such cases usually involves detailed ethnological and historical facts, and a great amount of evidence is received in the form of expert testimony. There are other land cases in which the Indian tribes held their lands under what is called recognized or reservation title resulting from Governmental action.

In the value phase of the cases, the Commission receives evidence as to the fair market value of the land at the date of its acquisition by the United States. The evidence on value is generally presented to the Commission in reports of land appraisers and other experts hired by the plaintiffs and by the United States. The value of or the amount of the consideration paid for the land must also be determined. Since consideration often was stated in terms of goods and services to be furnished by the United States, other lands in lieu of lands relinquished, limited and permanent annuities (later commuted in some instances), as well as in fixed amounts of money, the task of placing an accurate value on the consideration paid can be difficult and complex. If the Commission finds that the United States is liable, an interlocutory order is entered awarding a fixed amount to the claimant subject to the deduction of allowable offsets.

After liability has been established and the amount thereof has been stated in the interlocutory award, the United States is entitled to present for the Commission's consideration all gratuitous offsets which it claims are allowable against the award. Offsets normally consist of gifts of property or expenditures of money for the benefit of the Indian tribe which

were made voluntarily on the part of the United States. The Indian Claims Commission Act provides, however, that some gratuitous expenditures are not offsettable, such as monies spent for removal of Indians from one place to another at the request of the United States, or for agency or other administrative purposes or for educational and health or highway purposes. Any offsets allowed are deducted from the interlocutory award, and a final judgment in favor of the Indians is entered.

Either party may appeal to the United States Court of Claims from an interlocutory determination establishing the liability of the United States as well as from any final determination. Thereafter, either party may file a petition for a writ of certiorari to the Supreme Court of the United States seeking review of the decision of the Court of Claims.

Some cases involve too many collateral issues to fit the format of the typical case described above. Others are disposed of following the first or second phase of the litigation. Many, however, are processed through all three phases. Then, if the exact measure of the attorney fees has not been prescribed by the contract between the plaintiff and its attorneys, or if the plaintiff has been represented by successive attorneys, the Commission must determine the proper amount of fees, not to exceed 10 percent of the final award, their allocation, if necessary, and the amount of expenses legally reimbursable out of the award.

In some cases the plaintiffs are seeking an accounting of the funds and property held and managed for the Indians by the Government. In these cases, the defendant must furnish a report of the amounts in tribal accounts during the period in question and the manner in which the tribal funds or properties were handled. If the plaintiff establishes that the account rendered is inadequate, the Commission will order a further accounting in conformity with its instructions. Once a proper accounting has been made and the issues are established through the plaintiff's exceptions to the accounting, the Commission may be in a position to render its decision on the merits of the claim, but in most accounting cases a hearing on the accounting issues is required.

After the Commission reports its final judgment to Congress in accordance with the Act, its jurisdiction over the Indian claim ends. The manner in which judgment funds are paid or made available to the successful claimants is determined after hearings participated in by the interested parties. The Bureau of Indian Affairs, U. S. Department of the Interior, handles the distribution of the awards subject to Congressional review and appropriation.

INDIAN CLAIMS COMMISSION

SUMMARY OF INDIAN CLAIMS CASES ON DECEMBER 31, 1974

CASES FILED	<u>Number of Dockets</u>
Received through August 13, 1951.....	370
Causes severed from original claims and redocketed as separate claims.....	<u>243</u>
Total docketed.....	613
CLAIMS DISPOSED OF	
By awards certified to the Treasury Department totaling \$533,696,287.83.....	250
By orders of dismissal.....	<u>186</u>
Total disposed of.....	<u>436</u>
CLAIMS PENDING	<u>177</u>

SUMMARY OF THE STATUS OF PENDING INDIAN CLAIMS

Pending before the Court of Claims on appeal or involved
in appeals from Commission decisions:

Cases with final awards totaling \$27,105,556.38 (Dockets 18-R, 73 and 151, 83, 158, 197, 206, 208, 231, and 363 on one of four causes).....	9
Cases with interlocutory decisions entered (Dockets 13-E, 13-F, 15-E, 15-I, 15-N, 15-O, 15-P, 15-Q, 15-R, 22-G, 27, 27-B, 27-E, 29-C, 29-D, 29-E, 29-G, 29-L, 29-M, 29-N, 29-O, 29-P, 59, 64, 64-A, 74-B, 120, 128, 130, 133-A, 133-B, 133-C, 139, 141, 182, 182-A, 184, 196, 202, 229, 252, 302, 306, 308, 309, 310, 326-A, 326-C, 326-J, 335, 338, 354, 355, 356, and 357-A).....	55
Cases with orders dismissing the plaintiffs' claims (Dockets 13-G, 18-F, 18-J, 18-K, 18-L, 18-M, 40-F, 73-B, 89, 140, 209, 280, 341-C, and 341-D).....	<u>14</u>
Total before the Court of Claims.....	<u>78</u>

<u>Pending before the Supreme Court on petition for writ of certiorari to the Court of Claims or having time running within which to petition for such writs (Dockets 74 and 332-C with interlocutory decisions, and Docket 204 with final dismissal order).....</u>	<u>3</u>
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<u>Pending under the Commission's jurisdiction (Other dockets in various stages of litigation as indicated in the accompanying report).....</u>	<u>96</u>
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December 31, 1974

PENDING INDIAN CLAIM CASES

Explanation of symbols: The letter "x" marks the phase or phases in which the case is pending before the Commission. 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-E	Chippewa, Saginaw. Before the Court of Claims involved in appeals from decision on land title issues in this and 9 other consolidated cases.					Sep 1976
13-F	Chippewa, Saginaw. Before the Court of Claims involved in appeals from decision on land title issues in this and 10 other consolidated cases.					Dec 1976
13-G	Chippewa, Saginaw. On appeal in the Court of Claims from dismissal order, and decision on land title issues in this and 12 other consolidated dockets.					Sep 1975
15-C	Potawatomi, Prairie, et al.		x c b			Mar 1976
15-D	Potawatomi, Prairie, et al. Set for trial of valuation and consideration issues to commence on January 6, 1975.		x c			Jun 1976
15-E	Potawatomi, Prairie, et al. On appeal in the Court of Claims from decision on land title issues in this and 12 other consolidated dockets.					Sep 1976
15-I	Potawatomi, Prairie, et al. On Appeal in Court of Claims from decision on land title issues in this and 10 other consolidated cases.					Dec 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
5-L	Potawatomi, Prairie, et al. Proceeding in consolidation with Dockets 29-I and 216. Issues in respect to the value of the lands in suit and the consideration paid for them are set for trial on July 21, 1975.		x c			Dec 1976
5-N	Potawatomi, Prairie, et al. On appeal in the Court of Claims with Dockets 15-O, 15-Q, 15-R, 128, 309, 310 from, inter alia, the Commission's determination in these dockets and Dockets 29-L, 29-M, 29-O, and 29-P, consolidated therewith, that it was the Potawatomi Tribe or Nation as a single landowning entity which held title to the Potawatomi lands ceded by the Treaties of October 16, 1826, September 20, 1828, October 26, 1832, and October 27, 1832, rather than the Potawatomi groups who were parties to those treaties.					Sep 1976
5-O	Potawatomi, Prairie, et al. See comments under 15-N, above.					Sep 1976
5-P	Potawatomi, Prairie, et al. This case is pending on appeal no. 6-73 in the Court of Claims with Dockets 306 and 29-N from the Commission's determination that the Potawatomi interest in certain lands in Illinois involved in the claims in Dockets 15-P, 306, and 29-N was held by the Potawatomi Tribe or Nation rather than the Potawatomi of the Prairie and Kankakee, and from the Commission's 1972 decision on the Potawatomi political structure. The Court affirmed the Commission's decision on December 18, 1974. Time is running within which a rehearing may be sought from the Court.					Mar 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
15-Q	Potawatomi, Prairie, et al. Same comment as under 15-N, above.					Sep 1976
15-R	Potawatomi, Prairie, et al. Same comment as under 15-N, above.					Sep 1976
18-D	Chippewa, Bois Forte. Set for trial of offsets on February 18, 1975.				x	Sep 1975
18-F	Chippewa, Bay Mills (Sault Ste. Marie Bands). On appeal in the Court of Claims from the Commission's dismissal order and related determinations.					Jan 1976
18-J	Chippewa, Red Lake. Expiration of appeal time from an order dismissing this case is stayed by its involvement in appeals in the Court of Claims from a decision on land title issues in this and 4 other consolidated cases.					Jul 1975
18-K	Chippewa, Red Lake. Expiration of appeal time from an order dismissing this case is stayed by its involvement in appeals to the Court of Claims from a decision on land title issues in this and 10 other consolidated cases.					Jul 1975
18-L	Chippewa, Red Lake. Expiration of appeal time from an order dismissing this case is stayed by its involvement in appeals to the Court of Claims from a decision on land title issues in this and 9 other consolidated cases.					Jul 1975
18-X	Chippewa, Red Lake. On appeal in the Court of Claims from dismissal order, and decision on land title issues in this and 12 other consolidated dockets.					Sep 1975

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Page 4	
						Projected Completion Date	Completion Date
18-R	Chippewa, Bay Mills (Sault Ste. Marie Bands). On appeal in the Court of Claims from final award of \$15,000.00 and related determinations.		x s				Jul 1975
18-S	Chippewa, Minnesota on behalf of Mississippi and Lake Superior Bands.						Dec 1975
18-U	Chippewa, Minnesota for Lake Superior Bands. Plaintiff's motion for rulings on the defendant's claim for offsets against an interlocutory award of \$3,250,000.00 is pending. Further trial of offset issues may be required after issuance of the rulings.				x		Sep 1975
19	Chippewa, Minnesota. This accounting case and 2 consolidated with it in Dockets 189-A and 189-B are proceeding together. Some issues have been decided. Others are in process of being framed.			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. Submitted for decisions on remanded title and liability issues and a motion to dismiss applications to intervene.	x s					Sep 1976
22-G	Mescalero Apache, et al. On appeal in the Court of Claims from decision on certain accounting issues.						Apr 1977
22-H	San Carlos Apache, et al. Accounting issues arising from defendant's management of plaintiffs' funds set for trial on Nov 3, 1975. Issues relating to properties other than funds are in process of being framed.			x			Apr 1977
27	Delaware. Before the Court of Claims involved in appeals from decision on land title issues in this and 10 other consolidated cases.						Dec 1976

