DISTRIBUTION OF SEMINOLE JUDGMENT FUNDS

HEARING

BEFORE THE

UNITED STATES SENATE
SELECT COMMITTEE ON INDIAN AFFAIRS

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

S. 2000

TO PROVIDE FOR THE USE AND DISTRIBUTION OF FUNDS APPROPRIATED IN SATISFACTION OF THE JUDGMENT AWARDED TO THE SEMINOLE INDIANS IN DOCKETS 73 AND 151 BEFORE THE INDIAN CLAIMS COMMISSION, AND FOR OTHER PURPOSES

S. 2188

TO PROVIDE FOR THE USE AND DISTRIBUTION OF THE AWARD GRANTED BY THE INDIAN CLAIMS COMMISSION TO THE SEMINOLE NATION AS IT EXISTED IN FLORIDA ON SEPTEMBER 18, 1823, AND FOR OTHER PURPOSES

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DISTRIBUTION OF SEMINOLE JUDGMENT FUNDS

THURSDAY, MARCH 2, 1978

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, at 10:15 a.m., in room 357, Russell Office Building, Senator Dewey F. Bartlett presiding.

Present: Senator Bartlett.

Staff present: Alan Parker, chief counsel; Max Richtman, assistant chief counsel; Michael Cox, minority counsel; and Keith Kennedy, professional staff member.

Senator BARTLETT. The hearing will come to order.

The purpose of this hearing before the Senate Select Committee on Indian Affairs this morning is to take testimony on two bills, S. 2000 and S. 2188. Both bills authorize the distribution of the Seminole judgment funds awarded by the Indian Claims Commission in docket Nos. 73 and 151 to the Seminoles of Oklahoma and the Seminoles of Florida.

The Seminole Tribe of Oklahoma and the Seminoles of Florida are in disagreement as to how the award should be divided between them.

Senate bill 2000 proposes a division based on the number of Oklahoma Seminoles by blood in 1914 as reflected on the Seminole roll of 1906 and 1914 and the number of Seminoles of Florida as they appear on the Florida Seminole census of 1914.

S. 2188, introduced by Senator Chiles, directs the Chief Commissioner of the U.S. Court of Claims to determine a fair and equitable division based on all relevant factors including any difference in benefits received by the Oklahoma Seminoles and by the Florida Seminoles.

I now place in the record my prepared statement on S. 2000 and also copies of the bills under consideration this morning.

[Senator Bartlett's prepared statement and the bills follow:]

STATEMENT OF SENATOR DEWEY F. BARTLETT ON S. 2000, DISTRIBUTION OF FUNDS APPROPRIATED IN STAISFACTION OF THE JUDGMENT AWARDED TO THE SEMINOLE INDIANS IN DOCKETS 73 AND 151 BEFORE THE INDIAN CLAIMS COMMISSION.

On April 27, 1976, the Indian Claims Commission approved a compromise settlement and entered a final award in consolidated Dockets 73 and 151, in the amount of $16,000,000 on behalf of the Seminole Nation as it existed in Florida on September 18, 1823. The award is compensation for the approximately 24 million acres of aboriginal lands taken by the United States under provision of the Treaty of Camp Moultrie and the Treaty of Payne's Landing.

Included in the distribution of funds are the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Florida, and the unaffiliated or traditional Seminole Indians of Florida.

The Judgment Fund Distribution Act requires the Secretary of the Interior to prepare and submit to Congress a plan for the use or distribution of any Indian judgment fund that has been awarded by the Indian Claims Commission. Unfortunately, the Seminoles of Oklahoma and the Seminoles of Florida have been unable to agree on a division of the funds between them and a legislative division has become necessary.

S. 2000, which I have introduced, proposes a division between the Oklahoma and Florida Seminoles based on their respective populations during the period 1906-1914. The number of Oklahoma Seminoles would be no less than 2,146 which is consistent with the Oklahoma Seminole roll authorized by the Acts of 1906 and 1914. The division of the award to the Florida Seminoles would be based upon the Reconstructed Florida Census of 1914 or a total of 700. The Florida Seminole Census of 1914 showed a figure of 562, but S. 2000 updates the census allowing for unnamed and unidentified persons. The Oklahoma and Florida 1906 and 1914 Seminole rolls are the most accurate ones available. Additionally, the Oklahoma Seminole roll reflects a period when 90% of the enrolled members were one-half blood quantum or more.

In addition to per capita payments to members of the Seminole Tribe of Oklahoma, S. 2000 also allows the Secretary of the Interior to invest a portion of the funds for the benefit of the Tribe. The Tribe will also benefit from various social and economic programs provided by another portion of the funds. A Standing Judgment Funds Committee compromised of tribal members will make recommendations regarding implementations of programs for the Tribe.

The Seminole Tribe of Florida, the Miccosukee Tribe of Florida, as well as the unaffiliated Seminoles of Florida will have

their share of the funds held and invested by the Secretary until the funds are divided among them on a per capita basis.

It is my sincere belief that S. 2000 provides the most just and equitable method of dividing the judgment fund between the Oklahoma and Florida Seminoles.

95TH CONGRESS
1ST SESSION

S. 2000

IN THE SENATE OF THE UNITED STATES

AUGUST 3 (legislative day, JULY 19), 1977

Mr. BARTLETT (for himself and Mr. BELLMON) introduced the following bill; which was read twice and referred to the Select Committee on Indian Affairs

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A BILL

To provide for the use and distribution of funds appropriated in satisfaction of the judgment awarded to the Seminole Indians in dockets 73 and 151 before 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 the funds appropriated by the Act of June 1, 1976 (90 Stat. 597), in satisfaction of the judgment awarded to the Seminole Indians in dockets 73 and 151 before the Indian Claims Commission, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be divided by the Secretary of the Interior between the Seminole by blood members of the Seminole Nation of Oklahoma and the Seminole Indians of Florida.

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The division shall be made in respective percentages based on the number of the Seminoles by blood of Oklahoma in 1914 including all persons who were living at any time during that year who are considered by the Secretary to be Seminoles by blood: *Provided*, That such number shall not be less than two thousand one hundred and forty-six as reflected in the Seminole roll prepared under the Acts of April 26, 1906 (34 Stat. 137), and August 1, 1914 (38 Stat. 780), and the number of Seminoles of Florida as they appear on the Reconstructed Florida Seminole Census of 1914 certified by the Bureau of Indian Affairs on May 20, 1977, a total of seven hundred, which number shall not be altered.

SEC. 2. After the division of the funds provided in section 1 above, the share of the Seminole by blood members of the Seminole Nation of Oklahoma shall be used and distributed as follows:

(a) Sixty-four per centum of the principal of the share shall be distributed in the form of per capita payments, in a sum as equal as possible, to all Seminole tribal members by blood born on or prior to and living on the date of this Act. The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be paid pursuant to part 16 of title 25, Code of Federal Regulations, without regard to the dollar

limitation contained in section 16.8 of title 25, Code of Federal Regulations. The per capita shares of legal incompetents shall be handled pursuant to section 104.5 of title 25, Code of Federal Regulations. Per capita shares of minors shall be handled pursuant to sections 60.10 (a) and (b) (1) and 104.4 of title 25, Code of Federal Regulations, as amended November 5, 1976 (41 F.R. 48735, 48736).

(b) Twenty per centum of the principal of the share shall be invested by the Secretary for the benefit of Seminole tribal members by blood; and the use of the interest and investment income accrued shall be authorized by the tribal governing body on an annual budgetary basis, subject to the approval of the Secretary, for the following social and economic programs:

elementary, secondary, and higher education services;

community development;

health services;

tribal executive operations;

land acquisition and development;

social services; and

other tribal and community social and economic projects.

This 20 per centum portion of the principal shall not be available for per capita or dividend payments.

(c) Sixteen per centum of the principal of the share, plus all interest and investment income accrued on the Oklahoma share of the judgment funds, and any amounts remaining after the per capita payment provided in section 2(a) above, shall be invested by the Secretary for the benefit of Seminole tribal members by blood. The use of the interest and investment income accrued shall be authorized by the tribal governing body, subject to the approval of the Secretary, for periodic dividend payments to Seminole tribal members by blood.

(d) In administering all programing elements of this section, the tribal governing body shall continue to recognize a standing Judgment Fund Committee comprised of Seminole tribal members by blood and representative of the twelve Oklahoma Seminole by blood bands. Such committee shall number twelve and be authorized on at least an annual budgetary basis to make recommendations regarding the implementation of any programing elements.

SEC. 3. (a) The total share of the Seminole Indians of Florida shall be held and continued to be invested by the Secretary pursuant to the Act of June 24, 1938 (52 Stat. 1037), until such funds are divided among the two organized Florida tribes, namely the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida, and the unaffiliated Seminoles of Florida on the basis of their respective

numbers, as of the date of this Act, whenever appropriate rolls are available. The use and distribution of their respective shares shall be governed by the Act of October 19, 1973 (87 Stat. 466).

(b) In order to establish eligibility to participate in the distribution of these funds, an individual unaffiliated Florida Seminole must be enrolled on, or must be descended from a lineal ancestor enrolled on, the Reconstructed Florida Seminole Census of 1914 or any later Florida Seminole Agency censuses. The Secretary shall, when appropriate, promulgate rules and regulations for the enrollment and participation of unaffiliated Florida Seminoles in the provisions of this Act.

95TH CONGRESS
1ST SESSION

S. 2188

IN THE SENATE OF THE UNITED STATES

OCTOBER 10 (legislative day, OCTOBER 6), 1977

Mr. CHILES introduced the following bill; which was read twice and referred to the Select Committee on Indian Affairs

A BILL

To provide for the use and distribution of the award granted by the Indian Claims Commission to the Seminole Nation as it existed in Florida on September 18, 1823, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of $16,000,000 paid by the United States by funds appropriated by the Act of June 1, 1976 (90 Stat. 597), in satisfaction of the award to the Seminole Nation as it existed in Florida on September 18, 1823, entered by the Indian Claims Commission on April 27, 1976 (38 Ind. Cl. Comm. 91), plus accrued interest, less attorneys' fees and litigation expenses, shall be divided by the Secretary of

the Interior between the Seminole Indians of Oklahoma and the Seminole Indians of Florida as provided in section 4 hereof.

SEC. 2. (a) After the division of the funds provided in section 4, the share of the Seminole Nation of Oklahoma shall be used and distributed as follows:

(1) sixty-four per centum of the principal of the share shall be distributed in the form of per capita payments, in a sum as equal as possible, to all Seminole tribal members by blood born on or prior to and living on the date of the enactment of this Act. The per capita shares of living competent adults shall be paid directly to them. The per capita shares of deceased individual beneficiaries shall be paid pursuant to section 16 of title 25, Code of Federal Regulations, without regard to the dollar limitation contained in section 6.8 of title 25, Code of Federal Regulations. The per capita shares of legal incompetents shall be handled pursuant to section 104.5 of title 25, Code of Federal Regulations. The per capita shares of minors shall be handled pursuant to sections 60.10 (a), 60.10 (b) (1), and 104.4 of title 25, Code of Federal Regulations, as amended November 5, 1976 (41 F.R. 48735, 48736).

(2) twenty per centum of the principal of the share shall be invested by the Secretary for the benefit of

Seminole tribal members by blood. The use of the interest and investment income accrued shall be authorized by the tribal governing body on an annual budgetary basis, subject to the approval of the Secretary, for the following social and economic programs:

(A) elementary, secondary, and higher education services;

(B) community development;

(C) health services;

(D) tribal executive operations;

(E) land acquisition and development;

(F) social services; and

(G) other tribal and community social and economic projects.

Such 20 per centum portion of the principal shall not be available for per capita or dividend payments.

(3) Sixteen per centum of the principal of the share, plus all interest and investment income accrued on the Oklahoma share of the judgment funds, and any amounts remaining after the per capita payment provided in section 2(a)(1), shall be invested by the Secretary for the benefit of Seminole tribal members by blood. The use of the interest and investment income accrued shall be authorized by the tribal governing body, subject to the approval of the Secretary, for

periodic dividend payments to Seminole tribal members by blood.

(b) In administering all programing elements of this section the tribal governing body shall continue to recognize a standing Judgment Fund Committee comprised of Seminole tribal members by blood and representative of the twelve Oklahoma Seminole by blood bands. Such committee shall consist of twelve members and shall be authorized on at least an annual budgetary basis to make recommendations regarding the implementation of any programing elements.

SEC. 3. The total share of the Seminole Indians of Florida as determined pursuant to section 4 of this Act, shall be allocated on the basis of the respective populations on the date of this Act of the Seminole Indian Tribe of Florida, the Miccosukee Tribe of Indians of Florida, and those Indians in Florida who are not members or eligible for membership with either the Seminole Indian Tribe of Florida, or the Miccosukee Tribe of Florida, but who possess at least one-fourth degree Florida Seminole blood and have not shared in the claims award of any other tribe: *Provided*, That, on a per capita basis, the allocation to the unaffiliated Seminoles may not exceed the average, on a per capita basis, of the combined allocations to the Seminole Indian Tribe of Florida and the Miccosukee Tribe of Florida. Any excess in the allocation to such unaffiliated Seminoles shall be

divided between the Seminole Tribe of Florida and the Miccosukee Tribe in the same proportions as the initial division between those two tribes. The use and distribution of the respective shares shall be governed by the Act of October 19, 1973 (87 Stat. 466).