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Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
27-B	Delaware. On appeal in the Court of Claims from decision on land title issues in this and 12 other consolidated dockets.					Sep 1976
27-E	Delaware. On appeal in the Court of Claims from decision on land title issues in this and 9 other consolidated cases.					Sep 1976
28	Potawatomi, Hannahville, et al. Held in abeyance pending outcome of appeals to the Court of Claims involving the Commission's decision on the question of the political structure of the Potawatomi Indians.			x		Apr 1977
29-A	Potawatomi, Hannahville, et al.		x c b			Mar 1976
29-B	Potawatomi, Hannahville, et al. Set for trial of valuation and consideration issues to commence on Jan 6, 1975.		x c			Jun 1976
29-C	Potawatomi, Hannahville, et al. On appeal in the Court of Claims from decision on land title issues in this and 12 other consolidated dockets.					Sep 1976
29-D	Potawatomi, Hannahville, et al. Before the Court of Claims involved in appeals from decision on land title issues in this and 9 other consolidated cases.					Sep 1976
29-E	Potawatomi, Hannahville, et al. On appeal in the Court of Claims from decision on land title issues in this and 4 other consolidated cases.					Dec 1976
29-G	Potawatomi, Hannahville, et al. Before the Court of Claims involved in appeals from decision on land title issues in this and 10 other consolidated cases.					Dec 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability of Title	Value	Accounting	Offsets	Projected Completion Date
29-I	Potawatomi, Hannahville, et al. Proceeding in consolidation with Dockets 15-L and 216. Issues in respect to the value of the lands in suit and the consideration paid for them are set for trial on July 21, 1973.		x c			Dec 1976
29-L	Potawatomi, Hannahville, et al. Before the Court of Claims involved in the appeal mentioned under Docket 15-N, above.					Sep 1976
29-N	Potawatomi, Hannahville, et al. Same comment as under 29-L, above.					Sep 1976
29-N	Potawatomi, Hannahville, et al. Before the Court of Claims involved in the appeal mentioned under Docket 15-P, above.					Mar 1976
29-O	Potawatomi, Hannahville, et al. Before the Court of Claims involved in the appeal mentioned under Docket 15-N, above.					Sep 1976
29-P	Potawatomi, Hannahville, et al. Same comment as under 29-O, above.					Sep 1976
40-F	Ottawa. On appeal in the Court of Claims from dismissal order, and decision on land title issues in this and 12 other consolidated dockets.					Sep 1975
59	Chippewa, Saginaw. On appeal in the Court of Claims from decision on land title issues in this and 4 other consolidated cases.					Dec 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability of Title	Value	Accounting	Offsets	Projected Completion Date
60-A	<p>MaKah. Trial was had in Oct 1974 on the question of the defendant's liability arising from an alleged promise to supply plaintiff with fishing gear and other equipment. Briefs of the parties on issues involved in this matter, and as to consideration paid for the land in suit are awaited. The parties have agreed on the value of the land.</p>	x b				Mar 1976
64	<p>Shamnee. On appeal in the Court of Claims from decision on land title issues in this and 12 other consolidated dockets.</p>					Sep 1976
64-A	<p>Shawnee. On appeal in the Court of Claims from decision on land title issues in this and 10 other consolidated cases.</p>					Dec 1976
69	<p>Navajo. This case and 2 other Navajo cases in Dockets 299 and 353 are proceeding together. Some issues have been decided, others are in process of being framed. Defendant has been ordered to supplement its accounting in certain respects. Pending are motions by the plaintiff to amend its petitions and for rehearing of issues ruled on by the Commission's decision of Aug 23, 1974, in the consolidated dockets, and the defendant's motion for entry of final judgment of dismissal as to certain claims originally asserted in Docket 69.</p>			x c		Apr 1977
71	Potawatomi, Citizen, et al.		x c b			Mar 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
73	<p>Seminole Indians of Florida. This case is before the Court of Claims involved in an appeal by the Creek Nation East of the Mississippi, plaintiff in Docket 280, from the Commission's order of Sep 13, 1974, dismissing the claims of the Creek Nation East in Docket 280 and severing that docket from consolidation with Seminole Dockets 73 and 151. A remand directive by the Court of Claims in its decision on prior appeals from a final award of \$12,262,780.63 entered on the Seminole Florida land claim in consolidated Dockets 73 and 151 on Oct 22, 1970, requires the Commission to furnish more specific findings and reasoning as to its valuation of the lands involved.</p>					Sep 1976
73-A	<p>Seminole Indians of Florida. The claim designated as Count I in the amended petition in this case was severed from this docket and assigned Docket 73-B by the Commission's order of Jan 16, 1974. The remaining claim in Docket 73-A--alleged as arising from the exchange of a 99,200 acre reservation in Monroe County, Florida, for a 104,000 acre reservation in Broward County, Florida--is to be set for trial of land valuation issues after disposition of a pending motion relating to the date of valuation of the lands in suit.</p>		x			Dec 1976
73-B	<p>Seminole Indians of Florida. The claim in this case was severed from Docket 73-A during 1974, as indicated in comments under 73-A, above. This case is based on allegations of recognized title to a tract of some 5,000,000 acres in southern Florida sometimes referred to as "Macomb's Reservation." It is pending before the Court of Claims on appeal from the Commission's order of dismissal and related determinations.</p>					Dec 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
74	Sioux Nation. Time is running within which the Supreme Court may be petitioned for certiorari review of a decision by the Court of Claims on cross appeals (assigned Appeal No. 13-72) from the Commission's determinations in respect to land title and related issues in this case and a Yankton Sioux case in Docket 332-C.					Dec 1976
74-B	Sioux Nation. On appeal before the Court of Claims from the Commission's interlocutory decision of Feb 15, 1974, on valuation and liability issues.					Jul 1976
80-A	Mission Indians of California, et al. After submission to the Commission for its decision on liability issues, the record in this case was reopened on plaintiffs' motion for receipt of additional evidence. Additional documentary evidence was adduced in behalf of the plaintiffs and is before the Commission for rulings on defendant's objections thereto.	x				Dec 1976
80-B	Soboba Band of Mission Indians. The Soboba claims are proceeding separately in Docket 80-A from those of the other claimants. The projected completion date of the Soboba claims is Jul 1976.	x s				Dec 1976
83	Mission Indians of California, et al. Proceedings have been postponed pending outcome of Federal Court suit. No exceptions to defendant's accounting have been filed. Sac and Fox Tribes. On appeal before the Court of Claims from the Commission's final award of \$1,969,585.00 and other determinations.			x		Jul 1975

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Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
87-A	Northern Paiute Nation, et al. Set for trial on Jan 27, 1975 on the issue of defendant's liability for depriving Pyramid Lake Reservation of water. Accounting issues are set for trial on June 9, 1975. The Commission's determination that defendant is liable for resources removed from the Nevada portion of the Paviotso Tract prior to extinguishment of plaintiffs' aboriginal title on Dec 31, 1862 was reversed by the Court of Claims on Jan 23, 1974, and this part of the case was remanded to the Commission for further proceedings consistent with the Court's opinion.	x		x		Jan 1977
89	Six Nations, et al. On appeal in the Court of Claims from dismissal order, and decision on land title issues in this and 12 other consolidated dockets.					Sep 1975
100-B	Klamath, Modoc, and Yahooskin. Accounting issues arising from alleged mismanagement of plaintiffs' forest and sawmill operations have been tried and are to be briefed by the parties. Settlement negotiations are being had as to issues involved in the plaintiffs' other accounting claims.			x b		Jun 1976
102	Papago. Pending on defendant's motion for summary judgment filed in Nov of 1974 after the defendant had supplied a supplement to its accounting report.			x		Apr 1977

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
113	Chippewa, Turtle Mountain. This case and cases consolidated with it in Dockets 191, 221 and 246 are set for trial on Aug 26, 1975, of valuation and consideration issues in respect to claims arising from the McCumber Agreement of 1892 involving lands in North Dakota. 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.		x c			Sep 1976
115	Sioux of Crow Creek Reservation, S. D. Some issues have been decided and some are set for trial on Feb 11, 1975. Defendant's motions of Dec 20, 1974, for rehearing of issues decided on Nov 22, 1974, and to vacate trial date are pending.		x			Dec 1976
116	Sioux of Lower Brule Reservation, S. D. Some issues have been decided and some are set for trial on Feb 11, 1975. Defendant has been ordered to supplement its accounting in certain respects. Defendant's motions of Dec 20, 1974, for rehearing of issues decided on Nov 22, 1974, and to vacate order for supplemental accounting and trial date are pending.		x			Dec 1976
117	Sioux of Pine Ridge Reservation, S. D. Some issues have been decided and some are set for trial on Feb 10, 1975. Plaintiff has been ordered to file certain exceptions, if it has such, and defendant has been ordered to supplement its accounting in certain respects. Defendant's motions of Dec 23, 1974, for rehearing of issues decided on Nov. 22, 1974, and to vacate trial date are pending.		x			Dec 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability of Title	Value	Accounting	Offsets	Projected Completion Date
118	Sioux of Rosebud Reservation S. D. Some issues have been decided and some are set for trial on Feb 10, 1975. Plaintiff has been ordered to file certain exceptions, if it has such, and defendant has been ordered to supplement its accounting in certain respects. Defendant's motions of Dec 23, 1974, for rehearing of issues decided on Nov 22, 1974, and to vacate trial date are pending.			x		Dec 1976
119	Sioux of Standing Rock Reservation, S. D. Some issues have been decided, some are set for trial on Jan 16, 1975, and some are in the process of being framed by memoranda required of the parties by the Commission's order of Nov 21, 1974.			x		Dec 1976
120	Wyandotte. On appeal in the Court of Claims from decision on land title issues in this and 12 other consolidated dockets.					Sep 1976
124-B	Miami of Indiana. This case and an identical case of the Miamis of Oklahoma in Docket 254 are to be tried on land valuation issues with certain Potawatomi cases after the Potawatomi cases, which are on appeal before the Court of Claims, are returned to the Commission's jurisdiction. Substantial portions of the lands involved were jointly owned by the Miamis and Potawatomis.		x c			Mar 1976
128	Potawatomi, Citizen, et al. On appeal in the Court of Claims. See comments on the appeal under Docket 13-N, above.					Sep 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
130	Miami of Indiana. On appeal in the Court of Claims from decision on land title issues in this and 12 other consolidated dockets.					Sep 1976
133-A	Ottawa. On appeal in the Court of Claims from decision on land title issues in this and 9 other consolidated cases.					Sep 1976
133-B	Ottawa. On appeal in the Court of Claims from decision on land title issues in this and 4 other consolidated cases.					Dec 1976
133-C	Ottawa. On appeal in the Court of Claims from decision on land title issues in this and 10 other consolidated cases.					Dec 1976
134	S'Klallam (Clallam). Awaiting plaintiff's reply to defendant's claim for offsets against an interlocutory award of \$400,820.00. Plaintiff allowed its claim attorney's contract of employment to expire, and is said to be negotiating with another attorney to complete the prosecution of this case.				x	Sep 1975
139	Wyandotte. On appeal in the Court of Claims from decision on land title issues in this and 9 other consolidated cases.					Sep 1976
140	Wyandotte. On appeal in the Court of Claims from dismissal order, and decision on land title issues in this and 4 other consolidated cases.					Jul 1975
141	Wyandotte. On appeal in the Court of Claims from decision on land title issues in this and 10 other consolidated cases.					Dec 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Page 14
						Projected Completion Date
151	Seminole Indians of Oklahoma. Same comment as under Docket No. 73, above.					Sep 1976
158	Sac and Fox Tribes. On appeal in the Court of Claims from the Commission's final award in the sum of \$3,530,578.21 and other related determinations. The claim of the Iowa Tribes in this docket was completed with an award that has been reported to the Congress.					Jun 1975
169	Creek Nation. Value trial set for Jun 26, 1975.		x			Apr 1976
178-A	Confederated Tribes of Colville Reservation. Accounting claim for period beginning Jul. 1, 1951. Awaiting defendant's post Jun 30, 1951, accounting and information from plaintiff on continuing wrongs.			x		Apr 1977
179-A	Nez Perce. Same comment as under Docket 178-A, above.			x		Apr 1977
181-C	Confederated Tribes of Colville Reservation. Submitted to the Commission for its decision on defendant's motion for summary judgment or determination of issues of law, and plaintiffs' motion for determination of issues of law.	x				Sep 1976
182	Apache, Fort Sill, Chiricahua, and Warm Springs. Claims for an accounting of funds and properties and for compensation for reservation lands and resources. Before the Court of Claims on appeal from interlocutory determinations by the Commission.					Apr 1977

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
182-A	Apache, Fort Sill, Chiricahua, and Warm Springs. Before the Court of Claims on appeal from the Commission's interlocutory award of \$10,830,860.40 on plaintiffs' claims for damages and compensation for removal of resources from, and other misuse of, plaintiffs' aboriginal lands in Arizona and New Mexico prior to extinguishment of the Indians' aboriginal title. (These claims were severed from the other claims in Docket 182 and assigned Docket 182-A pursuant to the Commission's order of June 19, 1974.)					Jul 1976
184	Fort Peck Indians. On appeal before the Court of Claims from interlocutory decisions on issues involved in plaintiffs' accounting claims.					Apr 1977
188	Chippewa, Minn., et al. Proceeding in consolidation with Docket No. 189-C. Some issues have been decided (several by an interlocutory decision dated Nov 7, 1974), others are being framed.			x c		Apr 1977
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
189-C	Chippewa, Red Lake. Consolidated for all purposes with Docket No. 188. See comments under Docket No. 188, above.			x c		Apr 1977

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
191	Chippewa, Little Shell. This case and cases consolidated with it in Dockets 113, 221 and 246 are set for trial on Aug 26, 1975, of valuation and consideration issues in respect to claims arising from the McCumber Agreement of 1892 involving lands in North Dakota. 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 Dockets 18-A and 113. Another part of this case relating to land in Montana was dismissed by the Commission's order of Apr 5, 1974, after trial of land title and related issues in consolidation with claims asserted in Docket 221-B, which were also dismissed by the same order.		x c			Sep 1976
196	Hopi. On appeal before the Court of Claims from the Commission's determinations of land title and related issues in this case and an overlapping part of the Navajo claim in Docket No. 229. In respect to a general accounting claim included in a separate count in the Hopi petition, the case is pending on, inter alia, plaintiff's motion for an order requiring defendant to supplement its accounting report.			x (Count 9)		Dec 1976
197	Nisqually. On appeal before the Court of Claims from the Commission's final award of \$80,013.07.					Mar 1976
202	Delaware, Absentee. On appeal in the Court of Claims from decision on land title issues in this and 9 other consolidated cases.					Sep 1976

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Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
203	Puyallup. Plaintiff allowed its claim attorney's contract of employment to expire. Valuation issues are under study by the Commission's investigation division.		x			Apr 1977
204	Seminole Nation. Pending before the Supreme Court on petition for certiorari review of decision by the Court of Claims affirming the Commission's dismissal of this case.					Jul 1975
206	Squaxin. On appeal before the Court of Claims from the Commission's final award of \$7,661.82.					Mar 1976
208	Steilacoom. On appeal before the Court of Claims from the Commission's final award of \$9,146.32.					Mar 1976
209	Sac and Fox Tribes. On appeal before the Court of Claims from the Commission's order dismissing this case.					Jun 1975
212	Wyandotte.		x b			Nov 1975
213	Wyandotte		x b			Nov 1975
216	Potawatomi, Citizen, et al. Proceeding in consolidation with Dockets 15-L and 29-L. Issues in respect to the value of the lands in suit and the consideration paid for them are set for trial on Jul 21, 1975.		x c			Dec 1976
221	Chippewa Cree and Little Shell. This case and cases consolidated with it in Dockets 113, 191 and 246 are set for trial on Aug 26, 1975, of valuation and consideration issues in respect to claims arising from the McCumber Agreement of 1892 involving lands in North Dakota.		x c			Sep 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
221-A	Chippewa Cree, et al. The claim involved is being determined in other cases. Dismissal appears likely.	x				Dec 1975
221-C	Chippewa Cree, et al. Plaintiffs' exceptions to defendant's accounting have been answered. The Commission is following up on its suggestion that the parties arrange for pre-trial proceedings for the purpose of, inter alia, narrowing the issues to be tried and providing guidelines for production of evidence.			x		Dec 1976
226	Caddo Tribe of Oklahoma, 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 that was not involved in the value decision, 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 and the claims of the intervenors. The case is submitted to the Commission for its decision on those issues and on a motion by the Defendant that the Commission dismiss the petitions of the intervenors. The lands involved in Docket 226 extend over portions of southeastern Oklahoma, east Texas, southwestern Arkansas, and northwestern Louisiana.	x s				Sep 1976

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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. Plaintiffs' request for certiorari review of decision by the Court of Claims affirming the Commission's determinations concerning the date of extinguishment of plaintiffs' aboriginal title was denied by the Supreme Court on Nov 18, 1974. Trial of valuation and consideration issues is set for Nov 17, 1975.		x			Jul 1976
229	Navajo. Before the Court of Claims involved in the Hopi appeal mentioned under Docket 196, above. Docket 229 is to be set for trial of land valuation issues after the appeal is decided.					Dec 1976
231	Sac and Fox Tribes. On appeal in the Court of Claims from the Commission's final award of \$943,799.79 and other determinations. The claim of the Iowa Tribes in this docket was completed with an award that has been reported to the Congress.					Jun 1975
235	Indians of Maricopa-Ak Chin Reservation, et al. Of 6 causes of action alleged in plaintiffs' petition all except the 6th, a general accounting claim, have been dismissed. Plaintiffs' response is awaited to defendant's motion for partial summary judgment dismissing certain of the plaintiffs' exceptions to defendant's accounting report.			x		Dec 1976

Page 20
Projected Com-
Pleition Date

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Pleition Date
236-A	Gila River Indian Community. This docket and Docket 236-B are proceeding together since both suits arose out of the placing of a relocation center for west coast evacuees on the plaintiff's reservation. Trial has been had on the issue of the amount of damages sustained by the plaintiff and an issue remanded by the Court of Claims involving the defendant's demand for credit for certain road expenditures. Plaintiff's reply brief on these issues was received on Dec 12, 1974.		x s		x s (in part)	Dec 1975
236-B	Gila River Indian Community. Same comment as under Docket 236-A, above.		x s		x s (in part)	Dec 1975
236-C	Gila River Pima-Maricopa Indian Community, et al. Tried during Aug 1974 on the question of whether Plaintiffs were deprived of the use of Gila River water they could have beneficially used, and if so whether defendant is liable for that deprivation. Plaintiffs have been granted additional briefing time.	x b				Aug 1976
236-D	Gila River Pima-Maricopa Indian Community, et al. Tried on liability issues in Dec 1974.	x b				Dec 1976
236-E	Gila River Pima-Maricopa Indian Community, et al. The initial liability phase was decided on Jan 10, 1974. Trial has been had as to the amount of damages sustained by plaintiffs. Plaintiffs' reply brief on damages was received on Oct 2, 1974.		x s			Dec 1975
236-F	Gila River Pima-Maricopa Indian Community, et al. Tried on liability issues in consolidation with Docket 236-I. Plaintiffs brief on those issues is awaited.	x c b				Nov 1975

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Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability of Title	Value	Accounting	Offsets	Projected Completion Date
236-I	Gila River Pima-Maricopa Indian Community, et al. Same comment as under 236-F, above.	x c b				Nov 1975
236-N	Gila River Pima-Maricopa Indian Community, et al. Claim for general accounting of defendant's management of funds and other property of the plaintiff. Some issues have been decided, others are in process of being framed. The Commission's interlocutory order of Nov 22, 1974, requires, inter alia, that the plaintiff make several of its accounting exceptions more specific and that the defendant supplement its accounting in certain respects.			x		Dec 1976
246	Chippewa, Pembina, et al. This case and cases consolidated with it in Dockets 113, 191 and 221 are set for trial on Aug 26, 1975, of valuation and consideration issues in respect to claims arising from the McCumber Agreement of 1892 involving lands in North Dakota.		x c			Sep 1976
247	Seminole Nation, Oklahoma. The Court of Claims affirmed in part the Commission's dismissal of this case, reversed the dismissal as to part of the case relating to abandoned railroad station reservations, that were vested in municipalities by the Act of Apr 26, 1906 (34 Stat. 137), and remanded this part of the case to the Commission for further proceedings to determine the number and location of any such reservations and fair compensation to the Seminole Nation for them. A retrial hearing on the remanded part is to be held on Jan 23, 1975.		x			Mar 1976

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Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
249	Choctaw Nation. Three of 4 specific accounting claims alleged in the petition (the 1st, 2d and 4th) have been dismissed leaving for determination the 3rd claim and a general accounting claim. Plaintiff's motion of Nov 11 1974, for an order directing defendant to produce certain accounting information is pending.			x		Dec 1976
250-A	Fort Belknap Indian Community (sometimes referred to as the Gros Ventre Tribe and Assiniboine Tribe of Fort Belknap Indians). General accounting claim. A decision dated Oct 18, 1973, in this case and a case consolidated with it in Docket 279-C decided some accounting issues, disposed of some complex motions and required, inter alia, that the defendant supplement its accounting in certain respects. Defendant's motion for a rehearing was denied. Dockets 250-A and 279-C are set for trial to commence on Sep 30, 1975.			x c		Apr 1977
252	Miami of Oklahoma. On appeal in the Court of Claims from decision on land title issues in this and 12 other consolidated dockets.					Sep 1976
254	Miami of Oklahoma. See comments under Docket 124-B, above.		x c			Mar 1976
272	Creek Nation, Oklahoma. After the Court of Claims affirmed the Commission's decision on title, trial was had of valuation and consideration issues. The attorneys for the parties are briefing those issues.		x b			Dec 1975

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability of Title	Value	Accounting	Offsets	Projected Completion Date
277	Creek Nation, Oklahoma. Similar case to that of the Seminoles in Docket 247. Proceedings stayed pending decision of the Court of Claims mentioned under Docket 247, above. A pretrial hearing on plaintiff's claim for fair compensation for railroad station reservations vested in municipalities by the Act of Apr 26, 1906 (34 Stat. 137) is to be held on Jan 23, 1975.		x			Mar 1976
279-C	Blackfeet and Gros Ventre. See comments under Docket 250-A, above.			x c		Apr 1977
279-D	Blackfeet. Accounting claims of the Blackfeet not asserted jointly with other plaintiffs in the consolidated proceedings in Dockets 279-C and 250-A were severed from those proceedings and assigned Docket 279-D by the Commission's order of Sep 25, 1974. These claims in Docket 279-D are set for trial of accounting issues on Sep 30, 1975, immediately after a trial set to commence on that date in Dockets 279-C & 250-A.			x		Apr 1977
280	Creek Nation East of the Mississippi. Trial of land title issues in this case was had in consolidation with the Seminole claim in Dockets 73 and 151 to the extent of the overlap between the Creek and Seminole Florida land claims. Docket 280 is on appeal in the Court of Claims from the Commission's order of September 13, 1974, dismissing all claims of the Creek Nation East in Docket 280 and severing Docket 280 from consolidation with Seminole Dockets 73 and 151.					Apr 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
283-B	Mohave, et al. Submitted for decision on plaintiffs' motion for a supplemental accounting and determination of certain questions of law and on defendant's motion to dismiss plaintiffs' trespass claim, which is a claim for removal of resources, including minerals, from plaintiffs' aboriginal lands prior to extinguishment of plaintiffs' aboriginal title.			x s		Dec 1976
291	Salt River Pima-Maricopa Indian Community, et al. Part of this case relating to a pipeline across plaintiff's reservation to the City of Phoenix, Arizona, has been dismissed. Issues to be decided in the remaining accounting claim are being framed. The Commission's order of Nov 22, 1974, dismissed some of the plaintiff's accounting exceptions and requires, inter alia, that the plaintiff make certain of its accounting exceptions more specific and that the defendant supplement its accounting report as to certain matters.			x		Jun 1976
295-A	Mohave Tribe of Indians of Arizona, California, and Nevada. Parker Dam Flood damage case. Trial has been had of valuation issues. Whether a further trial of such issues will be required depends upon, inter alia, the Commission's forthcoming rulings on pending motions by the plaintiff and the defendant.		x			Dec 1975
299	Navajo. See comments under Docket 69, above.			x c		Dec 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
300-A	Stockbridge and Munssee. After decision on liability, proceedings were stayed pending the outcome of an appeal to the Court of Claims in the Oneida case in Docket 301 involving essentially identical liability issues. The decision on that appeal, handed down on May 11, 1973, made necessary a further trial of liability issues in this case. The attorneys for the parties are briefing the issues heard in that trial.	x b				Jun 1976
301	Oneida Nation of New York, et al. Eight claims arising from New York land sales were asserted in the petition. Claims 1 and 2 relating to land sales prior to enactment of the Trade and Intercourse Act of July 1790 are proceeding separately from claims 3 through 7 involving land sales after the 1790 Act. The 8th Claim was dismissed on Jan 16, 1974. Claims 1 and 2 are submitted to the Commission for its decision on certain liability issues. Claims 3 through 7 are being briefed by the attorneys for the parties on certain remanded liability issues that were the subject of a trial before the Commission during May of 1974.	x b (claims 3-7) x s (claims 1-2)				Jun 1976
302	Ottawa. On appeal in the Court of Claims from decision on land title issues in this and 9 other consolidated cases.					Sep 1976
306	Potawatomi, Citizen, et al. Pending before the Court of Claims on appeal no. 6-73. See comments on this appeal under Docket 15-P, above.					Mar 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
308	Potawatomi, Citizen, et al. On appeal in the Court of Claims from decision on land title issues in this and 10 other consolidated cases.					Dec 1976
309	Potawatomi, Citizen, et al. On appeal in the Court of Claims from certain determinations by the Commission as stated in comments under Docket 15-N, above.					Sep 1976
310	Potawatomi, Citizen, et al. Same comment as under Docket 309, above.					Sep 1976
311	Potawatomi, Citizen, et al. Set for trial of valuation and consideration issues to commence on Jan 6, 1975.		x c			Jun 1976
313	Peoria, Kaskaskia. A portion of this claim was dismissed by the Commission's decision on land title issues in this and 14 other consolidated cases. The remaining portion of the case is set for trial of valuation and consideration issues to commence on Jan 6, 1975.		x c			Jun 1976
314-A	Peoria, Wea. Set for trial of valuation and consideration issues to commence on Jan 6, 1975.		x c			Jun 1976
314-B	Peoria, Wea. This case is to be tried on land valuation issues with certain Potawatomi cases after the Potawatomi cases, which are on appeal before the Court of Claims, are returned to the Commission's Jurisdiction. A substantial portion of the lands involved were jointly owned by the Potawatomis and Weas.		x 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
315	Kickapoo, Kansas. Set for trial on valuation and consideration issues to commence on Jan 6, 1975.		x c			Jun 1976
320	Quachan. After trial and briefing of land title issues, plaintiff 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. Further proceedings in this case are awaiting certain administrative determinations by the Secretary of the Interior.	x				Dec 1975
326-A	Te-Moak lands of Western Shoshone of Nevada. This is a general accounting case that is pending before the Court of Claims on cross appeals from the Commission's interlocutory decision of Oct 4, 1973, and decision of Apr 4, 1974, denying plaintiff's motion for rehearing.					Apr 1977
326-B	Confederated Tribes of Goshute Reservation. Set for trial of accounting issues on Apr 1, 1975.			x		Apr 1976
326-C	Shoshone-Bannock. This is a general accounting case that is on appeal in the Court of Claims from the Commission's order of Jan 16, 1974, in respect to defendant's liability for interest on certain trust funds of the plaintiff.					Apr 1977
326-J	Goshute Tribe, et al. On appeal before the Court of Claims from the Commission's interlocutory decision of Aug 9, 1973, and order of Nov 14, 1973, denying a rehearing. The decision of Aug 9, 1973, included interlocutory awards on the plaintiff's claims amounting to \$7,253,122.00, less any allowable offsets.					Apr 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
326-K	Shoshone, Te-Moak. An interlocutory award in the sum of \$26,154,000.00 has been entered on the plaintiff's claims. Submitted to the Commission for decisions on (1) defendant's claim for offsets against the interlocutory award, (2) a petition to stay proceedings and for leave to present an amended claim by the United Western Shoshone Legal Defense and Education Association and Frank Temoke, and (3) the Government's motion to dismiss the said petition.				x s	Sep 1975
332-C	Sioux, Yancton. Time is running within which the Supreme Court may be petitioned for certiorari review of a decision by the Court of Claims on cross appeals (assigned Appeal No. 13-72) from the Commission's determinations in respect to land title and related issues in this case and the case of the Sioux Nation in Docket 74.					Dec 1976
332-D	Sioux, Yancton. 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. Pending on plaintiff's motion that defendant be ordered to supplement its accounting report and on defendant's motions to dismiss plaintiff's cause for lack of jurisdiction and to strike portions of plaintiff's motion for supplemental accounting.	x		x		Apr 1977
335	Shawnee. On appeal in the Court of Claims from decision on land title issues in this and 12 other consolidated dockets.					Sep 1976