SEC. 4. The chief commissioner of the Court of Claims, pursuant to sections 1492 and 2509 of title 28 of the United States Code, is hereby directed to report to the Senate and the House of Representatives, at the earliest practicable date, findings of fact and a recommendation as to what constitutes a fair, just, and equitable division as between the Seminole Indians of Florida and the Seminole Indians of Oklahoma, of the $16,000,000 plus accured interest, less attorneys' fees and litigation expenses, heretofore paid by the United States in satisfaction of the award to the Seminole Nation as it existed in Florida on September 18, 1823, entered by the Indian Claims Commission on April 27, 1976 in dockets numbered 73 and 151, consolidated (38 Ind. Cl. Comm. 91) : *Provided,* That the findings of fact and recommendation shall be based on all relevant factors including those reflecting any difference in benefits received from the United States by the Oklahoma Seminoles and by the Florida Seminoles, respectively: *Provided further,* That the recommendation of the chief commissioner shall become effective and shall be binding on the Secretary of the Interior at the

end of a sixty-day period commencing on the date the recommendation is submitted to Congress, excluding days on which either the House or the Senate is not in session because of an adjournment of more than three calendar days to a day certain, unless during such sixty-day period either the House or the Senate adopts a resolution disapproving the recommendation of the chief commissioner.

Senator BARTLETT. Senator Chiles will be the first witness. He has an urgent schedule and must leave in a few minutes. He has an important phone call he is taking right now, so we will recess until Senator Chiles is able to join us.

[Recess taken.]

Senator BARTLETT. Senator Chiles, we are very happy to have you before the Select Committee on Indian Affairs. Proceed as you see fit.

I want to apologize for my being late.

Senator CHILES. I want to apologize for having to get on the phone. My Governor was trying to reach me, and he is in Hong Kong, where it is 11:30 at night.

STATEMENT OF HON. LAWTON CHILES, A U.S. SENATOR FROM FLORIDA

Senator CHILES. I am happy to appear today before the committee in support of S. 2188 which Senator Stone and I have introduced. That bill provides for the use and distribution of $16 million awarded by the Indian Claims Commission to the Seminole Nation as it existed in Florida in 1823.

I listened to the chairman's opening statement. I think he did set forth sort of the problem in the area.

The award was for the value of Florida lands taken from the Seminole Nation and for other wrongs committed by the United States. This award has been on deposit in the Treasury since 1976.

After the Seminole War in 1834–35, the United States commenced the forcible removal of the Seminoles from Florida. Many were removed and ultimately settled in Oklahoma, but a very substantial number avoided the military, went into hiding and remained in Florida. This left the Seminole Nation divided into the Florida Seminoles and the Oklahoma Seminoles. Before the award can be distributed, it must be apportioned between the two branches of the former Seminole Nation.

In addition to S. 2188, the committee has before it S. 2000, a bill introduced by Senator Bartlett and Senator Bellmon. S. 2000 would divide the award on the basis of historic population figures. The result would give approximately three-fourths of the award to the Oklahoma Seminoles and one-fourth to the Florida Seminoles.

It is my understanding that where circumstances are otherwise equal, Indian claims awards are often divided on the basis of population. However, in the case of the Seminoles such a division would be unjust because it would not take into account the difference in treatment and benefits received from the United States by the Florida Seminoles as compared to the Oklahoma Seminoles.

For over 100 years after the Seminole removal to Oklahoma, and continuing until relatively recent years, the Florida Seminoles were wholly neglected by the United States. During the decades when the Florida Seminoles were enduring hardships, the Oklahoma Seminoles were receiving all of the treaty payments, reservations, valuable allotments of land held in trust and managed for them, and large public appropriations for health, education, welfare and other social services.

Not until the 1950's did the Bureau of Indian Affairs begin to implement the Federal responsibility to the Florida Seminoles and it is only relatively recently that the United States has provided them with the full complement of Federal services that is their just entitlement.

Senator Stone and I believe that this difference in treatment and benefits compels consideration of factors, in addition to population, that must be weighed in any fair, just and equitable allocation of the award. To divide an award solely on the basis of population would be mechanical and arbitrary. Relative population may be one—but only one—factor that should be considered.

The committee does not now have before it all the relevant information on past treatment of each of the two groups that it needs to see the contrast. To make the comparison the committee should have the facts showing how much of the tribal money due to all Seminoles under the treaties was paid to each group.

The Florida Seminoles believe that practically all the treaty money belonging to all the Seminoles was expended for the Oklahoma Seminoles alone. The committee should know the acreages of the treaty reservations vested in the Oklahoma Seminoles exclusively, as well as the number of and acres of allotments of tribal land patented to Oklahoma Seminoles. None went to the Florida Seminoles.

The committee should be told how much Federal money was expended for each group for property management, health, education, welfare, social and related services. The Florida Seminoles received very little or nothing for about 120 years. This, and like data, should be considered by the committee before any action is taken on these bills. It is my understanding that the hearing record will be held open until this information is available.

In light of the differences in treatment of and benefits received by the Florida and Oklahoma Seminoles, S. 2188 does not fix a division between the two groups. Instead, this legislation would refer the determination of a just and equitable division of the award to the chief trial judge of the U.S. Court of Claims.

Under procedures established by law, the chief tribal judge would hold hearings, take evidence, make findings taking into account all relevant factors, and recommend a proposed distribution of the award that would be reported to Congress. This approach would preserve the ultimate decisionmaking authority in Congress, and at the same time leave the examination and analysis of the evidence to the chief tribal judge.

In my view the best solution to this situation would be that these two branches of the great Seminole Nation will get together and try to reach agreement. If they do not get together, I would ask the committee to adopt the approach of S. 2188.

For the Seminole Indian Tribe of Florida this award is of enormous importance, for it is the only land award in which the tribe will share, or has ever shared. Given the Government's long history of neglect toward the Florida Seminoles, a fair allocation of this award by the United States represents a major opportunity to rectify and redress past wrongs.

I think the Florida Seminoles just feel like they really have not had their day in court. They have not had a chance to have someone look

and determine what would be the fair basis of making this award rather than just pick sort of an arbitrary number out of the hat which would not take into consideration how they find themselves today, how the Oklahoma Seminoles are, and what has been done over the period of time to equate the difference.

So, I think that is really what the Florida Seminoles are seeking. Senator Stone and I feel that that case is fair. And that would be the purpose of the bill that we have introduced.

Senator BARTLETT. Senator Chiles, I thank you very much. We are very happy to have you here.

Senator CHILES. Thank you very much, Mr. Chairman.

Senator BARTLETT. Our next two witnesses will appear together. They are Mr. Richmond Tiger, principal chief of the Seminole Nation of Oklahoma, and Mr. Edwin Tanyan, general council member of the Seminole Nation of Oklahoma and former principal chief.

Chief Tiger, please proceed as you see fit.

I see you have two more people with you. Chief Tiger, would you introduce them please?

STATEMENT OF RICHMOND J. TIGER, PRINCIPAL CHIEF, SEMINOLE NATION OF OKLAHOMA

Chief TIGER. Mr. Chairman and honorable members of the Select Committee on Indian Affairs, with me today are Mr. Tom Palmer, who is our assistant chief; Mr. John Tiger, negotiator for the Seminole Nation of Oklahoma.

My name is Richmond J. Tiger, principal chief of the Seminole Nation of Oklahoma. With me today is the vice chief of the Seminole Nation, Mr. Tom Palmer and some tribal members who are also members of our judgment fund committee: John Tiger, Terry Little, Simeon Bemo, Edmond Harjo, and Edwin Tanyan.

I wanted to introduce these people to you for the record since they and we are all proud to be a part of this most important and historic day. It is a great honor for us to appear before this body of men. We have been selected by the people of the Seminole Nation of Oklahoma to see that honor and justice is done for the citizens of this country that we call home.

As you know, we are before you today to ask you to see that justice is done for our people regarding the distribution of funds awarded to the Seminole Indians in dockets 73 and 151 by the Indian Claims Commission. It has been many years since the Seminole Nation of Oklahoma hired an attorney to press claims for lands lost in Florida by the Seminole. After all these years, the Indian Claims Commission has finally awarded the Seminoles $16 million for these lands. At long last it seems that justice is going to be done for our people, but now we are down to the last sticky detail. That involves the question of how the money should be distributed.

Senate bill 2000, which is before you now, explains to you our position. Briefly, it states that the Seminole Nation of Oklahoma feels that a just and equitable division of the award between the Seminoles of Oklahoma and the Seminoles of Florida can only be based on a per capita basis.

We are aware of the hardships faced by the Seminoles of Florida

and we feel for them because, regardless of the outcome of those hearings, we will still have the same feeling of brotherhood for our Seminoles in Florida. Although we have faced hardships in Oklahoma beginning with our removal in 1832, our position is that it is not the issue in question here. The issue to us is equitable payment regarding the two tribes, and the formula approved by us and the Interior Department is based on distribution on a per capita basis.

Senate bill 2000 would settle for all time the question of just compensation for lands lost by the Seminoles of Oklahoma and Florida. It would alleviate for our people some of the harsh conditions that they face today. Passage of this bill would provide for better living conditions. Some startup capital for some members of our tribe who aspire to be farmers and small businessmen. The 20-percent set-aside mentioned in the bill would also provide for better tribal government and some capital to acquire some land in Oklahoma.

In closing, I only hope that the Great Maker will guide you in making the decision which you need to be fair and honorable. At this time I would like to introduce Mr. Tanyan, who was the chief preceding my term.

I thank you for the time and opportunity I was given to speak on behalf of my people.

Senator BARTLETT. Thank you, Chief Tiger.

Mr. Tanyan?

STATEMENT OF EDWIN TANYAN, GENERAL COUNCIL MEMBER, SEMINOLE NATION OF OKLAHOMA

Mr. TANYAN. Mr. Chairman and members of the committee, I would like to also state that it is inded an honor to be here. I would like to explain to you how we arrived at the position that we Oklahoma Seminoles have taken in regard to Senate bill 2000. First of all, it started back when Mr. Niebell, the claims attorney, informed us that we had been awarded the $16 million by the Indian Claims Commission.

The next step was to negotiate with the Florida Seminoles to agree on the distribution of the funds. If this would have been done between the two factions involved, we would not be here today.

However, further negotiations between the Seminoles of Florida and the Seminoles of Oklahoma were held in Nashville, Tenn., in the spring of 1976. A followup meeting was held in Oklahoma City which spelled out definitely no negotiations.

At this time, the Judgment Fund Committee of the Seminole Nation of Oklahoma voted to turn the problems of distribution back to the BIA.

The bill before you today that we are testifying on is the only avenue left to see that the judgment fund award is distributed.

As the chief stated, it was in 1930 that work began on the Florida land claims case by our attorney, Mr. Paul Niebell. At long last, the money has been awarded. With the passage of this bill, we will finally be able to use the money for the betterment of our people, which the chief spoke of.

I would like to point out that we Seminoles in Oklahoma do not have reservations like the Seminoles in Florida do. They have three reservations and land on the Tamiami Trail. The Florida Seminoles have

the Brighton Reservation; the Big Cypress Reservation, with a large cattle industry; and the Seminole Village at the Hollywood Reservation. Unlike them, we have little more than 320 acres in a tract of the land south of Wewoka known as the Mekusukey Mission.

S. 2000 is very important to us because it would enable us to acquire more land for development. Even before S. 2000 was introduced, we had long since developed a similar approach. If this bill is passed, we would have the much-needed capital to go into an industry for ourselves.

As you know, this bill provides for a 20 percent set-aside for our share of moneys for investment. I feel that this is the much-needed startup capital that some of our people have been waiting for to use for much-needed social and economic projects.

If we could have land instead of money, we would gladly take the land back. However, the Indian Claims Commission was set up to make money awards and not land. As a result, we will have to take some of this money to buy up some land for our people. By the very fact that we do not have land, we are found in Oklahoma with the problems of housing and land.

Please look at all these factors and see it in your heart to pass Senate bill 2000 so that we may catch up with our brothers in Florida and the rest of American society.

I thank you.

Senator BARTLETT. Thank you.

Are there any other statements to be made?

Chief TIGER. Yes. Assistant Chief Tom Palmer has a statement. Each one will make a statement.

STATEMENT OF TOM PALMER, ASSISTANT CHIEF, SEMINOLE NATION OF OKLAHOMA

Mr. PALMER. Mr. Chairman, my name is Tom Palmer. I am going to give you a brief oral statement. I am the assistant chief of the Seminole Nation. I am one of the elected members.

The Seminole Nation of Oklahoma is one of the federally recognized tribes. We have our tribal government, a very democratic government. We have 12 Indian bands. The 12 members of the representatives are elected by the people.

The Seminole Nation of Oklahoma did establish a Judgment Fund Committee in order to come to some kind of an agreement with our Florida friends and brothers. The Judgment Fund Committee was established by the general council. The Judgment Fund Committee is the only authorized and recognized group. As determined by the general council of the Seminole Nation of Oklahoma pertaining to all matters concerning said award, dockets 73 and 151 shall be brought before this committee. For this consideration, no other group or individual is recognized or has the authority to speak on behalf of the Seminole Nation of Oklahoma concerning dockets 73 and 151.

The Seminole Nation of Oklahoma is obligated by law to inform all members of the Seminole Nation of Oklahoma of any and all judgment awards. The Seminole Nation of Oklahoma, through public meetings and public announcements, has held several mass meetings to inform the membership of pending awarded claims and to develop a proposed and planned usage of the award.