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Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
338	Delaware, Absentee, et al. On appeal in the Court of Claims from decision on land title issues in this and 12 other consolidated dockets.					Sep 1976
341-A	Seneca-Cayuga. Proceeding in consolidation with Docket 341-B. The Commission has determined that: (1) plaintiffs are entitled to recover the sum of \$42,021.12, less allowable offsets, if any, on their claim for the amount shown due by an accounting of funds held in trust for them by the defendant, and that (2) plaintiffs are not entitled to recover on the remaining part of their case which consists of a claim for damages resulting from defendant's alleged breach of provisions in two 1831 treaties in respect to the sale of their ceded lands to highest bidders at auction sales. Defendant has filed its claim for offsets against the interlocutory award of \$42,021.12. Plaintiffs' answer to this claim is awaited.				x	Jul 1975
341-B	Seneca-Cayuga. See comments under Docket 341-A, above.				x	Jul 1975
341-C	Seneca-Cayuga. On appeal in the Court of Claims from, inter alia, dismissal order, and decision on land title issues in this and 9 other consolidated cases.					Sep 1975
341-D	Seneca-Cayuga. On appeal in the Court of Claims from, inter alia, dismissal order, and decision on land title issues in this and 10 other consolidated cases.					Dec 1975

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Account-ing	Offsets	Projected Completion Date
342-C	Seneca Nation. Primarily a general accounting claim relating to rents and profits accruing from a number of leases of Seneca lands to railroads and other private parties. A documented motion in respect to the defendant's liability is awaited from the plaintiff. CSA has been requested by defendant's counsel to commence work on the special accounting that may be needed.			x		Dec 1976
343	Seneca Cayuga. Submitted to the Commission for its decision on the remanded issue of whether the Federal Government had knowledge of the land transactions involved between the Indians and the State of New York.	x s				Jan 1976
345	Papago		x s			Mar 1976
350-C	Three Affiliated Tribes of Fort Berthold Reservation. To be set for trial on issues in respect to the value of the lands involved after a forthcoming decision on the date of taking.		x			Jul 1976
350-D	Three Affiliated Tribes of Fort Berthold Reservation.		x s			Oct 1975
350-G	Three Affiliated Tribes of Fort Berthold Reservation. Submitted to the Commission for decisions on plaintiffs' motion for supplemental accounting and partial summary judgment, and defendant's motions to strike or dismiss certain of the plaintiffs' exceptions to defendant's accounting.			x		Dec 1976

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Projected Com-
pletion Date
Sep 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
352	Aleut Community of St. Paul Island. In 1973 the Court of Claims affirmed the Commission's dismissal of all claims in this docket and in an Aleut case in Docket 369, except the plaintiffs' claims for breach of fair and honorable dealings, and remanded both dockets to the Commission for further proceedings on the latter claims. Motions by the defendant in both dockets were disposed of by decisions entered in Oct of 1974. Counsel for the parties in both dockets are meeting with the Commissioner assigned to these cases on Jan 20, 1975, for a pretrial conference in respect to the claims for breach of fair and honorable dealings. The two dockets are to be set for trial after that conference.	x				
353	Navajo. Same comments as under Docket 69,			x c		Dec 1976
354	Pueblo of San Ildefonso. On appeal in the Court of Claims from the Commission's determinations in respect to lands held by aboriginal title and dates of extinguishment of such title. A claim for interest is awaiting the outcome of the appeals mentioned under Docket 357-A, below.					Oct 1976
355	Pueblo of Santo Domingo. Same comment as under Docket 354, above.					Oct 1976
356	Pueblo of Santa Clara. Same comment as under Docket 354, above.					Oct 1976
357	Pueblo of Taos. To be tried on value at same time as Dockets 354, 355, 356 and 358 if the parties are unable to reach a settlement of the valuation issues.		x			Oct 1976

Docket Number	Plaintiff Tribe, Band or Group, and Comments	Liability or Title	Value	Accounting	Offsets	Projected Completion Date
357-A	<p>Pueblo of Taos. On cross appeals in the Court of Claims from the Commission's determinations in respect to certain liability and valuation issues.</p>					Mar 1976
358	<p>Pueblo of Nambé. If settlement of land valuation issues is not agreed upon by the parties, this case will be set for trial of such issues at the same time as Dockets 354, 355, 356 and 357. A claim for interest is awaiting the outcome of the appeals mentioned under Docket 357-A, above.</p>		x			Oct 1975
363	<p>Lower Sioux Indian Community in Minn., et al. What amount to claims under four counts are under prosecution. Count 1, a claim for a general accounting. Submitted for decision on plaintiffs' motion for an order directing defendant to furnish certain data and information. April 1977 is the projected completion date for this count and the completion of Docket 363. Count 2, claim for just compensation for reservation land in North Dakota. On appeal in the Court of Claims from the Commission's final award of \$8,286,991.54, plus interest 5% per annum on the principal sum of \$1,888,162.46 from Jan 1, 1974, until paid, and related determinations. The projected completion date of this claim is Dec 1975. Count 3, claim for additional compensation for aboriginal lands alleged as arising under the Treaty of Feb 19, 1867 (15 Stat. 503) and an 1872 Agreement. Submitted for decision on land title issues. Projected completion date is Dec 1976, assuming plaintiffs are found to have a compensable interest in the land. Count 4, claim for compensation for aboriginal lands, a portion of Rhy's Acre 410 in South Dakota. Submitted for decision on land title and related issues. Projected completion date is Sep 1976.</p>	x s		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
364	Ottawa-Chippewa, Michigan. Plaintiffs' motion for summary determination, defendant's motion to strike plaintiffs' motion, defendant's motion to dismiss plaintiffs' 1st, 3d and 5th claims, and defendant's motion for partial summary judgment are pending, and are expected to be disposed of by a forthcoming decision prior to a pretrial conference in this case scheduled for Jan 14, 1975.			x		Dec 1976
369	Aleut Tribe, et al. See comments under Docket 352, above.	x				Sep 1976

Senator ABOUREZK. I want to welcome, as the first witness this morning from the U.S. Court of Claims, the Honorable Marion T. Bennett.

Judge BENNETT. I have with me Mr. Frank Peartree, the clerk of the U.S. Court of Claims.

Senator ABOUREZK. I would like to welcome both of you.

STATEMENT OF HON. JUDGE MARION T. BENNETT, U.S. COURT OF CLAIMS; ACCOMPANIED BY FRANK PEARTREE, CLERK OF THE U.S. COURT OF CLAIMS

Judge BENNETT. We thank the committee, Mr. Chairman, for the opportunity to appear this morning and hopefully to be of service to you in S. 876.

Let me express the regrets of our Chief Judge Wilson Cowen whose commitment to be out of town was made prior to this hearing date.

I appear in his stead and hope I will be able to answer your questions. We have a letter from Chairman Jackson under date of April 8, suggesting as appropriate for discussion, at this time, three things:

- (1) The court's workload,
- (2) The matter of orderly transition of the Commission's business to the court on dissolution of the Commission, and
- (3) The priority that the court would give to Indian dockets upon their transfer to us.

As you may know, Chief Judge Cowen appeared before the House committee on April 10 and his statement, which has been supplied to you, answers the first two of these questions. I will be happy, however, to address the other question, and as to the first two, to submit his statement for the record or read it, if you have not had a chance to do so.

Senator ABOUREZK. It will be accepted for the record.

Judge BENNETT. Do you have any questions with relation to the first two points that Judge Cowen undertook to discuss in his prepared statement?

Senator ABOUREZK. I thought you would have your own statement. I retract what I said about inserting this in the record.

Judge BENNETT. The only reason I do not have a statement of my own is, I cooperated with him. Our views on this are harmonious and unanimous.

Senator ABOUREZK. I understand, even though you have taken part in this, you want to give the chief judge credit for it.

Judge BENNETT. I do and I am sure he would do a better job with this, if he were here, than I. The first inquiry concerns the coordination between the Commission and the court for the transfer of the files and records of the Commission together with the contemplated procedure for making the transfer.

By invitation of the Commission, our clerk, Mr. Peartree here, recently visited the offices of the Commission to determine the volume of material that will be involved in the transfer, the amount of space that would be required to house it and other related matters.

As a result of his visit and his discussions with representatives of the Commission, we do not foresee any problems that would prevent a smooth transfer of the records and files.

The physical transfer will involve the movement of file cabinets containing files in the cases, docket books, library books, and a few miscellaneous materials.

The Court of Claims will be able to provide sufficient space in which to store the material transferred to it. Section 23 of Public Law 92-265 provides that the Court of Claims shall adjudicate the transferred cases in accordance with section 2 of the Indian Claims Commission Act which is found in 25 U.S.C., but no reference is made to several other provisions of the Indian Claims Commission Act which should probably be made applicable to the transferred cases, as well as to other amendments to Public Law 92-265, which appear to be desirable with respect to the transferred cases; 25 U.S.C., section 70n provides that unless the amount of the fees to be paid the attorneys for the Indians is stipulated in an approved contract, the amount of such fees shall be fixed by the Commission.

It is necessary that provision be made somewhere for the fixing of such fees not provided for in the contracts, and it is accordingly recommended that Public Law 92-265 be amended to make section 70n applicable to the transferred cases; 25 U.S.C., sections 70n-1, 70n-2, 70n-3, 70n-4, 70n-5, 70n-6, and 70n-7 all relate to the establishment of a fund from which loans may be made by the Secretary of the Interior to Indian tribes and bands for their use in obtaining expert assistance, expert assistance, exclusive of attorneys, for the preparation and trial of their cases.

Representatives of the Indian Claims Commission have suggested, and we agree, that these provisions should also be made applicable to the transferred cases; 25 U.S.C., section 70u provides that, after the Indian Claims Commission reports its final determination on any claim on behalf of the Indians, the report shall have the effect of a final judgment of the Court of Claims.

Probably, it would be safe to assume that this provision would not be applicable to the transferred cases but, in order to avoid any doubt or confusion that may arise in the future on this point, we suggest that Public Law 92-265 be amended to provide that final judgments on the transferred cases shall be paid in the same way as are other judgments rendered by the Court of Claims; 25 U.S.C., section 70s, relating to review by the Supreme Court of decisions rendered by the Court of Claims on appeals from the Indian Claims Commission, provides that a determination on questions of law by the court shall be subject to review by the Supreme Court.

It is probable that this section, like section 70u, would not apply to the transferred cases. However, to avoid any questions that might arise in the future, we suggest that Public Law 92-265 be amended to provide that review by the Supreme Court of the transferred cases shall be the same as now provided by law for other decisions of the Court of Claims.

Exhibit B, attached hereto, contains a draft of the proposed amendments to Public Law 92-265, which are referred to above.

Second, the chairman's letter also requested us to submit information on the caseload of the Court of Claims and the extent of the backlog.

As shown by exhibit A, attached hereto, the Court of Claims had pending on October 1, 1974, the beginning of the court year, a total of 2,093 cases involving 7,882 plaintiffs.

The attachment also shows the number of cases pending in most of the major categories of the court's jurisdiction. The judges' docket, which covers cases that are to be heard and decided by the seven judges of the court, is in a near-current condition with practically no backlog. We are very proud of that. We are one of the few Federal courts that has.

The cases to be decided by the judges are scheduled for argument before the court or are assigned to a panel for a decision in chambers very soon after the final briefs of the parties are filed.

Furthermore, there are very few cases in which a decision is not rendered within 3 months after submission. However, there is a backlog of cases pending before the trial commissioners, who serve as the trial judges of the court and try all cases in which testimony is offered by the parties.

We define a backlog to include those cases which have been pending for a period of 3 years or more. As of September 30, 1974, there was a backlog of 587 cases pending on the dockets of the trial commissioners.

The backlog represents about 28 percent of the total cases pending in the court. However, of this total, only 94 are in the category of regular cases which will probably have to be tried.

In the remaining 493, decisions have been rendered in certain test cases. There is a reasonable probability that many or most of this related large group of cases will eventually be settled on the basis of the decisions in the test cases. Permit me to add here with reference to backlogs, a case may be in backlog not by reason of fact that no one is going to work on it. We always have someone willing to work on it, but a case may grow old because of considerations over which the court has no control.

Senator ABOUREZK. Would that be because perhaps lawyers might not be ready?

Judge BENNETT. Yes; or they are trying to settle or stipulate. In some cases, they follow their petitions just under the statute of limitations but they sought some permissive remedy. Someone is always ready to hear briefs. It is always ready to be attended to.

Third, we have also been requested to estimate the amount of time that will be necessary to adjudicate the transferred cases if the Commission is dissolved as of April 10, 1977. Because of the many uncertainties and variable factors involved, it is next to impossible to provide an accurate estimate. Information given to us by the Indian Claims Commission is to the effect that all or nearly all of the cases which will be pending in the Commission on April 10, 1977, will be claims for accounting. The history of these cases in the Commission shows that they move slowly and present unusual difficulties. The chief counsel of the Indian Claims Commission has kindly provided me with a statement regarding these accounting cases. His report shows that the Government reports in these accounting cases are prepared by the Indian Trust Accounting Division of the General Services Administration. In view of the nature of the work and the basic data available, we are told that regardless of the number of auditors available, a considerable amount of preliminary time is required for the preparation of each accounting report. The reports are voluminous

and some contain several thousand pages, some go back over 170 years in some cases. After the reports become available, much additional time is required for examination of the numerous entries by the tribal attorneys and their accountants to determine the items which they will challenge.

In some instances, the reports are so incomplete that it has been necessary for the Commission to order extensive supplemental accounting.

For example, the chief counsel of the Commission states that in one case reported in 32 Indian Claims Commission 65, the Commission issued an 86-page interlocutory decision which ordered extensive supplemental accounting.

We have obtained information and estimates from the Indian Claims Commission, and we have also talked with representatives of the Subcommittee on Indian Claims of the Court of Claims Committee of the Bar Association of the District of Columbia which has a representative here this morning.

We have also made inquiry of the Indian Claims Section of the Lands and Natural Resources Division of the Department of Justice. On the basis of all the information we have obtained and our own consideration of the question, our estimate is that approximately 5 years would be required for the Court of Claims to dispose of the cases that will probably be pending in the Indian Claims Commission on April 10, 1977.

Fourth, for the reasons previously stated, it is also extremely difficult to provide a reliable estimate of the additional personnel which would be needed by the Court of Claims to process the transferred cases after April 10, 1977.

I am confident that we will not need more judges. The judges of the court have been able to dispose of the appeals from the Indian Claims Commission expeditiously.

After the cases are transferred, the judges will be hearing the cases on appeal from the trial commissioners' decisions very much as is done under existing conditions.

But, the burden of handling the transferred cases will fall on our trial commissioners who already have a backlog of cases and who are called upon to conduct trials in 18 other major categories of litigation in addition to Indian cases, which represent numerically only a small portion of our docket.

Although it may not be necessary to appoint any additional commissioners immediately after the transfer, it may be necessary to appoint several after the cases have been pending for a time. Probably, it will be necessary to appoint at least one deputy clerk at the time of the transfer, and after that additional secretaries, law clerks, and auditors may be needed.

Instead of trying to predict the number and kind of additional personnel that will be required, we think the most practical way of handling the matter is to amend Public Law 92-265 so as to authorize the appointment of such additional personnel as may be needed for the expeditious disposition of the transferred cases.

A suggested draft of a provision for this purpose is included in exhibit B. This proposal constitutes an authorization only and the court would be required to demonstrate to the congressional appropriation committees the necessity for any additional personnel which the court desires to appoint.

This proposal follows the practice that has been followed in the past in somewhat similar situations. On July 1, 1944, Congress enacted the Contract Settlement Act of 1944, 58 Stat. 663, which authorized the court to appoint 20 commissioners in addition to the 8 authorized by existing law, and 10 more auditors to process claims under that act.

As it developed, the court waited until 1948 to appoint one additional commissioner and then added two others in 1949. The 10 auditors were never appointed but 1 additional auditor was later employed to assist the single auditor then on the staff.

A somewhat similar provision was contained in section 20 of the Alaska Native Claims Settlement Act, Public Law 92-203, of December 13, 1971.

The adoption of this suggestion will avoid the appointment of new employees before they are needed and will also limit the employment of additional personnel to those which experience proves to be necessary.

While I think of it, in connection with our draft bill, which is exhibit B, I would like to invite your attention to a typographical error of some significance on page 2 of the exhibit, subparagraph (d) where reference is made to section 2517(a) of title of the United States Code, that section 2517 should include a reference both to subsections (a) and (b).

The significance of that is simply that both of those subsections are set forth in the Indian Claims Commission Act, subsection 70u, and we will make sure, if we have them in these amendments, that the payment of any judge is the full discharge to the United States of any and all claims arising out of matters of the case in controversy.

It is a technical amendment, as are the other amendments submitted for your consideration.

Senator ABOUREZK. I want to thank you very much for a very good statement and a very straightforward one. I wonder if I might pose a few questions to you.

As a practical matter, is it possible for the Court of Claims to assume the Indian cases without loss of time in reestablishing judicial consideration of those cases?

Judge BENNETT. We do not anticipate any difficulty in that regard. I think at this point, it might be appropriate to make a brief comment in answer to your question which is similar to the letter we received from the committee concerning the priority that we would give to this type of a case if we got them under this new transfer.

Perhaps my best response to the priority we would give to Indian dockets is to tell you exactly what we have done with them this year.

For instance, our record that we would hope to continue. At the beginning of this calendar year, we had before us on appeal from the Commission 79 Indian appeals which actually represented a consolidation of 176 Indian dockets altogether.

Of the 79 cases, 20 have been heard on appeal and have been decided by the court by May 2, which I believe is exactly 2 weeks from today.

An additional 50 will have been argued and submitted to the court for decision. That leaves only nine cases in the briefing stage.

We have all decided on the appeals we have now will be decided on the end of the calendar year. Mr. Peartree, our clerk, advised me this

morning only 2 appeals in addition to the 79 I referred to we had at the beginning of the year have come in during the course of the year so far.

We would hope we would be able to dispose of those also. It is our policy, as I have indicated, to calendar these appeals as quickly as possible after the briefs are in and the parties are ready for oral argument.

After the transfer has been effected, the commissioners deciding on the cases will do so before they come to us and they will have to do what the Commission does now.

They will have to find the facts. They will write an opinion and I am sure they will do all they can to expedite the disposition of their cases.

We will certainly instruct them to do so, Mr. Chairman.

Senator ABOUREZK. Excuse me, if I might interrupt, according to your testimony, or the statement you read, there is a considerable backlog at the trial level in the Court of Claims now.

I suppose it would be more proper to inquire and it seems like your appeals section that you sit on is very expeditious, but it is more properly inquired however whether or not the trial section will slow down consideration of those cases that may be transferred, following dissolution of the Indian Claims Commission on April 10, 1977.

Judge BENNETT. I would certainly hope not and I think not. I think, Mr. Chairman, the problem the trial division will have will be the same problem the Commission has with reference to the accounting cases.

They have told us most of the cases we will be receiving on transfer will be the accounting cases. The Commission can not do anything with those and our trial Commission cannot do anything with them until the auditors over in the General Services Administration have made their audit and submitted it.

And, then the Indian attorneys will have opportunity to take their exceptions to the items in that audit. That is why we have suggested immediately upon the transfer of these cases to the Court of Claims, if they are mostly accounting cases, which has been indicated, we would not need more personnel because those cases will not be ready for the trial division's attention.

Senator ABOUREZK. But, if the cases were ready today or let's say 2 years from now, when the Commission's law expires, will your trial division be ready to assume the number of cases that come out if they are ready?

Judge BENNETT. If they are ready on the date of the transfer, April 10, 1977, we would, at that point in time, have to have additional help.

Senator ABOUREZK. In order to keep things moving?

Judge BENNETT. Correct. That is why we have submitted, for your consideration, a simple draft of legislation which we think should be enacted and reported by your committee, which would authorize us to do so.

Senator ABOUREZK. Is it possible the Court of Claims will employ certain Indian Claims Commissions staff members if a transfer of cases occurs and you need additional staff?

Judge BENNETT. We have a very high regard for the Commission and their staff. They have 19 or 20 attorneys over there to assist the commissioners.

We think they do a good job with a very difficult responsibility. If any of these people applied to us, we would certainly give very serious consideration to their applications.

I would want to point out to you, sir, we have 18 major categories of litigation in the Court of Claims. We have new categories being assigned to us all of the time.

We would have to have somebody who could handle types of cases other than Indian claims cases. For instance right now, 42 percent of our total docket is represented by tax refund suits of various kinds, excise taxes, income, personal and corporate, and State and gift taxes.

We have contract cases. The Congress recently transferred the jurisdiction of tax renegotiation and we have all of these.

And, they are a very sticky type of litigation. I am simply saying, if we took somebody from over there, we would look for a person who could give us assistance on these other type of cases.

We would not want anybody sitting around with nothing to do waiting for briefs to be finalized and worked on in an Indian claim.

Senator ABOUREZK. If the court assumes jurisdiction of the Indian cases after April 10, 1977, will the court encounter any problems in connection with those cases that are under appeal.

Judge BENNETT. Those are—that are on appeal at the time of transfer?

Senator ABOUREZK. Yes.

Judge BENNETT. No. I would anticipate, Mr. Chairman, the only problem we might have would perhaps arise in a case in which the Commission had not made findings or conclusions on at the time of the transfer.

Now, such a case would have to go to our trial division and be processed in the regular way. We would hope there would not be too many such cases but we have no way of knowing at the present time how many there would be.

Any cases on appeal we would have on the Appellate Division anyhow and, as I stated in reading Judge Cowen's statement, the cases which had not been finalized at the Commission level would go to the trial division.

Senator ABOUREZK. Do you concur with Judge Cowen's recommendation to the House Subcommittee on Indian Affairs that the life of the Claims Commission be extended rather than transfer the cases over to the Court of Claims?

Judge BENNETT. Mr. Chairman, we have no objection to any reasonable extension the committee might think would be appropriate.

We are not looking for work. But, we are not seeking to avoid it either. We have deference for the expertise the Commission has in this highly specialized area and they have achieved in recent years quite a bit of momentum in handling of these cases.

And, it appears a year from now or in early 1977 that they should have another year or so. We think it would be a good idea.

Senator ABOUREZK. Judge Bennett, I want to thank you very much for an excellent statement and straightforward answers to our questions.

Judge BENNETT. Thank you, Mr. Chairman. If any further questions occur to you after we are excused, please feel free to write us and we will be happy to respond.