The Seminole Nation of Oklahoma has made several attempts in an effort to negotiate with Florida Seminoles and determine the division of the judgment award. All meetings have resulted in no satisfactory result.

We have had several attempts in order to come to some kind of an agreement as to the division of money.

Mr. Chairman and members of the committee, I want to thank you for your time. I wholeheartedly support Senate bill 2000.

Thank you.

Senator BARTLETT. Thank you, Chief Palmer.

Mr. John Tiger, do you have a statement?

Mr. JOHN TIGER. Yes, sir.

After my statement, we would like to provide the committee some time, if you have any questions, we will be available to answer any questions you may have.

STATEMENT OF JOHN TIGER, NEGOTIATOR, SEMINOLE NATION OF OKLAHOMA

Mr. JOHN TIGER. Mr. Chairman, I would like to expand on some activities the Seminole Nation of Oklahoma has done in an effort to deal with the claims award that was made available by the Indian Claims Commission some 2 years ago. We established a Judgment Fund Committee.

The only responsibility of that committee at that time was to negotiate with the other recipient tribes to determine an equitable division of those funds. After two meetings, we felt there was no way of working out a solution to the problem. Therefore we left. We could not negotiate. We could not satisfy our people back home and the other recipient tribes.

The next step was to ask the Bureau of Indian Affairs. Under the provisions of Public Law 93–134, the Department of Interior does have a responsibility, we felt, an obligation to review the situation to work within that law and make a division of said claims. We did.

The Judgment Fund Committee's role then changed from negotiator to planner. We started working with the proposals as laid out in Public Law 93–134 to follow every procedure, every rule, and every regulation. We had public hearings. We had mass meetings. We informed the public through various communication systems.

We went to the general council. We developed a usage plan for our share. That usage plan is in the bill. It is probably unique as far as any claims awards are concerned. It guarantees that our tribe will exist. It provides capital for investment, for education, for services to members. The principal will never be spent, only the interest.

The general council, which numbers 42, will determine the program or the activities of the tribe. It may be land acquisition. It may be farming. It may be capital improvements in the form of buildings.

That is a decision and it is a good decision. There are problems. We are going to have more headaches every year with how to use our money. We have never had that problem before. It is an occasion for us to really act as business people and managers. It is going to force us to be semiprofessionals. I think we have commitments from various individuals within our tribe. We will take these problems. We will take

these headaches and we will take this abuse that these problems will bring to us.

Prior to this we have always looked to the Bureau to make decisions for us. Sometimes they weren't in the best interest, but we had to have someone make decisions for us.

Our usage plan also gives the Bureau and the Department of the Interior control because each year, when the Judgment Fund Committee and the general council determine how those funds will be spent, the Secretary of Interior will approve that plan. So, they still do have control. They still have involvement, but, basically, we are charged with the responsibility to design activities that we feel will benefit our people.

The Judgment Fund Committee, as Assistant Chief Tom Palmer indicated, was put on by a group of people selected by their bands. That group did select negotiators, the group you see here. Our names were presented before that general council. The general council said, "OK, do the best job you can. You take our wishes and stay." That is all we can do. We cannot compromise from those positions.

As mentioned earlier, we did have a public hearing. The usage plan, as contained in S. 2000, was approved by the general council. We are prepared and we urge a great amount of diligence on this committee's part to pass S. 2000 without compromise, and without alterations. We feel like it is a good bill.

We have been fair. The Judgment Fund Committee has allowed a number on our roll that was established in 1906 to be a number that has not changed. We allowed the Seminoles of Florida to use a roll that was established in 1914, an advantage of 8 years, giving an opportunity to provide more members during that 8-year period. I am sure there was a number of children born. There were probably some that died during that 8-year period.

We went a step further. On the 1914 roll there were some 562 members that could be identified. Some were orphans and some were widows, but they were identified. We accepted that number. As late as May 15, 1977, the Florida roll was again asked to be reviewed. Moneys were available to Florida. By May 15, 1977, another 138 names were added to the 1914 roll of 562 people. We did accept those 138 people.

We felt like they identified those people as members of the tribe that were living in 1914. We accepted that. We allowed those 138 people to be put on that roll.

But, Mr. Chairman, we are presently eager to get into some business. We are eager to allow the tribe to provide certain services to our people. Bill S. 2000 will give us that opportunity.

Thank you very much.

Senator BARTLETT. I thank all four of you for your statements.

One of the questions I wanted to ask has been partially answered by Chief Palmer. It concerns the number of meetings with the Florida Seminoles. Apparently there was a meeting in August of 1976. How many other meetings were there?

Mr. PALMER. We had one in Oklahoma City; Nashville, Tenn.; Shawnee, Okla. Those are the three main ones.

Senator BARTLETT. What were the principal areas of disagreement?

Mr. PALMER. The disagreement was that there was just no way that we could come to an agreement on the division of moneys. We main-

tain that our division of moneys was based on per capita—Seminole members by blood. They were maintaining on the hardship. We feel that the Oklahoma Seminoles were the ones that faced the hardship through the "Trail of Tears" back in the 1800's.

We feel that we are the ones who have suffered through all our hardships, even being removed from the Florida lands, our native land, from a warm climate, to a hard winter.

We feel like we are the ones that suffered the most. They are basing theirs on hardship.

This is where we never could negotiate.

Mr. JOHN TIGER. Mr. Chairman, I am not sure we ever got down to the dollars and cents. In our first meeting in Nashville, Tenn., it was indicated that we were basing by per capita, dollar for dollar. At that time, it was indicated to us that that was not an acceptable method to be used as negotiations.

In Oklahoma City, various figures were mentioned. Split it half and half. Split it five and seven or whatever. After that Oklahoma City meeting, after visiting with the general council and our people, we said, "OK, it doesn't look like we have a way of negotiating at all if we say we want the division made under per capita basis, equal numbers." General council said that was the only way that we will accept.

In Oklahoma City we brought this out in our negotiations. We are sorry we have no way that we can negotiate; the general council has said by per capita.

At that time we were then asked by the Bureau of Indian Affairs in the Department of the Interior to use other provisions to make a division.

Senator BARTLETT. How are the particular percentages of distribution determined?

Mr. JOHN TIGER. In the proceedings of the usage plan itself?

Senator BARTLETT. Yes.

Mr. JOHN TIGER. Normally in a claims award some 20 percent is used for travel, administration, and those kinds of activities. Unless we could prove that we were solvent and had a great deal of money, then we would be allowed to go ahead and pay out all the funds.

The usage plan itself of the Oklahoma share was a responsibility of the judgment fund committee. They were the ones that said "OK, when we get the money what are we going to do with it?" They worked out this plan. Hearings were held on that plan. The general council did approve that plan.

But that is the method. We went to mass meetings as far away as Tulsa to try to reach as many Seminoles in Oklahoma as we possibly could. We met in little churches. We met in schools, and gymnasiums. So every effort was made to inform people of what we could do if that is what they wanted because the general council said. "Yes, this is a plan we will accept."

Senator BARTLETT. I have no more questions. If you have anything further to say, please proceed.

Chief TIGER. Mr. Chairman, we appreciate your taking this time to listen to our testimony. We thank you.

Senator BARTLETT. Thank you all very much.

Our next witness is Mr. Howard Tommie, chairman of the Seminole Tribe of Florida, accompanied by Marvin Sonosky, special counsel for the Seminole Tribe of Florida.

Mr. Tommie, please proceed as you like.

STATEMENT OF HOWARD TOMMIE, CHAIRMAN, TRIBAL COUNCIL, SEMINOLE INDIAN TRIBE OF FLORIDA, ACCOMPANIED BY MARVIN J. SONOSKY, ATTORNEY

Mr. SONOSKY. Mr. Chairman, my name is Marvin J. Sonosky. I am a partner in the law firm of Sonosky, Chambers & Sachse with offices in Washington, D.C. I am here as special counsel on this matter for the Seminole Indian Tribe of Florida.

Mr. Howard Tommie is the chairman of the Seminole Indian Tribe of Florida. He is accompanied here by his full council. With the chairman's permission, he would like to introduce them to the committee.

Senator BARTLETT. I would appreciate very much his doing that.

Mr. TOMMIE. Mr. Chairman, I appreciate the opportunity to testify on behalf of bill S. 2188.

My tribal council is also interested. A written statement has been presented to you. This is a very important bill for us. We will explain in general terms as to why.

I have my tribal council. We also have a corporate board of directors. They are also interested in it because it involves money, in general terms.

Over in the far corner is Fred Smith; he represents the Hollywood Reservation. He is on the board of directors. Two chairs from him is Cecil Johns, member of the tribal council. He is from the Hollywood Reservation. Seated next to him is Mrs. Rosie Buck. She is the Brighton representative on the tribal council. Then we have Mr. Richard Smith. He is on the board of directors from the Brighton Indian Reservation, and over here we have the vice chairman from the Hollywood Reservation elected by the whole population of the Seminole Tribe, Bill Osceloa.

We have Jim Cypers. He is the representative from the Big Cypress Reservation in the central part of Florida. We have other representatives that would like to sit in on this hearing.

Senator BARTLETT. We welcome you all.

Mr. TOMMIE. The prepared statement, as presented to you, is pretty well explanatory. We have pointed out some things that we are very disappointed about on the part of the Bureau of Indian Affairs.

We are also going to bring out some of the items that we feel in general. I make these comments. I will not read my prepared statement. I just want to say a few things in reference to what we believe are the problems that we have now come to general terms as far as the Oklahoma and the Seminoles negotiation, which was mentioned a while ago.

Senator BARTLETT. Chairman Tommie, your complete prepared statement will be placed in the record as if read. Please proceed with your additional comments as you see fit.

[The prepared statement of Mr. Tommie follows:]

STATEMENT OF MR. HOWARD TOMMIE, CHAIRMAN
TRIBAL COUNCIL OF THE SEMINOLE INDIAN TRIBE
OF FLORIDA

Before the

SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

on

S. 2188 and S. 2000

March 2, 1978

Mr. Chairman and Members of the Committee:

My name is Howard Tommie. I am Chairman of the Tribal Council of the Seminole Indian Tribe of Florida. On behalf of my Tribe, the members of my Council who are here with me, and for myself, please accept our thanks for this opportunity to present the position of the Seminole Indian Tribe of Florida with respect to the division of the $16 million claims award made by the Indian Claims Commission to the Seminole Nation as it existed in 1823.

Mr. Chairman, this is a decision of the greatest importance for my Tribe. Today, the Seminole Indian Tribe of Florida is recognized by the United States and receives federal services. We live on three small reservations in southern Florida. It has not always been this way. Only within the last 25

years or so has the United States begun to observe its responsibilities to us. And we think we have made the most of the assistance that has been given to us. The Tribe operates a large cattle program, of about 10,000 head, which provides employment, and businesses for individual members and returns a respectable profit to the Tribe. We also operate a tourist attraction complex including an Indian village and arts and crafts, a catfish farm and program and other projects. We are a tribal community of Indians. We have a strong Indian culture that we want to preserve. We have a successful government. Our plan is to use a substantial portion of the money for projects that will benefit all of our people.

The BIA's proposed split and the way the BIA handled our matter are terrible blows to our people. They are a step backward in our federal relations recalling to us more than a century of neglect and of deceit. The BIA's procedures in reaching the 75-25 split were anything but fair. All we ask for is to have the situation reviewed on a just and equitable basis, by an impartial judge , outside the Department, who will give full and unbiased consideration to all the facts that should be considered.

The problem presented by the two bills before the Committee is how to divide the $16 million between the two branches of the Seminole Nation — the branch that was moved to Oklahoma and the Florida Seminoles, who went

into hiding and escaped removal. A little history will help explain how this separation of our Nation came about.

Florida is the ancestral home of the Seminoles. Florida was our country before the Spaniards came and long before the United States acquired Florida from Spain. After Florida became a Territory of the United States, the Government entered into treaties with the Seminoles. There were two wars between the Seminoles and the United States basically because the whites wanted our lands. We were in the way. Commencing about 1832, the Government took steps to remove the Seminoles from Florida to Oklahoma — the Indian Territory. The Seminoles did not want to leave their homeland — but they were forced to move west.

However, the Government never did succeed in getting all of us out of Florida. A very substantial number concealed themselves in the Everglades and lived in hiding for long years. Many still live in the Everglades and still are wary of the white man. We are the Seminole Indians of Florida. We were absolutely forgotten and neglected by the United States for over a hundred years. Not until the 1950's did the United States begin to give even small recognition and help to the Florida Seminoles.

But that was not the situation with respect to the Seminoles who were moved to Oklahoma. Before removal the United States entered into four treaties with the Seminoles. After removal the Government dealt only with the Oklahoma Seminoles and entered into three more treaties, an agreement, and an 1889 statute carrying large benefits. So far as the United States was concerned, after the removal to Oklahoma, the Florida Seminoles did not exist.

Over the decades, practically all of the treaty money due under those seven treaties, the agreement and the 1889 statute was paid to the Oklahoma Seminoles. Up to August 31, 1947, the last date for which we have figures, the United States paid out to the Seminoles a total of $7,890,000 in tribal funds. All these tribal moneys were paid to the Oklahoma Seminoles except for about $250,000 that may have been paid to all the Seminoles in Florida before the removal. In addition, the Oklahoma Seminoles received about 365,000 acres of very valuable land in Oklahoma. Some of it turned out to be valuable for oil and gas.