Senator ABOUREZK. We will be glad to do that.
 The next witness will be the Commissioners of the Indian Claims Committee.
 [Exhibit B follows:]

EXHIBIT B

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That: Section 23 of the Act entitled "An Act to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes", approved August 13, 1946 (60 Stat. 1049; 25 U.S.C. 70v), as amended (75 Stat. 92 and 86 Stat. 114), is hereby amended by inserting the designation "(a)" after "Sec. 23." and by adding thereto the following new subsections:

(b) From and after April 10, 1977, the powers of the Commission set forth in section 15 of said Act (60 Stat. 1053; 25 U.S.C. 70n) relative to fees for any attorney or attorneys for any tribe, band, or other identifiable group of Indians, shall be exercised by the United States Court of Claims.

(c) From and after April 10, 1977, the provisions of sections 1 through 7, inclusive, of Pub. L. No. 88-168, November 4, 1963 (77 Stat. 301; 25 U.S.C. 70n-1 to 70n-7), as amended (80 Stat. 814), shall continue and shall be in effect with respect to all cases transferred to the United States Court of Claims.

(d) Final judgments rendered by the United States Court of Claims on the transferred cases shall be paid in the same manner as other judgments of the court in accordance with the provisions of 28 United States Code, section 2517 (a) and (b) and section 2518.

(e) The cases transferred to the United States Court of Claims pursuant to this Act shall be subject to review by the Supreme Court in accordance with the provisions of 28 United States Code, section 1255.

(f) The United States Court of Claims is authorized to appoint not more than three commissioners in addition to the number presently authorized (28 U.S.C. 792) and such additional deputy clerks, secretaries, auditors, and law clerks as may be needed for the expeditious disposition of the transferred cases.

(g) There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

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

Chairman KUYKENDALL. If I may, I will introduce the commissioners. Commissioner Vance on my right. Mr. Yarborough, on my left, Mrs. Pierce, on my extreme right. Commissioner Blue is the other member. He is not here. I do not know where he is. I thought he would be here. And, between Commissioner Vance and me is our chief counsel, Harry Webb. And, between Mr. Yarborough and me is our Executive Director, Mr. Bigelow.

I have a prepared statement, Mr. Chairman. May I read it to you?
 Senator ABOUREZK. I wanted to see how long it was.

Chairman KUYKENDALL. If the secret is that long statements are not to be read, I may make shorter statements.

Senator ABOUREZK. We would like to have you read it if you would.

Chairman KUYKENDALL. Mr. Chairman and members of the subcommittee. My fellow commissioners and I thank you for this op-

portunity to testify on S. 876, a bill pending before this subcommittee "To authorize appropriations for the Indian Claims Commission for fiscal year 1976." This legislation is made necessary by a 1972 amendment to section 6 of the Indian Claims Commission Act which authorized an appropriation of not to exceed \$1,500,000 for fiscal year 1973 and specified that appropriations for succeeding fiscal years shall be made only to the extent hereafter authorized by act of Congress.

We are seeking an appropriation of \$1,420,000 for fiscal year 1976 and believe that an authorization of \$1,550,000 for that period is proper because salary increases which would make it necessary for us to have the additional sum of \$130,000 or part thereof, may very well take place during the coming fiscal year. We would like to avoid the necessity of obtaining an increased authorization as well as a supplemental appropriation in the event that salaries are increased.

Our report to the Committees on Interior and Insular Affairs as of December 31, 1974, shows that the Commission has continued to make progress in disposing of the claims that are pending.

During the last calendar year, the Commission reported final determinations in 28 dockets to the Congress. Nineteen of these dockets had been concluded with final awards which had been duly certified to the Treasury Department for inclusion in appropriation requests, and nine had been disposed of by orders of dismissal. The overall reduction in the number of pending dockets was 26, rather than 28, however, because the total number of docketed cases was increased by two because of the practical necessity of severing and redocketing separate causes of action which had been asserted among other causes of action in dockets on file.

The total number of dockets pending at this time is 176. This figure includes 97 dockets in various stages of litigation which are pending before the Commission and 79 dockets which are pending before the U.S. Court of Claims on appeal from interlocutory or final determinations of the Commission. In the latter group are 9 dockets on appeal from final awards and 14 dockets on appeal from orders dismissing the plaintiffs' claims. If these 23 cases were reportable as completed, the total number of pending dockets would be 153, and the total reduction in pending dockets would be 49 for calendar year 1974.

The Commission is making every effort to complete its work by April 10, 1977, when the life of the Commission is scheduled to expire under the terms of existing law.

We are doing what we can to lessen the effect of hampering factors over which we have no effective control. Although there are 176 remaining dockets, the Commission's jurisdiction at this time is confined to the 97 dockets that are not on appeal. We are unable to forecast the dates when we will regain jurisdiction over the 79 dockets now on appeal. Fifty-six of the dockets before the Court of Claims involve appeals from interlocutory determinations of the Commission. After decisions on these appeals are handed down, there must be further proceedings in all of these dockets to dispose of remaining phases of the litigation and to comply with any orders which the court may issue upon remand.

Fifty-one of these 56 dockets involved land claims. Most of them contain valuation and offset phases which will have to be completed after the Commission reacquires jurisdiction over them. Counsel for the parties will need some 10 or 12 months at least to prepare for trial of the valuation issues. After trial, the parties must submit requested findings of fact and briefs within the time prescribed by the Commission's rules. Frequently, the parties request extensions of time, contending that the complexity and amount of evidence in the record makes the same necessary.

The law requires that the Commission's decision be stated in writing and that it make findings of fact upon which its conclusions are based. This requirement applies to each stage of a case. Either party may appeal to the Court of Claims from any interlocutory determination by the Commission establishing the liability of the United States as well as from the Commission's final decision. Notwithstanding the time required for litigation of the land claims and for appellate review thereof, we think that substantially all of them will be disposed of by April 10, 1977, and that is our goal.

Accounting cases are expected to take up most of the time of the Commission during its remaining life. There are 51 of them among the 176 pending dockets. In these cases, the plaintiff tribes seek to recover any amount shown to be due after an accounting from the defendant of the funds and other properties of the tribe which have been under the control and management of the Government. The issues in these cases are framed by the plaintiffs demanding an accounting, the Government supplying a written accounting, and the plaintiffs filing exceptions thereto.

Under established law, the United States acts as a fiduciary in administering Indian trust funds and other properties. Thus, practically all of the transactions handled by the Government in respect to tribal funds and reservation properties are within the scope of an accounting claim.

There are several reasons why most of the accounting matters have not been prosecuted previously by the plaintiffs. In cases under both the Indian Claims Commission Act and prior jurisdictional acts the land claims, which have arisen out of long-remembered historical events and transactions, have been best understood and of the greatest interest to the tribal claimants. Accounting claims generally fall into the category of fishing expeditions. In most instances they cannot be evaluated until after the defendant's accounting has been rendered, analyzed, and perhaps litigated. The counsel for the various tribes, almost without exception, first prosecuted the land claims which appeared to hold the best prospects for financial recovery. The Government has consumed what appears to us to be a long period of time to prepare its accounting reports. In most instances, the accounting rendered under the Indian Claims Commission Act is the first ever rendered to the tribe. Some reports cover transactions which occurred more than 170 years ago. These reports are voluminous and many have taken years to prepare. Some contain thousands of pages and a single page may contain more than 100 entries in multiple columns.

In some instances, plaintiffs have filed 50 or more pages of exceptions to the defendant's accounting.

Generally, the plaintiff alleges that the accounting is incomplete and asks the Commission to order the defendant to supply more information. In many cases, the accounting report has not contained all of the information to which the Commission believed the plaintiff was entitled, and we have ordered the defendant to supply supplemental accountings. We are informed by the Indian Trust Accounting Division of the General Services Administration that the 18 supplemental accounting reports on which they are currently working should be completed within the next 18 months. Meanwhile, we proceed with the adjudication of the exceptions directed to the parts of the accounting report which have not required supplementation.

In land cases the issues usually can be reduced in pretrial proceedings to four basic ones, namely:

1. Aboriginal occupancy area—what land did the tribe exclusively use and occupy?
2. Taking date—when did the United States take the land?
3. Value—what was the land worth on the taking date?
4. Offsets—what prior payments on the claims and gratuities are claimed by the Government?

By contrast, in accounting cases there may be literally hundreds of issues which must be individually adjudicated. Several accounting case dockets are now on appeal before the Court of Claims.

Questions being appealed include, among others, a ruling of the Commission holding the Government is liable for compound interest on certain funds which it administered as trustee for the Indian tribes.

It is certain that certiorari will be sought to the Supreme Court regardless of how the Court of Claims may rule.

Because of the overriding importance of this issue, it is possible that the Supreme Court will grant certiorari in this instance.

This issue was just argued before the Court of Claims, and we do not know when the court's decision will be handed down.

When there is a final appellate decision and remand to the Commission, we must then apply the ruling to all of the accounting claims then pending.

While awaiting the results of the pending appeals, the Commission is continuing its work to the greatest possible extent on all of the dockets under its jurisdiction. Counsel are encouraged to file motions for partial summary judgment in accounting cases so that as many issues as possible may be disposed of while awaiting the results of appeals in other cases. Under these circumstances, the Commission does not anticipate a hiatus in its work as a result of these cases being on appeal.

Attached to this statement is a summary of Indian Claims cases as of today. Additional information on the work of the Commission is available in its annual report for fiscal year 1974. Copies of this report were sent to each member of this subcommittee and should be available to you.

The Indian Claims Commission favors the enactment of S. 876 so that our work can move forward during fiscal year 1976. My colleagues on the Commission may wish to add to what I have said, and we are all available to answer questions. We thank you for your interest and for your consideration of the legislation proposed in S. 876.

Senator ABOUREZK. What has been the principal delay in completion of the work in accounting cases?

Chairman KUYKENDALL. Our lack of complete reports from the General Services Administration.

Senator ABOUREZK. It is the Government that is slowing the accounting cases?

Chairman KUYKENDALL. Yes.

Senator ABOUREZK. Do you have any suggestions as to how that process could be speeded up?

Chairman KUYKENDALL. I really do not. I think the wheels are turning now. We are going to get the reports and I trust, by and large, they will be adequate.

I cannot see how the GSA can speed up their work to a much greater extent. It has now recruited and has working what seems to me to be a large staff.

I think there are around 124 persons, 103 of whom are working on these accounts.

Senator ABOUREZK. Would it, in your opinion, be helpful if there was some kind of penalty clause in the law that would penalize the Government if it delayed beyond a certain period of time?

A forfeiture or something? I am just thinking off the top of my head. Something to give an incentive to make them move faster.

Chairman KUYKENDALL. I think that would be an incentive. As you can see, it might be difficult getting that enacted. The Government would oppose it strongly.

Senator ABOUREZK. I am sure they would. Has the Department of Justice met deadlines adequately for trials and filing briefs?

Chairman KUYKENDALL. I do not know what to say in regard to your use of the word adequately. The Department of Justice has requested and has obtained many, many extensions of time and so have the attorneys for the plaintiffs.

The work is of such a complex nature that those extensions frequently are just necessary. In most cases, it is impossible for counsel to do all of the work required within the time you would expect similar work to be done in cases other than Indian Claims cases.

I am not here to criticize the Department. It too, I think, was inadequately staffed at one time but it has increased its staff and has built up momentum to perform quite well in the future, I believe.

All counsel have made numerous requests for extensions of time which we have reluctantly granted, in many instances, because we could see we could not get the documents we wanted simply by refusing to grant the extension.

Senator ABOUREZK. How many claims, other than accounting claims, are still pending?

Mr. WEBB. 126.

Senator ABOUREZK. How long will it take to finish those?

Chairman KUYKENDALL. We believe we will have those pretty well completed by 2 years from now.

Senator ABOUREZK. If you were to be extended beyond April 10, 1977, how long would it take you beyond that to complete the accounting claims, which would be the balance of claims, if I understand you correctly.

Chairman KUYKENDALL. My problem in answering that question is pretty much the same problem that Judge Bennett had.

As of right now, we still are not thoroughly experienced in these accounting claims. I believe Commissioner Yarborough gave an estimate to the House. Did you not, Mr. Yarborough?

Commissioner YARBOROUGH. I speculated that they could be concluded within 3 years from 1977, because, looking at it now, it would be awfully hard to say you could not finish the task in 5 years from now.

I believe it could be done in 5 years from now.

Senator ABOUREZK. The entire caseload?

Commissioner YARBOROUGH. Yes.

Senator ABOUREZK. I wonder if I might ask Commissioner Vance as to, in your view, how much time it would require for the Commission to complete all cases after April 10, 1977, if it is extended?