On top of this, we believe large sums of public money were appropriated by Congress and expended in Oklahoma for the benefit of the Oklahoma Seminoles for health, medical and hospital services, for education, for

welfare and other benefits, including Bureau of Indian Affairs trustee management. The Florida Seminoles received nothing from these large expenditures. The Bureau advises it cannot now tell us how much was given to the Oklahoma Seminoles because the Bureau's records are now in storage in Federal record centers.

The $16 million award that we are concerned with represents the difference between what the United States is supposed to have paid the Seminole Nation for 23.9 million acres ceded by the Treaty of 1823, and the value of the land at the time of the treaty. Right after the award was paid into the Treasury in 1976, the Bureau of Indian Affairs undertook to work out a division between the Oklahoma Seminoles and the Florida Seminoles.

To do this, the Bureau assigned the matter to one of its staff people. The person to whom the problem was assigned, we believe is biased and prejudiced against the Seminole Tribe of Florida and we think the Bureau knew it when it made the assignment. I should like to tell the Committee why we make this charge.

Around 1970 the Bureau assigned a Community Service Officer to our Seminole Indian Agency in Florida to work with our youth and perform community services. He was not liked by the people, possibly because

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he fancied himself an historian, went about making rather insensitive inquiries of the people about their habits, and their traditions, customs and practices. Our people are pretty much traditionalists and very conservative. Because of our long years in hiding, there has not been much assimilation among the Florida Seminoles. Whereas the Oklahoma Seminoles do not even have a minimum blood requirement for enrollment, the great majority of our people are full bloods. Our people resented the inquiries by the BIA employee. There were arguments and quarrels with him. We asked that he be transferred out of our Agency. Nothing happened. There came a day when the BIA employee engaged in a scuffle in his office with one of our young men and as a consequence the employee was left with a broken arm. Then the Bureau transferred him to the Central Office in Washington.

When the matter of the division of the $16 million award came before the Bureau, the Bureau assigned it to this same individual. Needless to say, my Tribe would have nothing to do with him. We had no confidence in him and we lost confidence in the Bureau. Yet, he was the man who worked out the deal to give 75% to the Oklahoma Seminoles on the basis of his reconstruction of a 1914 census that we think is absolutely unreliable. In 1914,

many of the Florida Seminoles still regarded the United States as an enemy and still hid out and kept out of sight. No 1914 census of Florida Seminoles is dependable.

We believe that this same employee prepared the initial recommendation that was the basis for the letter that the Department has sent up recommending the same 75-25 division that he recommended. Our attorney advises us that the Court of Claims rendered 7 decisions on claims filed against the United States by the Seminole Indians of Oklahoma under special jurisdictional acts. In one of those cases filed by the Oklahoma Seminoles in the name of the "Seminole Nation", the Court of Claims in a 1940 decision, ruled that the "plaintiff purporting to be the 'Seminole Nation' *** constitutes only approximately two-thirds of the membership of the Seminole Nation, and not the entire Seminole Nation or Tribe ***." We have more faith in the Court of Claims' division of 1/3 - 2/3 than we do in the recommendation of the individual who we are sure has no use for us but was the one that the Bureau selected to figure out what our share of the award should be.

We believe that if the Bureau had not interfered we could have reached agreement with our Oklahoma brothers. Right after the Indian Claims Commission entered the award in 1976, my Tribe authorized our Claims

Committee to meet with the Oklahoma Seminole Judgment Committee to see if we could work out an agreement for the division of the award. We met twice, once in Nashville, Tennessee and once in Oklahoma City. Both meetings were attended by a representative from the Bureau.

Our objective was to work out an agreed division that could be submitted to the Bureau. At the Nashville meeting our Claims Committee submitted a proposal that was the subject of discussion. The Oklahoma Judgment Committee said they would take this matter back to their people and then fix a time for a second meeting.

The second meeting was held in Oklahoma City, again attended by both our Claims Committee and the Oklahoma Judgment Committee, and by a representative of the Bureau of Indian Affairs. At that meeting the Oklahoma Judgment Committee turned down our proposal and said they wanted the Bureau to decide it.

I still continued in contact with members of the Oklahoma Judgment Committee and I learned from them that the Bureau had advised them that the matter was one for the Bureau to decide and not the two Tribes. After that we sought legal assistance. I do not know why the Bureau interfered.

The Florida Seminoles have never shared in any award against the United States. We are not aware of any other claims. This award is our only one. We ask that it be reviewed by an impartial, outside judge who will give full consideration to all the facts that should be considered in reaching a decision that is of such great importance to all of us.

Mr. TOMMIE. Thank you, Mr. Chairman.

There were many inconsistencies involved as far as the award was concerned. We believe that the attorneys for the Seminole Nation proved beyond the shadow of a doubt that we should receive more money for the land that was taken. That point has been made. The Oklahoma tribe and the Florida tribe have to abide by the percent resolution accepting the $16 million; and this is what we have to abide by, as far as my council is concerned.

Bringing these points out, we feel strongly that we have not gotten our day in court. I think what we are asking is that we are not in a position to accept the Bureau's determination. First of all, I do not want to sound like I am criticizing an agency under the Federal Government; but they have not worked with us in the best interest of our tribe. This is one point that I would like to bring out.

One of the things I feel is that—as Mr. John Tiger said awhile ago—they said that we can get together and see if we can come to a conclusion. So, we spent x amount of dollars. We went to Oklahoma. We went to Nashville. Some of our tribe had an unofficial meeting with members of the tribe of Oklahoma. Then the Bureau comes back and says, "Well, the two tribes cannot make this type of determination; only the Bureau or whoever is designated can make this type of determination."

I think that is not in the best interest of the Congress of the United States because there have been bills passed in the past saying that Indian self-determination is the way to go. Then the Bureau does not support that kind of thing. I want to know why it has not been done.

Be that as it may, I think one of the other items which we would like to bring out is this. Even the division under the Bureau that handles enrollments and processes the amount of judgment claims going to the tribe, I think there is an individual there that should have made an impartial judgment. He used to work for us before. His name is Steve Feraca. At one time, he came down to our tribe and tried to work with our people. Needless to say, he did not get along with our people. I think he is not in the best judgment of what the Seminoles would like to have. I think that is an impartial type of judgment to be made against us.

We would like to bring this out in our testimony. When he was down there, he had a scuffle with our people. He was relieved of his duties in Florida and transferred back here to the central office.

I don't think any kind of judgment on the Bureau should be based on a person such as that particular individual. So, this is one of our points that we bring out as far as the judgment or whoever is going to make the judgment as far as trying to see what kind of division is going to be made.

We feel strongly that the Bureau is not the person that we would want to trust wholeheartedly. Under the bills that we have introduced, we felt like an impartial judge could make a better determination. If so desired, if the Bureau could be told that the two tribes can get together and they can make a decision.

I felt when the Indian Claims Commission said the two tribes get a resolution authorizing the $16 million, they went to our tribes and we passed a resolution. They went to the Oklahoma tribe, and they passed a resolution. Then that was sufficient enough for the Indian

Claims Commission to say, "Well, these are the two tribes agreeing and then the $16 million is approved." And then another Government agency—when we try to get together and try to make a determination—tells us, "Well, the two tribes can't make that decision. It is up to the Bureau of Indian Affairs and the general council."

I think that is very inconsistent as to what we were led to believe. I think that our proposal is valid. The other valid proposal is that the Oklahoma group indicated hardship was the only thing that we brought out. Hardship is one thing, but the other items that we would just like to bring out is this: If it is asked for, we can present it, but the figures are with us; and we did not get them from the Bureau of Indian Affairs. We had to get them from some other source of information—the figures that we needed in order to make a valid argument, we wanted to present to the committee.

My people in Florida strongly believe that the Oklahoma Indians were adequately compensated, or they agreed to be compensated for an amount of money that they agree to to be removed to the State of Oklahoma. So, they were compensated. And then there was another compensation in 1976 coming in, and they are going to take a major chunk of the money. That is hard to take as far as our tribe is concerned.

They got land with oil on it. The Oklahoma claim is, "Well, we were cheated out of it." OK, you know; but in Florida we were never able to be cheated out of it. We did not even get a chance to be cheated out of it. It was theirs. They gave it to them. They got land and they distributed it among themselves.

They got that and also money in the millions of dollars that was given to them because they agreed to go to Oklahoma. They got all the compensation. Then there is this chunk of money and it looks like they are going to get another chunk of money. It far exceeds what we are going to get—75/25 is not agreeable with our tribe. That is one of the other points which we feel we need to bring out.

Of course, there are certain terms that we agreed to. We agreed to have the enrollment updated because we felt like updating our enrollment could satisfy the tribe. Historically speaking, I think that another point showing that the Bureau is not in the best interest of the Florida Seminoles is because, back in 1904, as far as Indians were concerned, it was a hostile area. There is no way that you could have made an accurate enrollment at that particular time. Indians were not negotiating or Indians were only trading, and they were not in communication with the non-Indian population, especially the Federal Government. They had a war on at that time. They were trying to recruit every male that was on the reservation or in that area.

There was no way an accurate enrollment could have been made at that time. There could have been 1,000. It could have been 2,000. It could have been 500, or whatever it is. But there was no way an accurate enrollment could have been made at that time. It was a hostile area. The Indians were still being prosecuted. They were being killed for their land. They were being killed for their pelts and things of that nature.

Every time a white person arrived in the village, all the Indians would hide in the Everglades, and just an elderly person would communicate with them. When they left, then the rest of the population of that village came in.

So, there is no way, I feel, that an accurate population count could have been had at that time.

I do not want to prolong this, but I think that one of the things I would like to close by saying is that we are interested in this bill because I think we need to have our day in court. I think that, if you can allow us to do that, then I think the tribe would be satisfied.

I think one of the items which we discuss periodically is let somebody make that determination.

A major thing that was brought out is that this is a historic event. The money is going to be distributed to help our people. But to us in the State of Florida this is going to be another historic event where we are not given our share of what we lost in the State of Florida.

Today we live on three reservations: Brighton, Hollywood, and Big Cypress. It was brought out, but we do not own the land. It is a Federal order reservation. It can be taken away from us at anytime. During the Cuban crisis, the Federal Government said that we can take this land and put our missiles on there at any time. So, we don't own the land. We own nothing in Florida.

Here the Oklahoma group has gone to Oklahoma and got land. They can distribute it among themselves. They got x amount of millions of dollars. Now there is a chunk of money that is coming down, and they want the whole portion of the whole thing. This is what disturbs us.

I think if we had our day in court, I think we could do that.

This might be an historic event for some people, but if we are not heard out then I think the Florida Seminoles have another historic event where they were not listened to like they have been for many, many years.

Mr. Chairman, I appreciate your time.

Senator BARTLETT. Mr. Tommie, thank you very much.

Mr. Sonosky?

Mr. SONOSKY. Mr. Chairman, there are a few facts that I think might be helpful to the committee. Every time we touch one of these Indian cases, we always bump into history. I was not familiar with the history of the Seminoles.

I often wondered why we never heard about Florida Seminoles. But at one time the Seminoles did own substantially all of Florida. It was when Andrew Jackson made his reputation as a general that the Seminoles met their master. The upshot of that was, following two terrible wars in which the Seminole people suffered, the United States entered into treaties. As a result of those treaties, the Seminoles were under compulsion to move West.

But not all the Seminoles went. Those who stayed with their homeland hid in the Everglades. Some of them are still there.

Mr. Tommie was telling you what was going on as of a period around World War I. He was talking about 1914, when this so-called census was made on which the Bureau relies. During that period the Seminoles in Florida still were in the Everglades, still were in hiding. The men were subjected to external forces. Hunters would come in and take their pelts and destroy their villages. They had no protection from the Government.

It was not until about the 1950's that the United States became interested in the Florida Seminoles. Since that time, the Florida Seminoles, with that help, have been able to improve themselves. They have a long way to go.

One of the things that ought to be brought to the attention of the committee is the fact that, after the Seminoles were moved to Oklahoma, the group that was moved to Oklahoma ended up getting from tribal moneys—not appropriated from the Federal Treasury but tribal moneys—in excess of $7 million. In addition to that, they got 265,000 acres of land.

The Seminole Tribe in Oklahoma was dissolved by act of Congress. The land was allotted. Many of those allotments turned out to be valuable for oil and gas—I am sure the Senator knows more of this than I do—but the records show this.

During the 100 years or more that the people in Oklahoma got great benefits, the people in Florida were absolutely neglected by the United States. They got nothing and suffered severely.

In addition to the tribal money, the $7 million that I am talking about—and we offer an exhibit attached to Mr. Tommie's statement to support that—there were public moneys appropriated. There was health care, education, welfare, social services, Bureau of Indian Affairs trust management. None of these things came to the Florida Seminole.

These are all benefits from the Government plus the use of tribal money that went exclusively to Oklahoma Seminoles.

The Florida Seminoles feel these are factors to be considered in addition to mere population.

Now, why is it that the Florida Seminoles are asking that this be taken out of the Department of the Interior and given to the chief tribal judge—that is the new name they have now instead of chief commissioner—of the U.S. Court of Claims for impartial determination and a reference back to Congress? When the time came for this matter to be determined by the Bureau of Indian Affairs, it was assigned to an individual in the Bureau whose name was mentioned here.

That individual at one time worked in the Florida Seminole Indian Agency. I am advised by Mr. Tommie that he considered himself—or thought as an avocation—something of an historian. He went about asking the people what they deemed to be rather insensitive questions about their practices, their customs, their traditions, their daily usages in life. No great affection grew up between him and the people. There were quarrels. One thing led to another, and there was a scuffle in his office in the Bureau in Florida. As a result, his arm was broken by one of the young men from the Florida Seminole Tribe.

With that, the Bureau acceded to the prior request that had been made that this man be transferred out. He was returned to the central office.

When the time came to figure out how this $16 million should be allocated, guess who was assigned the task. The same gentleman.

He used a 1914 absolutely unreliable population census. I say "absolutely unreliable" because in his own report he reconstructed that. Now, if it was reliable, he would not have had to reconstruct.

You have heard testimony this morning from the Oklahoma Seminoles telling you how they accepted this, and they accepted this many additional names for the Florida Seminoles. That was reconstruction work.

There can be no dependable census in Florida as of 1914. There is nothing in the law that says that you have to use population. Surely,

when Indians are living on one reservation where you have two bands living on one reservation, it makes commonsense to use per capita there. There they all experienced the same administration, the same benefits, on an average, all through the years.

But, where you have one in Oklahoma and one in Florida, and you pick a 1914 census in Florida and a 1906 census in Oklahoma, it does not make too much sense.

Add to that that the Oklahoma Seminoles have no blood degree for admission into their tribe. Today there are between 9,000 and 10,000 Oklahoma Seminoles. If you have got a drop of Seminole Indian blood and you can trace back to a name on the 1906 roll, you are a member

We had a vice admiral who lived next door to us at one time in Virginia who got three green Government checks out of claims cases because the Bureau of Indian Affairs told him in the mail that he had this coming because his name showed up as having a drop of Indian blood from three different Indian tribes. That is not being done anymore.

This money that goes to the Indian tribes does not belong to the individual Indians—the courts have so held—but the Bureau of Indian Affairs deals with that money as if they were dealing with an estate and passing it out to heirs and thinks of it in terms of belonging to the individual descendants of people. But the U.S. Court of Claims has ruled that it does not belong to descendants; it belongs to tribes. It belongs to the entities, and it should be so dealt with.

I do not think it is asking too much for an Indian tribe to say to Congress that we don't want this problem resolved by a Department that would assign our case to a man who, in our view, is prejudiced and biased against us. It would make no difference if he made the most fair decision in the world. As far as the Florida Seminoles are concerned, they would not believe it. To have an impartial judge, he not only must be impartial; but those who appear before him must believe him to be impartial.

We think that the Congress has provided a method, and that method is to send this to the chief trial judge of the U.S. Court of Claims for examination as to the facts and make a report back to Congress after taking into consideration all the elements that should be taken into consideration in determining what portion of this award should go to the Florida Seminoles and what portion should go to the Oklahoma Seminoles.

I have nothing further, Mr. Chairman, except I should appreciate it if my prepared statement is received in the record.

Senator BARTLETT. Without objection, it will be placed in the record.

[Mr. Sonosky's prepared statement follows:]

STATEMENT OF MARVIN J. SONOSKY
ATTORNEY FOR THE SEMINOLE INDIAN TRIBE OF FLORIDA

Before the

SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

on

S. 2188 and S. 2000

March 2, 1978

Mr. Chairman and Members of the Committee:

My name is Marvin J. Sonosky. I am a partnerin the law firm of Sonosky, Chambers & Sachse with offices at 2030 M Street, N.W., Washington, D.C. I appear here on behalf of the Seminole Indian Tribe of Florida.

I join with Mr. Tommie, Chairman, and the members of the Seminole Tribal Council in expressing our gratitude for this opportunity to explain our position.

In his statement Mr. Tommie made reference to certain treaties and statutes and also to tribal monies expended by the United States for the Oklahoma Seminoles and not for the Florida Seminoles. With the Committee's permission I should like to place in the record three exhibits that support

these statements. Exhibit A identifies the treaties and statutes to which Mr. Tommie referred. Exhibit B identifies the source of the dollar figures he mentioned. Exhibit C lists the cases in the Court of Claims filed by the Oklahoma Seminoles before the Indian Claims Commission was created.

The circumstances spelled out by Mr. Tommie preclude any resolution of this problem by the Bureau of Indian Affairs. A fair decision demands not only a fair and impartial tribunal, but one that the people affected believe is fair and impartial. S. 2188 would refer the controversy to the Chief Trial Judge of the Court of Claims,as a Congressional reference, with instructions to consider the matter on the basis of all relevant factors, including those reflecting any difference in benefits received from the United States by the Oklahoma Seminoles and the Florida Seminoles, respectively. These relevant factors would also include what the Oklahoma Seminoles received from tribal funds as compared to the Florida Seminoles. Additionally, the fact that the Florida Seminoles are largely fullblood and therefore have a smaller population, should have a bearing when compared to the Oklahoma Seminoles who have multiplied in numbers because they do not require a minimum degree of Seminole Indian blood for enrollment.

The Department's obligation was to make a fair, just and equitable division. Such a result can be obtained only by giving weight to all the factors that come into play and affording the affected tribal segments an opportunity to present their position, to suggest allocations and to present supporting evidence. None of these things was done. The Department apparently approached this as a head count problem. When the Department could not find a reliable census for the Florida Seminoles, it undertook to reconstruct an unreliable census. The Bureau of Indian Affairs did not take into account any factors that point to an equitable solution. We cannot help but feel that what the Bureau has done here is simply adopt a standard that is administratively convenient. But what is administratively convenient does not necessarily produce a just result.

In the case of the Seminoles, consideration must be given to the comparative advantages and disadvantages experienced by the Oklahoma Seminoles and the Florida Seminoles. For over 100 years while the Florida Seminoles were entirely rejected by the United States, the Oklahoma Seminoles were the beneficiaries of treaty payments, allotments and considerable public appropriations for health, education, social services, property management and protection, and the like. This difference in use of tribal money and

benefits, embraces factors that must be taken into account if the allocation of an award is to be fair, just and equitable. To divide an award solely on the basis of population, even if it is done by an unbiased arbiter, is mechanical and arbitrary.

The Seminole Indians of Florida and the Seminole Indians of Oklahoma should have the opportunity to be heard to present facts so that a fair and just determination, based on evidence, will be referred to Congress.

We think this is a matter that the parties should try to work out between themselves. After all they are of the same people. But, failing in that, the dispute should be referred to an impartial arbiter as provided by S. 2188.

EXHIBIT A

TREATIES BETWEEN THE UNITED STATES AND
THE SEMINOLES AND PERTINENT ACTS OF CONGRESS

Florida Treaties

	Date	Place	Citation	Description
1.	9/18/1823	Camp on Moultrie Creek	7 Stat. 224	"Florida tribes" cede all claim to the Territory of Florida (23.9 million acres) except for a large reservation (5.8 million acres) and several very small ones for various chiefs
2.	5/9/1832	Payne's Landing	7 Stat. 366	"Seminole Indians" cede all lands in Florida and agree to emigrate west of the Mississippi
3.	10/11/1832	Tallahassee	7 Stat. 377	Appalachicola Band cedes one of the small reservations reserved in the 1823 Treaty
4.	6/18/1833	Pope's (Fayette County)	7 Stat. 428	Certain chiefs cede small reservations reserved in the 1823 Treaty

Oklahoma Treaties

5.	1/4/1845	Creek Agency, Okla.	9 Stat. 821	Treaty with Creek and Seminole Tribes. United States agrees to pay money due Seminoles under 1832 Treaty after Seminoles move, plus additional money. Creeks agree Seminoles may settle in Creek country

EXHIBIT A

	Date	Place	Citation	Description
6.	8/7/1856	Washington, D.C.	11 Stat. 699	Treaty with Creek and Seminole Tribes. Creeks grant over 2 million acres to the Seminoles. The United States agrees to pay the Creeks for the land granted and guarantees title to the Seminoles. The United States also provides additional funds to the Seminoles.
7.	3/21/1866	Washington, D.C.	14 Stat. 755	Seminoles cede the tract granted by the Creeks in the 1856 Treaty for 15¢ per acre and the United States sells the Seminoles a new reservation for 50¢ per acre
8.	3/2/1889		25 Stat. 980, 1003, c. 412	Congress appropriates $1,912,942.02 to pay the Seminole Nation for the lands ceded by the 1866 Treaty (2,037,414.62 acres)
9.	7/1/1898		30 Stat. 567, c. 542	Act ratifying agreement with the Seminole Nation under which all tribal lands were classified and allotted, and all tribal moneys were divided per capita
10.	4/26/1906		34 Stat. 137, c. 1876	This act dissolved the tribal governments of the Five Civilized Tribes including the Seminole Tribe of Oklahoma

EXHIBIT B

Page 5 of the Report of the General Accounting Office certified September 29, 1933 and filed as an exhibit in Seminole Nation v. United States, Docket No. L-51, in the Court of Claims

Summary of disbursements made by the United States for the benefit of the Seminole Nation of Indians during the period from September 18, 1823, to June 30, 1930.

Disbursements for the benefit of the Seminole Nation of Indians			
Pursuant to and in connection with:			
Treaty of September 18, 1823	(a)	$292,845.16	
Treaty of May 9, 1832	(b)	600,340.63	
Treaty of October 11, 1832	(c)	16,500.00	
Treaty of June 18, 1833	(d)	4,500.00	
Treaty of January 4, 1845	(e)	120,033.33	
Treaty of August 7, 1856	(f)	1,283,422.57	
Treaty of March 21, 1866	(g)	550,505.55	
Act of March 2, 1889	(h)	3,092,622.34	
Agreement of December 16, 1897, ratified by the act of July 1, 1898; and acts of April 26, 1906, and March 3, 1911	(i)	989,831.21	$7,011,056.79
From moneys appropriated pursuant to and in connection with the Treaties of August 7, 1856, and March 21, 1866			(j) 846,080.00
Disbursements made for the benefit of the Seminole Nation of Indians jointly with other Indians, pursuant to and in connection with:			
Treaty of August 7, 1856	(k)	28,566.33	
Treaty of March 21, 1866	(l)	4,502.28	33,068.61
			$7,890,205.40

Note: Certain other disbursements were made for the benefit of the Seminole Nation of Indians and are discussed in this report, but, for the reasons given on pages 8 to 10, 28, 29, and 76, said disbursements have not been included in this summary.

(a) See page 23, Item (b); also page 30, Item (b).
(b) See page 73, Item (a); also page 77, Item (c).
(c) See page 104, Item (a); also page 105, Item (a).
(d) See page 114, Item (a); also page 115, Item (a).
(e) See page 123, Item (a); also page 124, Item (b).
(f) See page 141, Item (c); also page 146, Item (c).
(g) See page 152, Item (d); also page 153, Item (b).
(h) See page 208, Item (b); also page 212, Item (d).
(i) See page 287, Item (b); also page 292, Item (f).
(j) See page 305, Item (b); also page 308, Item (d).
(k) See page 144, Item (d); also page 146, Item (d).
(l) See page 102, Item (e); also page 103, Item (c).

EXHIBIT C

LIST OF SEMINOLE CASES FILED IN THE COURT OF CLAIMS BEFORE THE INDIAN CLAIMS COMMISSION WAS CREATED

I. Seminole Nation v. United States, 78 Ct. Cl. 455 (1933), dismissed on the pleadings. After amendment dismissed on the merits, 90 Ct. Cl. 151, certiorari denied 310 U.S. 639. Claim for value of lands and for funds United States distributed to Seminole freedmen on ground that freedmen did not have the rights of a native member of the Tribe.

II. Seminole Nation v. United States, 82 Ct. Cl. 135 (1935). Claim for an accounting. A judgment of $1,317,087.27 was reversed and remanded for further proceedings. 299 U.S. 419 (1937). After further proceedings the claim was dismissed (93 Ct. Cl. 500 (1941)). The Supreme Court reversed in part, ordered the case consolidated with the claim in Item IV below, and remanded, 316 U.S. 286 (1942).

III. Seminole Nation v. United States, 92 Ct. Cl. 210 (1940), certiorari denied 313 U.S. 563. Dismissed claim for taking of townsite lands sold to a Seminole chief in violation of statute.

IV. Seminole Nation v. United States, 94 Ct. Cl. 240 (1941), reversed and remanded, 316 U.S. 310 (1942). Claim for shortage of 11,550 acres in 200,000 acres United States guaranteed to Seminoles as a reservation, dismissed by the Court of Claims, reversed and remanded by the Supreme Court. On remand the Court of Claims entered judgment for $221,066.58 (102 Ct. Cl. 565 (1944), certiorari denied 366 U.S. 720).

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Senator BARTLETT. I have several questions of both of you gentlemen.

In allocating other judgment awards between Indian tribes has Congress ever been asked to take into account the difference in benefits and treatment received by each tribe?

Mr. SONOSKY. I am not aware of all the matters that have come. There must have been more than 100 that have come before Congress. So, I cannot answer that.

I can say, in the one case that I do know about, the allocation was made on a basis that did take it into consideration. That was the allocation that was made among the Shoshones. There was a judgment entered for the Shoshone Indians divided into three segments. There were the Eastern Shoshones, who live on the Wind River Reservation in Wyoming; the Shoshones who live in the Fort Hall Reservation, Idaho; and then there was a small group of about 190—it turned out to be a little more than that ultimately—who lived in Nevada. That division, when it came before Congress for a division based on per capita, this small group appeared. They presented to the committee the reason why they should get more than a straight per capita share.