Commissioner VANCE. With the understanding, Mr. Chairman, that it is stargazing, I really do not know. I think anything anyone says on the subject, in a thoughtful manner—I do not think anything can be accurate.

I am not convinced, at this point, that the whole load may not be completed. I notice from the estimate given to the Court of Claims and to the committee that over 65 percent of all the pending work before the Commission is estimated to be possible of completion.

That does not include the accounting cases which have additional complications. There are, as we sit here today, pending before the Court of Claims one or two questions of paramount importance and from past experience one might hope, if those questions are answered or they will be if they are answered by the Court of Claims, other cases will be settled.

I realize I am talking all around your question but your predecessor, the senior Senator from South Dakota, quoting a lawyer from out West, he said, the problem with these things is the Indian lawyers and the Government lawyers and the Indian Commission, which also is no answer.

You have a multiplicity of factors here but I would think, certainly Commissioner Yarborough's estimate is conservative. Who knows?

I think perhaps we are premature in attempting to predict at this point. There are several unanswered questions which seem to me to be essential.

Senator ABOUREZK. Do any of the other commissioners wish to express their views on this issue?

Chairman KUYKENDALL. Please excuse my interruption. I have just received a note from Commissioner Blue, who is now with us. He says a traffic accident tied him up for 1 hour, but I am happy to say he is here on my left.

Commissioner YARBOROUGH. If I might add to Commissioner Vance's answer, it would seem to me, in all logic, as the Commission neared its end and as more points of law became settled, there would be an increase in the amount of compromised settlements.

If there were an increase in compromised settlements, then Commissioner Vance's prediction of a complete windup by 1977 became possible.

I am discouraged by the reports Judge Cowen got from members of the bar with their estimate the cases would still be pending rather than being concluded and disposed of by 1977, because they, of course, control the pace of litigation as much as the Commission does, and that is a discouraging factor.

Senator ABOUREZK. Forrest Gerard of the committee staff thinks it would be helpful, and I agree, if you would respond to what the Court of Claims position is on this.

You can do it now or later.

[Subsequent to the hearing the Indian Claims Commission supplied the following:]

RESPONSE TO QUESTION OF SENATOR ABOUREZK

The Indian Claims Commission would, of course, defer to Chief Judge Cowen and Judge Bennett in their estimates regarding the ability and fiscal needs of, and the time which might be required by, the United States Court of Claims to complete any cases which might remain after the termination of the Commission on April 10, 1977.

Implicit, however, in both Chief Judge Cowen's statement and testimony and in the testimony of Judge Bennett is a recognition of the time and additional personnel necessary to integrate any remaining Indian Claims Commission cases into the main stream of the cases being adjudicated under some 18 different categories of the court's present jurisdiction. It would also seem that Chief Judge Cowen and Judge Bennett have taken into consideration in their estimates those same problems which face the Indian Claims Commission in its efforts to complete its work by April 10, 1977. With their recognition of the lack of definite information upon which to base their estimates of the additional time which might be required as of April 10, 1977, coupled with the difficulties inherent in a field in which the evidence is hard to gather and often nebulous, they have concluded that a probable term of 5 years would be needed in which to complete the cases remaining as of April 10, 1977. This estimate is based upon Chief Judge Cowen's testimony before the House Subcommittee on Indian Affairs, after consultation with counsel who are expert in the field of Indian litigation, that there could possibly be some 60 cases remaining as of April 10, 1977.

While the Commission feels that substantially all of the claims except the accounting cases will be completed by April 10, 1977, it, too, recognizes from long experience the difficulty of accurately estimating the termination of either land or accounting cases. As pointed out in the testimony before this Committee, in any litigation, the ability of counsel for both parties to gather facts, reach issue, and be ready for trial or oral argument before the court are primary factors in the swift completion of litigation. As noted by Chief Judge Cowen in his statement and concurred in by Judge Bennett, these and other circumstances are present in most litigation before the Court of Claims and in Federal courts in general, as well as in the Indian Claims Commission.

Taking into consideration all the above matters, as well as the fact that the Indian Claims Commission devotes its time solely to the determination of Indian cases, plus the confusion which is inherent in any transfer of jurisdiction, including the court's possible need for new personnel to review from the beginning those cases which might be transferred in an intermediate stage, it would seem feasible for the Indian Claims Commission to finish its cases within a 3-year period from April 10, 1977, rather than the 5-year period from April 10, 1977, which was the time estimated by Chief Judge Cowen for the Court of Claims to complete the cases transferred to it.

The Indian Claims Commission believes and has represented to this Subcommittee that there will be less than 60 cases remaining on April 10, 1977, and it is therefore conceivable that the Commission could terminate its work in less than 3 years after April 10, 1977. In that event, it would automatically terminate under Sec. 23 (25 U.S.C. 70v) of the Indian Claims Commission Act.

Commissioner BLUE. I did not hear the Court of Claims position today but I heard it stated by Judge Cowen before the House committee on April 10.

Senator ABOUREZK. The same thing?

Commissioner BLUE. As I understand it, after the transfer of the remaining cases, within a year or two, he could appoint commissioners and get started.

I agree with Mr. Yarborough. Within 3 years after 1977, I have no reason to believe there would be much work, if any, left at all. I thought that was what Commissioner Vance was saying.

I did not interpret Commissioner Vance as saying we could wrap it up by 1977. I think that is unrealistic. But, we could be continuing our work during this 2-year period that the Court of Claims thinks it might take them to get started.

Three years after 1977, if that long, I do not think there would be more than a thread left.

Senator ABOUREZK. It appears from your testimony that the Commission is fairly well caught up on its work. It is just that you are in the process of waiting for the parties to get their work.

Chairman KUYKENDALL. That is substantially correct.

Commissioner VANCE. Mr. Chairman, to clarify, I do not know that we cannot do the job from anything that is before us today.

And, I think we are meeting the deadlines and obligations imposed by the Congress and upon ourselves and for that reason, I would state as I did state for the House that I think we can do it. Anytime you say you have got 70 percent of the work that will be completed and probably can complete the other 30, that provided, of course, the other actors in this drama perform their part and obligations.

That would require strong and sincere efforts on the part of the lawyers to settle cases. To settle cases, as we all know, is a lot better than litigating them.

There is no division within the Commission on this. We do not have wings. We do not have one wing feeling one way, another wing feeling another.

We are very congenial. I know I speak for all of us. We are right up to snuff in getting our work done and we will continue to do that.

Senator ABOUREZK. I want to compliment you on that. It appears that is what is happening—that you are extremely well caught up and thought of on your own caseload.

Let me ask you if you consider the Indian Trust Accounting Office of GSA to be adequately staffed at this point?

Chairman KUYKENDALL. I believe I should let Mr. Webb answer this question. He has had more personal contact with that office than I have. I would like Mr. Webb to clarify and amplify.

Mr. WEBB. The present situation with the GSA accounting section is, there are 124 total people or, as of a couple of months ago, 103 of whom are on accounting work.

I was told by Mr. Auster, head of the accounting section, and without any intent of quoting Mr. Auster in his absence, that he intended to ask for additional personnel. But, that he had every indication that request would not be honored.

So, based on that conversation I would presume Mr. Auster thinks he does not have sufficient personnel. He also did tell me it takes 10 to 12 people 2 years—an average of 2 years—to do an average case.

He did not define an average case but this is his estimate based on a year or two experience on the job. So, my answer is, I suppose, that he does not personally feel the staffing is adequate.

Senator ABOUREZK. I wonder if you would provide the committee with a brief history on the matter in which the accounting work in connection with the Indian claims have been handled.

If you would do that?

Mr. WEBB. Yes, sir.

[The information follows:]

Mr. E. B. Smith, Chief of the Indian Tribal Claims Section, Claims Division, General Accounting Office, wrote as follows in the introduction to his compilation of Indian tribal cases decided in the United States Court of Claims (1947):

"Material for the defense of these suits by the Department of Justice is compiled mainly in the General Accounting Office by the Indian Tribal Claims Section, which was created in 1925 for that purpose. Reports on each petition are rendered at the request of the Attorney General and contain detailed accounts of transactions between the Government and the tribe or tribes involved . . ."

The Meriam Report (1928) states that the section comprised 82 employees.

The personnel of the section fluctuated depending on the case load of Indian litigation before the United States Court of Claims and the Indian Claims Commission. It peaked at slightly over one hundred people in the early 1960's.

In 1964 the section was transferred from the General Accounting Office to the General Services Administration. The latter agency, having little experience with Indian matters, thought that as reports on all pending cases approached completion the section could be phased out. The General Services Administration acted on this belief, and let the section dwindle to two men in late 1972.

As early as 1966, however, the Indian Claims Commission had ordered supplemental accounting in one case; and by 1972 had ordered supplementation in 5 additional cases. The Commission's orders during this period were not complied with.

Reasons for the supplementation orders were various, but for the most part they were required by precedents of the United States Court of Claims reaching back to the 1940's. Despite these intervening precedents, the accounting reports for the Indian Claims Commission continued to be prepared according to standards developed by the General Accounting Office in the 1920's.

Beginning about August 1971 the Indian Claims Commission, the Congress, and other interested parties began a discussion concerning the lack of personnel available in the Indian Tribal Claims Section of the General Services Administration. In the face of the rulings by the United States Court of Claims and the Indian Claims Commission, it had become obvious that more personnel would be necessary in order to complete the accounting cases then pending before the Commission. The effort to obtain additional funding for the accounting work became a reality in October 1972 when a supplemental appropriation was passed by the Congress (P.L. 92-607, 86 Stat. 1498).

As of February 1973 it appeared that the staffing program by General Services Administration had begun, and they had 9 people in the section. Since that time the new Indian Trust Accounting Division, Office of Finance, General Services Administration, is functioning well. It is understood that they recently had a complement of 123 people, 103 of whom were working on accounting reports. Whether this is sufficient personnel to complete the accounting work by April 1977 is not known.

Mr. GERARD. Mr. Kuykendall, so that we all clearly understand, can you tell us how many of the accounting cases, again, are under appeal and is there any way to estimate how long the appeal process might take on these pending cases?

Chairman KUYKENDALL. There are five on appeal and as my statement indicated some very important problems which have to be resolved are involved in those cases.

Perhaps, one or more of those cases will go to the Supreme Court. I know the losing party would try to get a writ of certiorari and if it should be granted, it would take at least another year for the Supreme Court to decide the case after the Court of Claims had decided.

And, I think Mr. Webb could amplify on my statement.

Mr. WEBB. The compound interest questions involve three separate tribes in three separate cases argued as a single question. That has been argued at the March term. Presumably we will get a decision in the near future.

Another case, Fort Peck, involves a very important question of continuing wrongs, a matter of great controversy between plaintiff

and defendant. Conceivably a petition for certiorari could be filed on that question.

Another Apache case, which has not been argued—nor has the Fort Peck case been argued, to my knowledge—is also on appeal. For an estimate as to when the compound interest cases could be decided, I would say spring of 1976 because a writ will be sought and possibly granted by the Supreme Court. We have no way of knowing with certainty.

Senator ABOUREZK. I guess we have heard from every commissioner, except Mrs. Pierce. Do you have any comments or statements you wish to make, Mrs. Pierce?

Commissioner PIERCE. I do not wish to destroy all of this euphoria.

Senator ABOUREZK. I have only one question left and that is my annual question on the status, on the Black Hills claim.

Mr. WEBB. The Black Hills claim, 74b, was argued at the March term in the Court of Claims—it is still there on appeal.

We have before us the aboriginal aspect which is known as docket 74. We are awaiting a reply brief due the 28th of this month.

As soon as our expert is free, he will be assigned to that case on the value phase. This is the aboriginal area east of the Missouri.

Senator ABOUREZK. Isn't there an accounting part of that?

Mr. WEBB. There are five accounting cases. Those five cases have many questions in common but they represent one of our worst situations in a way.

It is so bad in the sense of what is involved that I have written it down. There have been 7 motions filed since October 1973 in docket 119 with the appropriate responses and replies and there have been 11 other substantive filings of various types, either exceptions or answer. You can almost multiply that by five to come out with the amount of work involved in those five accounting cases.

This proceeds only from the 1925 accounting which the Sioux had in the Court of Claims. I am saying that the lawyers have been extremely diligent.

They are trying everything they can to handle their case in the best manner possible but they are creating a lot of work for the Commission.

Senator ABOUREZK. What is your best estimate for the completion of the *Black Hills* case?