They had not gotten a reservation. They had not gotten any allotments. They had not gotten any other benefits, although a good number of them did live on the reservation and did receive Bureau benefits because they were Indians, not because they were members of the tribe.

That was taken into consideration because the committee said to the three groups before it: "You three get together. The commiittee is not going to impose on you a solution. You get together and come back to the committee with something you can agree to." And we did. It took us 5 years. We came back to the committee and gave them the agreement. This little group got, on an average, slightly over twice as much per capita as the members of the other two tribes who did have allotments and reservations. The committee adopted it, and it became law.

I know that one. There may have been others.

Senator BARTLETT. Why are benefits received relevant to a division of a land claims award?

Mr. SONOSKY. There are two kinds of benefits. The kind that get paid out of the tribe's own money—certainly the chairman will see the relevance of that. If you have $7 million of tribal money and you have people living in Florida and they get none of it and it all goes to the people living in Oklahoma, that is relevant. That is their own money.

Now, as to gratuities, I do not think it does have any clear relevance. If the Government chooses to endow its beneficience on the Oklahoma Indians and give nothing to the Florida Indians, that is not, in my view, a factor that should be considered as between the Florida tribe and the Oklahoma tribe in discussing what is their own money. I agree with that.

Senator BARTLETT. What do you consider to be the relevant factors that should be considered by the chief commissioner, aside from benefits, in arriving at a just and equitable division?

Mr. SONOSKY. I think the chief commissioner should consider primarily—you mention the benefits; I am talking about tribal money—land that the Oklahoma Indians got and the allotments that were made; the differences in the enrollment basis, meaning blood.

They were compelled to hide out in the Everglades. Some of them are still there living on land which does not belong to them and on which they have no protection. Because of that, we have a large majority of full bloods; whereas the Seminoles of Oklahoma have not had a minimum blood degree. There is a large population there of people who have a very small fraction of Indian blood, so it makes for a large population to be considered. The blood degree in order to be a member of that tribe should also be considered.

I think those are factors. Then the judge may consider the hardships endured by both, the experiences of both. When you talk about Indians, there is no question that both suffered. The Oklahoma Seminoles had their "Trail of Tears." The Florida Seminoles had the years of suffering and hardship. It is a factor that should be considered by the judge.

Senator BARTLETT. Is population a relevant factor?

Mr. SONOSKY. I think population is a relevant factor. The population that should control probably should be a population that is based on reliable data and taking into account the blood degree. Certainly population is a factor.

Senator BARTLETT. How would the chief commissioner determine the benefits the Oklahoma and Florida Seminoles have received from the United States?

Mr. SONOSKY. Every dollar of tribal money that is expended by the United States for the presumed benefit of an Indian tribe passes through the U.S. Treasury, and there is a record kept. The accounts are there.

I was able to find those accounts—the Bureau is trying but was unable to come up with them—but I found the accounts of the tribal money. They are attached as an exhibit to Mr. Tommie's prepared statement. I believe it is exhibit B. They show the total dollars that was spent under each treaty and where they were spent. They had to be administered through a local agency. So, in Oklahoma they know where they were spent.

In back of those total figures is the supporting data. That supporting data breaks those figures down—I did not bring it into the committee—by years. So, for each year you know how much was spent, and then for each year it breaks it down by subject matter to tell you what it was spent for: Food, rations, clothing, transportation, land, education, and so forth. So there are those records.

Now, the other records that we talk about, we have not been able to get.

Senator BARTLETT. Would you provide that information to the committee?

Mr. SONOSKY. Which information?

Senator BARTLETT. The information you mentioned you had.

Mr. SONOSKY. It would be easier, Mr. Chairman, if you called on the Department to get that information because it is in a report of the General Accounting Office. It is in their library. For me to get it, I would have to get permission from the General Accounting Office. For me to see it, I had to go over there and read it; they would not let loose of it. To get it, I would have to order a copy of it reproduced. If the Department could be asked to do that, it would be more helpful.

The identification of the report is on the exhibit. I took the summary page out and put it as an exhibit. The identification of the report from which that came is on the exhibit. I will be glad to give the staff the telephone number of who to call to get that.

The information that we are seeking to show the difference in treatment by the Government with respect to what I call gratuities, that is, what the Government paid out of appropriated Federal funds as distinguished from tribal money, is in various record centers around the country. It is difficult to get. The Bureau of Indian Affairs has been trying to get that for us, but they have not had too much success.

We still would like to get the information together. With the chairman's permission, we would like to ask that the record be kept open so that the Bureau can complete the work that it is doing. It has already started on it.

Senator BARTLETT. Generally the record is open for 2 weeks.

Mr. SONOSKY. I do not think there is any chance that they could get it in 2 weeks. They don't even know all the records centers it is in.

Senator BARTLETT. We will check into that.

Mr. SONOSKY. All right, sir.

Senator BARTLETT. In arriving at a just division what weight should the chief commissioner give to benefits received by both tribal groups?

Mr. SONOSKY. What weight the chief judge should give——

Senator BARTLETT. To the benefits received by both tribal groups.

Mr. SONOSKY. It is difficult for me to say what weight the impartial arbiter should give because I am not exactly in the position of an impartial arbiter; I am an advocate. I would not know. I think he would have to have all the factors before him. When he looked at them all, he would have to decide what weight he would give one as against the other.

Senator BARTLETT. Some of the questions I have were asked either of Mr. Tommie or others. Those are all the questions I have to ask of you. If you have any further statement to make, please go ahead and make it.

Mr. TOMMIE. I have nothing, Mr. Chairman, except on behalf of my tribal council, we appreciate your hearing us out on this particular bill. If there are any further questions or anything, we would be glad to cooperate with this committee. Thank you.

Mr. SONOSKY. I join with Mr. Tommie in thanking the chairman and the committee for hearing us out.

Senator BARTLETT. Thank you both.

The record will be kept open at least 2 weeks. We will check into the question of extending that. Our counsel will advise Mr. Sonosky of our decision on that. We cannot keep it open indefinitely obviously. We will see what the Bureau has to say.

Thank you very much.

Our next witness is Mr. Guy Osceola, who represents the Traditional Seminoles. He is accompanied by Robert Coulter, attorney for the Traditional Seminoles.

Please proceed as you would like.

STATEMENT OF GUY OSCEOLA, SPOKESMAN, TRADITIONAL SEMINOLES, ACCOMPANIED BY ROBERT T. COULTER, ATTORNEY

Mr. OSCEOLA. My name is Guy Osceola. I am spokesman for the Traditional Indian people.

There are still some located down in the Everglades on private lands. I was sent up here to speak for them.

I would like to introduce Mr. Robert Coulter, who is our attorney.

I would like to take this opportunity to thank you for giving us the time. This is the first time we had a chance to speak up in 28 years. We have tried over and over in the Indian Claims Commission to appear. We have been denied for 28 years. So, we really appreciate this opportunity you have given us today.

First, I would like to say that there are three groups in Florida: the Seminole Tribe of Florida; the Miccosukees; and the Traditional people.

We never had any voice in the major claims that other tribes have made. We feel that we have been denied our rights as persons to speak about the concerns of our people. We would like to be heard before any decision is made by the Federal Government or the Senate committee.

After the war, the third war, the Seminoles were left in south Florida. As Mr. Tommie mentioned, at that time it was hostile between the whites and the Indians. There was no friendship then.

In later years, when the reservation was formed, some of the Seminole people moved to the reservation. Some of them were left down on the trail as independents; they did not want to be confined to the reservation.

Later on, around the fifties, another group of Traditional Indian people formed a group and called themselves Miccosukees.

The remaining Indians are Traditional Indian people. We do not have any land. We are not supported by the Federal Government. We are independent. We make our living by the crafts that we make and sell to the tourists.

As said earlier, most of the villages are on public land; they can be removed at any time by the landowners.

I want to say that the Oklahoma Seminoles agreed and signed and left Florida of their own free will. I don't think what they are going to say is going to benefit us. At the same time, the Seminole Tribe of Florida is now authorized to speak on our behalf. Most of the Indians living on reservation are the Cow Creeks, not the Miccosukees. The Cow Creeks came into Florida long after the Miccosukees were already in Florida.

So, we feel that the Seminole Tribe of Florida does not have authority to make a judgment on our behalf regarding the $16 million.

We feel that any bill that is passed that is allocated money to us we will not accept any kind of money. We want to remain as we have in the past since the Indian war.

We hope that this committee would look into our situation because the $16 million was passed without really consulting everybody in the State of Florida; I am talking about all Indians.

As I said earlier, we have been denied the right to appear before the Indian Claims Commission to state our case. We have been denied over and over.

We feel that we would like to have this committee stop the bills and look into our situation that has been going on for so long. I am sure this committee would look our way after taking a few more days or however long it takes for you to investigate the statement that we make. It would not hurt.

At this time I would like to ask Mr. Coulter if he has anything to say.

Thank you for the time. We appreciate the time given to us. Thank you.

Senator BARTLETT. Thank you, Mr. Osceola.

Mr. Coulter?

Mr. COULTER. Thank you very much. It is a pleasure to be here. I am pleased to have been asked to appear before this committee.

You have heard a very brief summary of the historical background of the Seminole people who continue to live in southwest Florida outside the regularly established reservations. These people continue to live on land where they have lived for at least 150 years and in some cases much longer than that.

At the close of the Seminole wars, an agreement was made with General Worth which was later ratified and acknowledged by President James Polk in an Executive order. It established that this area on the map I show you was the territory in southwest Florida of the Seminole people.

I would like to suggest that the record is not precisely correct. I think it was Andrew Jackson who met his master in Florida. The Seminoles won that war.

This was the territory which was agreed to be the Seminole territory at that time. Three years later, James Polk established a 20-mile buffer zone, a neutral zone, around that territory. We have only recently—and I think for the first time—discovered that Presidential proclamation. We will naturally submit this material and this map to the committee.

So, it appears that, as the oral history of the Seminole people has always said, the documents are now being found that establish that they did fight the United States to a standstill. They did negotiate a treaty which guaranteed them their lands in southwest Florida.

That treaty, that Executive order has never been altered, abrogated, or changed. Their territory has never been lawfully diminished.

This is a claim, this is a legitimate right to land. You must bear in mind that these people are not simply making a claim in the abstract; they live on the land. Their families live there. They have villages—numerous ones. We are talking about places that people actually occupy. These are not abstract claims at all.

This is a right, a title, an interest, that has never been presented to any court. It has never been presented to any commission anywhere at any time, yet, we are learning through these recently discovered documents that their legal position is absolutely sound.

In the meantime, of course, Indian rights in Florida have been overrun and ignored widely. The territory is largely populated now with non-Indians. But the Seminole people still remain. They still live there.

What Mr. Osceola has said is that they do not intend to accept money as compensation for land that they still live on. They do not want to be paid for their homes. They do not want one group of people to accept money in compensation for their homes.

Now, that seems fairly elementary. But these Traditional Seminole people have been absolutely unsuccessful in getting the Indian Claims Commission, the U.S. Court of Claims, or the Federal court to give them even one day in court. Not one hearing, not one scrap of evidence has ever been permitted on this matter. Today is rather an historic day in that respect.

Both of these bills—any bill, in fact, that will distribute the judgment fund that has been established, will, by operation of law, either destroy completely or terribly impair the present rights and interests that these people have in southwest Florida. We are talking about impairing and undercutting and perhaps destroying these people's rights to their own homes.

You have heard that these people belong there. They have an historical and legal right to be there.

I think it should be an extraordinary day when the U.S. Senate and the Congress of the United States takes an action which would tend to deprive Indian people of their homes today. That should never happen again. It has happened enough.

An amendment has been drafted and proposed. It was submitted to the office of Senator Abourezk at his request. It might tend to minimize the damage of any distribution bill. But I do not think that even that amendment should be considered until the Interior Department, the Department of Justice, and any other interested branch of Government has had an opportunity to thoroughly look into the facts and legal issues which are being raised here.

I think that all action on these bills should be held in abeyance until there is some resolution of the rights of the Traditional Seminole people. I think under no circumstances should a bill be passed which could endanger their homes. I think, in due time, with due consideration and attention to this matter, some means can be found for resolving this issue so that those who deserve compensation can receive it and those who wish to maintain their homes can continue to live where they do.

Thank you.

Senator BARTLETT. Thank you, Mr. Coulter.

I have some questions for either or both of you.

How much land is occupied by the Traditional Seminole population?

Mr. OSCEOLA. The Traditional Indian people live along the Tamiami Trail in camps—Indian villages. They contain maybe half an acre per camp. There are around 12 camps along the trail.

Senator BARTLETT. So you say around 12 acres or more than that?

Mr. OSCEOLA. Probably that figure.

Senator BARTLETT. Twelve acres more or less?

Mr. COULTER. If I might add or supplement that response, that is the territory that is actually occupied by the camps and villages. There is a considerably larger area over which these people hunt, fish, gather cypress, and otherwise carry out their normal existence. Those hunting and fishing rights naturally cover a considerably larger and more indistinct area.

Senator BARTLETT. Is there any farming done?

Mr. OSCEOLA. No, sir.

Senator BARTLETT. Do you have a roll or number of Seminoles listed?