Mr. WEBB. I hesitate to answer with regard to what is on appeal in 74b with the interest problem, or the fifth amendment taking.

The evaluation phase of docket 74 should be finished, barring appeals, within a year. That is figuring on offsets too and you are familiar with the payment on the claim problem in that case.

Senator ABOUREZK. That has been ruled out?

Mr. WEBB. That is correct insofar as the Sioux amendment is applicable. It does affect that case very much, as well as other cases. It is of general applicability to all of our cases.

But, it seems to me, a year is a reasonable estimate on docket 74. We are in the value stage. Now, the decision—opinion and findings of fact—should be ready in a short period of time compared to what has gone before. I do not think there is going to be too much difficulty with the offset problem unless it is tied up some way I am not aware of with the 74b portion, which is the one on appeal.

I would hope when we see you next we could say at least that half of that case is gone, the aboriginal half.

Commissioner VANCE. Mr. Sonosky is not here. I thought he would be here, but perhaps you might want to give him an opportunity to respond.

He is the lawyer for the Sioux Tribe.

Senator ABOUREZK. We can ask him for that response. Thank you very much. I want to thank all of the members of the Commission and the staff who are here.

That is all the questions we have.

Now, the last scheduled witness is Glen Wilkinson, member of the Subcommittee on Indian Claims of the Court of Claims Committee of the Bar Association of the District of Columbia.

STATEMENT OF GLEN A. WILKINSON, SUBCOMMITTEE ON INDIAN AFFAIRS OF THE COURT OF CLAIMS COMMITTEE OF THE BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA

Mr. WILKINSON. Mr. Chairman, as you have indicated, my name is Glen A. Wilkinson. I am a member of the Washington law firm of Wilkinson, Cragun & Barker.

Like Judge Bennett, I am a substitute. The Court of Claims Committee of the Bar Association approved the appearance of Marvin J. Sonosky before your subcommittee.

Unfortunately, he had to be out of town today. I have been asked to substitute for him. I might tell you the Bar Association of the District of Columbia has an extremely active Court of Claims Committee which includes approximately 8 or 10 subcommittees and the Subcommittee on Indian Affairs is one of those subcommittees.

I have a statement which I do not intend to read, Mr. Chairman. I would ask you if you would make it a part of the record and I will try to hit some high spots in the problem before you as the Bar Association of the District of Columbia sees it.

We believe the objective of the Congress and all parties concerned is to conclude the Indian tribal claims at the earliest possible time.

We think the proposed transfer—or the transfer as now scheduled under existing legislation would not achieve this goal. We think, on the contrary, it would have a tendency to create some additional delay.

We see some legal questions which may result from the proposed transfer in addition. All of these cases before the Commission, as you are aware, involve complex and lengthy records.

Now, assume a case is somewhere in the trial process before the Indian Claims Commission when the time for transfer arrives.

As we understand what would happen, the record will be sent to the Court of Claims, the Court of Claims will take over the judicial process as of that moment.

It would be required to decide that case on the basis of a record which to it is cold and to which it has not had any exposure.

I do not know the answer to this. But, I raise it. Is this a situation which brings about denial of due process either to the tribe or to the Government because of the fact a judge who has never had an opportunity to observe the witnesses, their demeanor, their conduct in a trial, must decide that case.

Another point I would like to bring about, where there may be a legal question involved—it has been said, generally speaking, that the

right of appeal which the tribes and the Government now have under existing law will not be lost because there is, in effect, a right of appeal from the trial level to the appellate level within the Court of Claims.

I think we must make a distinction. The appeal now from the Indian Claims Commission to the Court of Claims is based on the substantial evidence rule.

That is, the court is entitled to inquire on an appeal whether the findings determined by the Indian Claims Commission are supported by substantial evidence.

On the other hand, consideration by the appellate level of the Court of Claims of a decision by a trial judge is not the same kind of an appeal.

The court is entitled to and does review that trial judge on facts as well as on the law. Now, again, I cannot tell you Mr. Chairman whether these questions will be raised or will become necessary.

I hope not. We all want to finish this job. But, it is our considered opinion that the best way to finish the job is to leave jurisdiction with the Indian Claims Commission for a designated period after 1977 because that Commission has gained a considerable amount of expertise, has experienced staff and is able, in our judgment, to best go on with the work.

I thank you. That is all I have unless you have some questions.

[The prepared statement of Mr. Wilkinson follows:]

STATEMENT OF GLEN A. WILKINSON, ON BEHALF OF THE BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA

Mr. Chairman: My name is Glen A. Wilkinson. I am Chairman of the Indian Affairs Subcommittee of the Court of Claims Committee of the Bar Association of the District of Columbia. My purpose is to advise the Subcommittee, on behalf of the Bar Association, of a potential conflict which results from the Indian Claims Commission Act as it now stands and the objective of giving all Indian tribes, bands, or other identifiable groups their day in court at the earliest possible time. This Committee may want to consider an amendment to H.R. 3979 to achieve the earliest possible determination of pending tribal claims.

Under the terms of its current enabling statute, 60 Stat. 1049, 25 U.S.C. 70v, as amended, the life of the Indian Claims Commission is presently scheduled to expire on April 10, 1977. When the life of the Commission was last extended, provision was made for an automatic transfer to the United States Court of Claims on April 10, 1977, of any cases remaining unfinished at that time. The expectation of the Congress was that the Commission would be able to complete nearly all of the cases before then and that there would be no difficulties involved in the transfer of a small number of remaining cases to the court. The problem of concluding tribal claims has been difficult and time-consuming. The so-called land claims may be concluded within the time now provided but it is obvious that accounting claims, which have proved to be more difficult and complex than first thought, will not be.

It should be emphasized, moreover, that at the time provision for transfer to the Court of Claims was made, there was no detailed exploration of the feasibility of a transfer to the Court of Claims. We believe that, in light of present circumstances, a transfer to the court in 1977 would be highly undesirable.

By far the most difficult of the cases which are presently pending before the Commission are some 35 accounting cases. Accounting cases are claims in which the United States, as trustee, is called upon to account for its stewardship of moneys and other property it has managed on behalf of the Indians. These cases involve transactions covering, in most instances, more than 100 years and involve assets of various kinds, including grazing resources, timber, oil and gas and other, minerals. They require lengthy and complex trials and much time for briefing before they can be decided. In one case, involving the Klamath Indians of Oregon, a trial was held in the months of December, 1973, and February, 1974, lasting seven weeks, involving 4,969 pages of transcript and 1,808 exhibits. Briefing in that case is still not complete, and it will be quite some time before a decision from the Commission can be expected.

Much delay has occurred in the processing of these cases because of the need for preparation of supplemental accounting reports which the United States must furnish to tribal claimants to account for its stewardship of the property. This work has proven to be more difficult to accomplish than originally anticipated and was slowed by the fact that the staff of the General Services Administration needed to accomplish it was not fully assembled until late 1973. These cases are being processed as expeditiously as possible by the Indian Claims Commission, but this processing would be delayed and prove more costly and time-consuming for the tribes and the government if they are transferred in mid-stream from the Indian Claims Commission to the Court of Claims, a transfer which would require acquisition of new and inexperienced personnel and result in substantial delays.

In view of the above, it seems obvious that a substantial number of remaining cases, particularly accounting cases, will not be concluded by the time the Commission's life expires, even though the Commission has made great progress within the last few years in increasing its rate of disposition of claims pending before it.

The question then presents itself whether the remaining cases should be transferred to the Court of Claims as presently contemplated, or whether the life of the Indian Claims Commission should be extended for an additional period.

Reasons for Extending the Life of the Indian Claims Commission

1. Accounting cases, which are the bulk of cases which will remain undecided as of April, 1977, present new and unique problems and the Indian Claims Commission has acquired the necessary expertise for the most rapid conclusion of these extremely complex cases, an expertise which should be utilized.

2. The Indian Claims Commission will lose qualified personnel if its life is not extended soon. It may be necessary for the Commission to cease further trials in cases that cannot be briefed and decided by the April, 1977 deadline.

3. All Indian tribes should have the benefit of a decision by the same tribunal. Tribes whose cases are not concluded by 1977 may get different treatment if the cases are transferred to the United States Court of Claims.

4. A transfer to the Court of Claims would deprive the tribes whose claims have not been concluded of their right to appeal to that court.

5. Continued uncertainty as to how and where remaining claims are to be concluded is not conducive to promoting settlement of claims, the most desirable and expeditious way of concluding the claims.

6. The Commission has demonstrated that it is moving as expeditiously as possible to conclude the claims before it.

Reasons Against Transfer to the United States Court of Claims

1. Trial judges of the Court of Claims are fully occupied with current cases. The Court does not have trial level personnel who are familiar with the field of tribal claims. Recruitment of new personnel by the court would require considerable time.

2. There is no assurance that the Court of Claims would be able to absorb the increased workload.

3. Promulgation of court rules and procedures for tribal claims would slow the completion of tribal claims.

Congress has always sought expeditious conclusion of tribal claims. Certainly, when the Indian Claims Commission Act was passed, it was not anticipated that so much time would be required to complete the cases. But whatever has happened in the past, the Bar Association submits that Congress should make a fresh assessment and reasoned determination, in the present circumstances, of what method will best serve to bring to the tribal claimants whose claims are still pending a fair adjudication of their claims in the shortest time.

We firmly believe that a reasoned analysis of the problem leads inevitably to the conclusion that a further extension of the Indian Claims Commission, rather than a transfer of its functions, will best serve the goal to which all subscribe.

APRIL 21, 1975.

Re Indian Claims Commission authorization bill.

Hon. JAMES S. ABOUREZK,

Indian Subcommittee, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR Mr. CHAIRMAN: I appeared before your Subcommittee this morning as a representative of the Bar Association of the District of Columbia on the bill to authorize appropriations for the Indian Claims Commission during the forthcoming fiscal year.

We are counsel to the National Congress of American Indians. I had been asked to present to you the attached statement on behalf of that organization for inclusion in the record. This I neglected to do. Accordingly, I submit the statement now with the request that it be made a part of the record.

Please advise if there is any question about this procedure.

Respectfully yours,

WILKINSON, CRAGUN & BARKER,
GLEN A. WILKINSON, *Attorney*

STATEMENT OF NATIONAL CONGRESS OF AMERICAN INDIANS

I am Ray Goetting, Treasurer of the National Congress of American Indians, and I am appearing on behalf of NCAI's more than 160 member tribes to urge action by your Sub-committee to amend S. 876 which would authorize appropriations for the Indian Claims Commission for the coming fiscal year, to extend the life of the Commission for an additional three-year period. We believe that the most elemental considerations of fairness require that tribes with pending suits are entitled to their day in court to the same extent as those whose claims have already been concluded.

We understand that when the life of the Indian Claims Commission was last extended in 1972, it was the expectation of Congress that all or nearly all of the cases would be completed prior to 1977 and that only a few remaining cases would be transferred to the United States Court of Claims. However, because of unexpected problems, chiefly those arising in connection with so-called accounting cases before the Commission, it now appears that a substantial number of cases will not be finished by the time any such transfer would take place.

We think that rather than transfer a substantial number of these cases—particularly in view of the Commission's demonstration that it is moving as expeditiously as possible on these claims—the most expeditious way of bringing the claims to a speedy conclusion would be to allow the Commission to finish its work. Unless Congress takes action soon, the Commission will lose trained personnel and may have to stop scheduling trials. This would cause a long delay to occur during the process of transfer to the Court of Claims.

We urge Congress to take expeditious action to extend the life of the Indian Claims Commission.

Senator ABOUREZK. Do you have an estimate of how much time ought to be added onto the extension if that were to be the case of the Claims Commission?

Mr. WILKINSON. The position of the bar association is that consistent with what Commissioner Yarborough gave you this morning, 3 years beyond 1977.

I cannot tell you that will finish the job but it gives us a fighting chance to do so. And, I—furthermore, it would be unwise for Congress to extend more than that because the natural tendency of any administrative body is to work toward the time it has and I think it would be better to keep the whip on the Indian Claims Commission.

Senator ABOUREZK. Would it be better to extend it 1 year at a time or would it be better to extend it for a lump-sum period?

Mr. WILKINSON. I favor the lump sum. I do not like the 1-year approach because of the probability the Commission will lose valuable personnel who are not very secure in their positions if there are just 1-year extensions.

Senator ABOUREZK. Thank you very much, Mr. Wilkinson.

Are there any public witnesses who wish to be heard? If not, the hearing is adjourned.

[Whereupon, at 10:50 a.m., the hearing was adjourned.]