Mr. OSCEOLA. Traditional Indian people do not have any rolls. We are not under any kind of government. We do not believe in rolls. We just know who they are and where we live.

Senator BARTLETT. How many Traditional Seminoles are there?

Mr. OSCEOLA. 200, give or take.

Senator BARTLETT. At that point in time did the Traditional Seminoles became a separate distinct group from the Seminole Tribe of Florida?

Mr. OSCEOLA. I did not hear the question.

Senator BARTLETT. At what time did the Traditional Seminoles become a separate and distinct group from the Seminole Tribe of Florida and Miccosukee?

Mr. OSCEOLA. We have never been part of theirs. At the end of the war, they were all down in South Florida. They were all—you might call them Traditionals. Then some of the Indians worked with officials.

In the fifties, another group broke off from the Traditionals and formed what they call the Seminole Tribe now. That left the Traditionals and the Seminole Tribe on the reservation.

In the fifties, another group broke off from the Traditional and formed and went under the Federal Government called Miccosukee.

So, the remaining part are Traditionals. They never broke away from either one.

They broke away from us to form their own two groups.

Senator BARTLETT. You are saying that you are the original Seminoles?

Mr. OSCEOLA. Yes; we are.

Senator BARTLETT. And the others broke away from you.

Has the BIA ever recognized the Traditional Seminoles as constituting a separate and distinct group from other Florida Seminole tribes?

Mr. COULTER. Yes, they have. I can certainly submit the exact date. I just read the letter this morning from Commissioner Emmons. They were recognized as a separate and distinct group. I believe it was about 1958.

The history on that is then supplemented by the fact that after that recognition by Commissioner Emmons in the late fifties—if my recollection is correct—it was after that time that the Miccosukee Tribe, so-called, split away and organized under the Indian Reorganization Act. Now, the recognition, nevertheless, the traditional group, is not rescinded; there has been no change in that. Only that that recognized group has since split itself.

Senator BARTLETT. It since has divided.

Mr. COULTER. Yes.

Senator BARTLETT. It is your proposed amendment to preserve possible future claims to land for all Seminoles or only Traditional Seminoles?

Mr. COULTER. We have no intention to represent or speak for all Seminoles. But it seems to me that, if there are Seminole people in Florida who have continuing rights and interests in land that could be diminished or harmed or impaired by this bill, then those rights ought to be protected.

We might have drafted the amendment to say only Traditional Seminoles perhaps, but it would seem to be a logical and legal inconsistency since, logically speaking in justice, if there are any Seminoles with land rights, those should be protected as well.

I am not aware that any other than the Traditionals have present existing rights to land, but it is logically possible, of course.

Senator BARTLETT. The language says title or interest of any of the Seminole people, to anybody—property or natural resources. I am referring to language right out of the amendment you propose.

Mr. COULTER. That is right.

Senator BARTLETT. Without objection, your proposed amendment will be inserted in the record.

[The proposed amendment follows:]

Proposed Amendment to S. 2000, S. 2188

(For Consideration In Conjunction With Final Congressional Action On Distribution of Indian Claims Commission Judgment Funds Pursuant To 25 U.S.C. §1401 et seq.)

Payment of this award and judgment shall satisfy in full the settlement agreement entered into by the United States and the Petitioner in Seminole Indians of the State of Florida and Seminole Nation v. United States, (I.C.C. Docket Nos. 73 and 151) Provided, that notwithstanding the provisions of 25 U.S.C. §70u or any other law, and notwithstanding any proceedings, findings or determinations of the Indian Claims Commission or the Court of Claims in this matter, payment of the award and judgment as provided herein shall not in any manner affect, impair or diminish any right, title or interest of any of the Seminole people to any land, property or natural resources; nor shall payment of the award and judgment in any manner affect, impair or diminish any claim or right of action, whether or not presently pending or cognizable in any court, of any of the Seminole people for the ownership, return or use of any land, property or natural resources. Provided further, that in no event shall any finding or determination made in this matter by the Indian Claims Commission or the Court of Claims pertaining to the title to or the cession or taking of any land, property or natural resources have any res judicata or collateral estoppel effect.

Submitted by:

Guy Osceola

Mr. COULTER. That might have been drafted more narrowly to simply limit that provision to the Traditional Seminole people. I am only saying that there might be other Seminole people of which we are not aware who also have rights and interests that ought to be protected. We simply mean to protect anyone who is in the same position whether we know about them or not.

Senator BARTLETT. I have no further questions for either Mr. Osceola or Mr. Coulter. Do you have any further statement you want to make?

Mr. COULTER. Let me add that we will submit written materials and documentation concerning all that has been presented this morning within the time that the record is to be held open.

[NOTE: The material and documentation referred to is extensive and has been placed at the end of the hearing record.]

Senator BARTLETT. It will be held open at least 2 weeks and possibly extended. We will let everybody know if we do extend it.

Thank you both very much.

Mr. OSCEOLA. Thank you, Senator.

Senator BARTLETT. Our next witness is Mr. Rick Lavis, who is accompanied by Tom Fredericks.

Mr. LAVIS. I also have with me Mr. Feraca as well, who can respond to some of the questions I am sure you may want to raise, Mr. Chairman.

Senator BARTLETT. Please proceed.

STATEMENT OF RICK LAVIS, DEPUTY ASSISTANT SECRETARY OF THE INTERIOR, INDIAN AFFAIRS, ACCOMPANIED BY TOM FREDERICKS, ASSOCIATE SOLICITOR FOR INDIAN AFFAIRS, STEVE FERACA, TRIBAL GOVERNMENT SERVICES SPECIALIST, BIA; AND RALPH REESER, CONGRESSIONAL AND LEGISLATIVE AFFAIRS, BIA

Mr. LAVIS. Mr. Chairman, I am pleased to present the Interior Department's testimony on S. 2000 and S. 2188. We are recommending enactment of S. 2000 with a minor amendment which is set out in the report on the bill, and against enactment of S. 2188.

We oppose S. 2188 because it calls for referral to the U.S. Court of Claims for determination of division of the Seminole judgment funds to the Florida and Oklahoma groups. Such an unusual procedure, in our mind, would delay the division and distribution of funds. More importantly, we oppose S. 2188 because in section 4 it would require that, in determining the division of the Seminole award, consideration be given to any difference in benefits received from the Federal Government by the Oklahoma Seminoles and the Florida Seminoles.

Such a provision implies that the award is a benefit rather than an amount to which the Seminoles are entitled. In addition, it should be noted that neither of the two groups were responsible for the level of Federal benefits received by the other.

Section 1 of S. 2000 provides for an initial division of funds between the Oklahoma and Florida Seminoles in terms of their respective populations during the period 1906 to 1914. It permits the division to the Oklahoma Seminoles to be based on the number of persons on the Oklahoma Seminole roll authorized by certain 1906 and 1914 acts.

We agree with the proviso that the Oklahoma number should not be less than the established count of 2,146, which was the 1906 Seminole by blood population.

Section 1 of S. 2000 also provides that the division to the Florida Seminoles be based upon the reconstructed Florida census of 1914 or a total of 700 persons. Since the Bureau of Indian Affairs, assisted by the Seminole Tribe of Florida, has made diligent efforts to produce the reconstructed census cited in S. 2000, we agree that the 700 figure needs no alteration. It should be noted that the original 1914 Florida census totaled 562, with most female spouses and children unnamed and some merely counted and not identified.

With regard to the Oklahoma Seminoles, S. 2000 specifies in sections 1 and 2 that participation in the use of the funds involves only Seminole tribal members by blood. The bill appropriately does not provide for participation by descendants of Oklahoma non-Indians who did not become members of the Seminole Nation until 1866. The Seminole lands were taken in 1823.

Section 2 provides for the use and distribution of the Oklahoma share. This provision is based on a proposal developed by the Seminole—by the Blood Judgment Fund Committee—that proposal was the subject of a hearing of record held in Seminole, Okla., on June 30, 1977.

The June 30 hearing was well attended. Many who reside at a distance from the Seminole homeland in Seminole County expressed their desire for a full per capita distribution of funds. Those who favored programing a portion of the funds objected, nevertheless, to that part of the tribal proposal which provided for social and economic programing above 20 percent of the share. None offered any specific objection to the dividend payment aspect of the tribal proposal, such payments to be made from an investment of 16 percent of the principal of the Oklahoma share and all investment income accrued on it.

We regard the division of 64 percent for per capita payment, 20 percent for social and economic programing, and the 16 percent for the dividend payment, to represent the most realistic and potentially useful disposition that can be made of the Oklahoma Seminole funds.

Our only problem with S. 2000 is that section 2 does not adequately provide for the payment of per capita shares of deceased individual beneficiaries. Our report includes an amendment to correct that problem.

Section 3 of S. 2000 provides for the use and disposition of the Florida share. Neither of the organized Florida Seminole groups has developed a proposal for the utilization of the funds. Under section 3(a), the total Florida share would be invested until divided when appropriate tribal rolls are forthcoming, and, as concerns the unaffiliated individuals, as made by the Secretary.

When the Florida share is divided, we will work with the two organized tribes in developing and processing proposals for the use of their funds.

This concludes my statement, Mr. Chairman. I will be more than happy to respond to any questions the committee may have.

Senator BARTLETT. Mr. Lavis, in your statement you say, "When the Florida share is divided, we will work with the two organized tribes." Do you mean Florida Seminoles and the Miccosukee?

Mr. LAVIS. Yes, sir.

Mr. BARTLETT. What about the Traditional Seminoles?

Mr. LAVIS. My understanding of that, Mr. Chairman, is that would be a per capita payment.

Senator BARTLETT. In allocating other judgment awards between Indian tribes, has the Department of the Interior ever considered benefits received by those tribes as being relevant factors?

Mr. LAVIS. Mr. Chairman, I have to ask Mr. Feraca to respond to that, if he would please.

Mr. FERACA. Mr. Chairman, we have not so considered them in the ordinary sense. In only one instance, that involving a Shoshone case, which has been mentioned briefly earlier, in Indian Claims Commission dockets 326 d, e, f, g, and h, 366 and 367, attorneys for three involved Shoshone groups, after several years delay, reached a compromise. In part it considered the fact that one of the three involved entities, a very small group in Idaho, had not experienced the benefits of a reservation. This was taken into account by the attorneys.

In large part, however, the compromise reached by attorneys for all three groups did involve respective populations during the historic period.

The Department accepted the compromise as worked out by the attorneys. So, in part, this did take into consideration factors other than population. But, in the largest part, it was a population compromise.

In another instance involving the Yakima and Colville Tribes, in dockets 161, 222, and 224, the U.S. Court of Claims made a division which did not involve population but involved the respective lands held by 11 separate tribes.

Those are the only cases, Mr. Chairman, in which population either did not play a part or played a part in partial consideration in reaching a compromise.

Senator BARTLETT. How would the division in this case be made if Congress did not act on either bill?

Mr. FERACA. Mr. Chairman, if the Congress did not act on either bill, it is our expectation that the Secretary of the Interior would submit a proposed plan under the provisions of the Indian Judgment Funds Act of 1973.

Senator BARTLETT. That would be submitted to Congress?

Mr. FERACA. Yes, sir; both houses.

Senator BARTLETT. Then Congress would have so much time—60 days?

Mr. FERACA. Sixty working days, Mr. Chairman.

Senator BARTLETT. To act on it.

Mr. FERACA. If such plan were not vetoed by either House within the 60 working days, it would become effective on the 61st day.

Senator BARTLETT. Under the present law, could the Secretary make a division between two or more tribes without obtaining approval of all tribes involved?

Mr. FERACA. Sir, under the provisions of the Indian Judgment Funds Act of 1973, although the Secretary is required to very diligently—and I am also referring to the enabling regulations—ascertain the views of the involved Indian entities, but, to put it bluntly, he is still required to submit a plan or proposed legislation even if agreement could not be secured if the question were one of division.

Senator BARTLETT. Is it correct that, if the tribes do not agree, then the Bureau does not have any direction to go in provided by law? Is that correct?

Mr. FERACA. No; Mr. Chairman. The Secretary still has an obligation to either submit a proposed plan or proposed legislation—whether or not the involved entities agree.

Senator BARTLETT. Let me have counsel ask a question.

Mr. COX. Do you feel there is a gap right now in the law in terms of your role in a situation where there is to be a distribution between two tribes and neither of the tribes can agree? The Bureau, obviously, has been trying to work out a settlement or take the views of both tribes. But, under law, do you feel there is a particular problem right now that is created because there is no real recourse when two tribes cannot really agree?

Mr. LAVIS. It may well be a policy judgment, Mr. Chairman on the part of the Bureau whether or not, where we find a situation where there is no agreement, we go forward under the law presently or whether we do not. I assume in this case we have made that judgment.

Senator BARTLETT. Would the administration comment on the proposed amendment introduced by the Traditional Seminoles?

Mr. LAVIS. Yes, sir. Mr. Fredericks would be happy to respond to that question.

Mr. FREDERICKS. Mr. Chairman, I am Tom Fredericks, the Associate Solicitor for Indian Affairs.

As far as the Interior Department is concerned, we have not arrived at a definite conclusion on what effect a claims judgment award has on the land rights of individuals. However, I have discussed this with the counsel for the Traditional Seminoles. We feel tentatively that it would be inconsistent with the whole purpose of the Indian Claims Commission Act to grant awards of money for aboriginal rights and then keep those rights intact after that award was completed and the moneys were distributed.

As far as the amendment goes, I think it is difficult for us to say that the aboriginal land claims of the Traditional Seminoles would be unaffected by the judgment award given the language of 25 U.S.C. 70u(b) which explicitly states that all further claims shall be forever barred upon final determination. The proposed amendment would be inconsistent with the statute itself.

Senator BARTLETT. Has the Department of Interior ever received an official request from the Traditional Seminoles to investigate the claim?

Mr. FERACA. Mr. Chairman, from time to time over the years, particularly since the late 1950's, the Bureau of Indian Affairs—and I think also the Interior Department and I think on some occasions the White House—and various Members of Congress, have heard from the people who now call themselves the Traditional Seminoles. It was regarding the progress of litigation in dockets 73 and 151 and expressing their fear that what they regard to be their rights to the land would be jeopardized.

We have not heard from this group since the awarding of the present award.

It is so, however, that Mr. Coulter has pursued their case through the Supreme Court. Rather recently a decision was rendered by that

Court. I do not remember the exact date. It seems to me roughly 3 months ago, perhaps a little longer than that, that the Supreme Court, to put it in layman's language, disallowed their claim.

Senator BARTLETT. I have no other questions of the administration. Does the administration have any other comments to make?

Mr. LAVIS. No, sir; except that I think your question was, "Has the Bureau ever investigated the Traditional Seminoles claims?" Is that correct?

Senator BARTLETT. Has it ever received an official request from the Traditional Seminoles to investigate their claims?

Mr. FREDERICKS. Mr. Chairman, as far as the Office of the Solicitor—and most of these petitions for land claims are handled by the Office of the Solicitor—we do not have a petition pending at this time.

Now, there may have been other inquiries through the Bureau.

Mr. FERACA. Mr. Chairman, as Mr. Guy Osceola mentioned briefly a while ago, in the late 1950's and early 1960's, those Seminole people in extreme south Florida, primarily along the Tamiami Trail who refused to join the then newly created Seminole Tribe of Florida made many representations to the Department. As a result of those representations to the Department and to the Congress and in fact to the White House, permit land was made available—that is, national park land, a portion of the Everglades National Park—on a 20-year permit for these people. The Miccosukee Tribe of Indians was organized under the Indian Reorganization Act of 1934. I believe it was organized in 1962.

This was, in effect, the response of the Department to the representations made by the Tamiami Trail people.

Mr. Guy Osceola is representing an entity that is still apart from that organized group.

Senator BARTLETT. Apart from what organized group?

Mr. FERACA. The Miccosukee Tribe of Indians of Florida.

Mr. LAVIS. Mr. Chairman, let us submit for the record a history of those requests and what has happened to them. I think that would be helpful to the committee.

Senator BARTLETT. We would like to have that.

[The material referred to follows:]

THE EXECUTIVE COUNCIL,
Everglades Miccosukee Tribe of Seminole Indians, % Mr. Howard Osceola, Star Route Box 37–1A, Ochopee, Fla.

DEAR SIRS: President Ford has asked us to thank you for your letter of February 2 in which the Executive Council protests the proposed compromise settlement of Seminole tribal claims in Indian Claims Commission dockets 73 and 151 for the sum of $16 million. The Executive Council protests the settlement because it was not informed about the proposal and wishes return of the land rather than payment for the lands taken by the United States.

As stated to the Executive Council in the letter of January 27, 1958, from Glenn L. Emmons, then Commissioner of Indian Affairs, we recognize your organization as qualified to speak for its members on matters which are of concern to the Florida Seminoles as a whole, such as the pending claims against the United States. Your letter of protest is, therefore, being made a part of the official file pertaining to the proposed settlement of claims in dockets 73 and 151. As your organization has previously been informed, the Indian Claims Commission Act of 1946 does not permit the return of lands to the tribe plaintiffs but authorizes payment for the taking of such lands.

Sincerely yours,

THEODORE KRENZKE,
Director, Office of Indian Services.

EVERGLADES MICCOSUKEE TRIBE OF SEMINOLE INDIANS,
STAR ROUTE BOX 37–1A,
Ochopee, Fla., February 2, 1976.

Hon. GERALD FORD,
President of the United States,
The White House, Washington, D.C.

DEAR PRESIDENT FORD: We, as representatives of the Miccosukee Seminole Nation, which you sometimes call the Everglades Miccosukee Tribe of Seminole Indians, are hereby formally protesting a proposal to settle the dispute between our free and independent Miccosukee Seminole Nation and the United States over lands in Florida by awarding $16,000,000 to certain former Miccosukee Seminole Indians who are not members of our nation and do not represent our council or people.

In 1949, 27 years ago, certain individual Indians on the BIA payroll and living on the U.S. government reservation sued the United States in our name without our authority for payment of money for our lands. The Seminoles in Oklahoma also did the same thing.

Our fathers and our fathers fathers told us never sell our lands.

We then protested these injustices to President Eisenhower in 1954 in our Buckskin Declaration and asked him to send a special representative to make an agreement that would once and for all let us live in peace on our Everglades Swampland.

President Eisenhower sent his personal representative, one Glenn Emmons, who negotiated with us until 1960. Florida Governor LeRoy Collins also participated at the end.

After we thought we had an agreement made, because it was signed by U.S. Secretary of Interior Seaton himself in 1960, the BIA sent an agent down into the Everglades to sabotage the agreement. This BIA agent, using the New York American Indian Association, paid large sums of money to a few members of our council, and then used millions of dollars to build a concrete city in the middle of our Everglades for these bribed councilmen to form a new third tribe with our Miccosukee name to mislead the American public and to undermine our agreements and probably to approve the money claim we protested. We said all these things in our last letter to the American People on December 13, 1961.

The majority of the members of our Tribal Council refused to stop fighting this $50,000,000 money claim so long as our land rights were not settled.

We now read in the newspapers here recently that the $50,000,000 money claim has been settled and that all Seminole Indians were notified of the details of this so-called settlement and that none had objected. We were not notified and we do object. We compose the majority of the members of the Tribal Council of the Miccosukee Seminole Nation, also recognized by U.S. Secretary Seaton as the Everglades Miccosukee Tribe of Seminole Indians, and we wish to protest this fraudulent, so-called settlement.

Ours is a nation which has never surrended. Our fathers have told us the United States made treaties with our nation and other nations where the United States must protect our people and lands forever. We want our land, not money.

If you will examine the records of the BIA, if they are still there, you will find these are the facts as we have said them. Since they may not be there, we are sending a copy of the story made by the Saturday Evening Post on February 1, 1964, after we wrote our letter to the American People on December 13, 1961 asking for help.

This so-called settlement of $16,000,000 is not legal or just.

We have never agreed to surrender our land rights.

THE EXECUTIVE COUNCIL,
HOWARD OSCEOLA.
HOMER OSCEOLA.
JOHN M. OSCEOLA.
DOUGLAS M. OSCEOLA.

Senator BARTLETT. Sir, you said that Mr. Coulter and Mr. Osceola were representing a tribe that now call themselves the Traditional Seminoles.

Mr. FERACA. Yes, sir.

Senator BARTLETT. When did they start calling themselves Traditional Seminoles?

Mr. FERACA. I think—in English, at any rate—very recently.

They have had many names; some, perhaps, bestowed on them. For a long time they were simply called the "Trail People" in the broader sense. They have referred to themselves, and so appears on their letterhead, as the Independent Miccosukee Seminole Tribe of Florida, and they have had still other names.

I think the simple term Traditional Seminoles is somewhat recent.

Senator BARTLETT. Any other comments? Yes?

Mr. REESER. Mr. Chairman, the case that was before the Supreme Court was dismissed on October 31; it was not on the merits though. I did not want us to leave that impression. It was for want of jurisdiction.

Senator BARTLETT. Lack of jurisdiction?

Mr. REESER. Yes, sir.

Senator BARTLETT. Are there any other statements at this time?

Mr. LAVIS. No, sir.

Senator BARTLETT. Thank you, very much.

Since the administration was talking about Traditional Seminoles of Florida, perhaps you or Mr. Osceola would like to say something else.

Mr. COULTER. Thank you. We will take that opportunity.

Senator BARTLETT. Please proceed as you wish.

Mr. OSCEOLA. I would just like to make one statement that the gentleman was talking about. I think you asked the question when did we start calling ourselves the Traditionals.

Senator BARTLETT. Yes.

Mr. OSCEOLA. When the Seminole Tribe of Florida was formed and the Miccosukee was formed, we would be sort of associated with the Seminole Tribe of Florida. So, since then we have been calling ourselves the Traditionals to make us distinguished from these two groups. That is the reason we use Traditionals.

Senator BARTLETT. About how long ago was that?

Mr. OSCEOLA. I have no idea right now; it goes back a little ways.

Senator BARTLETT. Would it be about 1962?

Mr. COULTER. If I might comment on that. The nomenclature, the exact name, has never been a matter of great interest to anyone except maybe recordkeepers.

They are just Seminoles. The word "traditional" has been used clear back in the thirties and no doubt before that. The names before are somewhat confused. But there is no difficulty at all in identifying who the people are. Once the documents are examined, there is no difficulty in identifying the consistent group and their consistent position.

If I might say a word about the litigation. In keeping with the position of these Seminole people and their efforts to oppose the progress of the claim in the Indian Claims Commission, I mentioned earlier that they attempted to take their position to the Indian Claims Commission and alert the Claims Commission that they had present continuing rights in the land that they wanted to have protected. Their efforts to do that were stricken from the record. They never had a hearing.

There was never even an opinion rendered as to why they should not be heard. I think they were grossly mistreated. I think it was a plain denial of due process. I think, ultimately, this committee should con-

duct oversight hearings to determine what should be done about what I think are lawless actions of the Indian Claims Commission—not just in this but in many other cases.

In keeping with that position, which was consistent over a period of 25 years by the time I received the case, we finally attempted to commence an action in Federal district court to enjoin the action of the Indian Claims Commission as being simply unconstitutional and, in fact, illegal under its own statute. I am convinced it was.

The Justice Department of the United States took the—what I consider to be—absolutely shocking position in that case that it did not matter if the Claims Commission was operating without due process of law, it did not matter if the result of this award was going to be to take away these people's homes because—said the Justice Department of the United States—Indian people's land can be taken without due process by the United States; and it can be done without paying them a dime.

It is pretty shocking, but that is exactly what they said. I believe they said it in even more shocking terms than I have just repeated to this committee.

What was even more shocking was that the district court here in the District of Columbia, without looking at the merits of the case, agreed with that position. It said, "You are absolutely right. The U.S. Government is perfectly entitled to take away Indian people's lands, take away their homes without any due process of law and without any compensation whatsoever."

It is simply unbelievable. I think it is absolutely racist—absolutely shocking—but it was the decision of the district court.

I had high hopes that that would be reversed on appeal. I took an appeal to the Supreme Court pursuant to law. I was again astonished to find that the Justice Department took the position before the Supreme Court that the lower court's ruling was simply a ruling on a procedural matter. They said, "Oh, they didn't rule on the claim; that is just a procedural ruling, and you don't take an appeal on a procedural ruling to the Supreme Court."

Well, I thought a ruling that said that my clients' homes can be taken away without due process of law was a pretty substantial ruling on the merits. But the Supreme Court agreed with the Justice Department and said it is merely a procedural matter, a technicality, and you cannot appeal to the Supreme Court.

So, the gentleman who spoke here a moment ago saying that the Supreme Court had only passed on a procedural matter was absolutely correct. The merits have never been reached or considered by any court at all.

Senator BARTLETT. Thank you very much.

Do you have any questions, Mr. Cox?

Mr. COX. Mr. Coulter, I know you were not representing the unaffiliated or Traditional Seminoles in the U.S. Court of Claims. But do you have any insights as to why the Traditional Seminoles were not allowed to proceed in the hearings?

Mr. COULTER. No, frankly, I don't. The first effort they made was in 1954. Their written motion, which was very well presented, was simply stricken from the record without a hearing and without an opinion.

I just cannot give you any insight into that.

They tried again about 1961 and that motion was dismissed on the very day it was filed, again without a hearing and again without an opinion.

So, I cannot give you much insight there.

They did attempt to take an appeal from the first denial. They attempted to appeal to the Court of Claims, arguing that the Indian Claims Commission was illegally denying them an opportunity to be heard. The U.S. Court of Claims took the position that that order was not appealable, that they had no right to appeal from that decision.

So, they were dismissed in their efforts to appeal and no further attempt has been made to appeal to the U.S. Court of Claims because, in order to do that, you must first be a party. That is the whole point: They were not permitted to join in the action. They were never joined as an intervenor, either as a petitioner or a defendant in that matter.

Mr. Cox. Would you imagine that the basis for the ruling was that the Traditional Seminoles were being represented by the larger Seminoles?

Mr. COULTER. No; I am sure not. That, in all events, certainly could not have been the basis for it. Even the attorneys for the petitioners in that case recognized that they did not represent what they then called the Trail Indians or the Traditional Seminoles. In fact, one of the attorneys prosecuting the claim resigned from the case. In his letter of resignation, he pointed out that he could not fancy proceeding with the case when he knew full well that almost a third of the Seminole people were not with it, did not want to prosecute the claim at all.

So, it was evident in writing and conceded by all parties that the interest of the Traditional people or the Trail Indians was absolutely adverse to the interests of those who were seeking compensation.

I am certain that, whatever may have been the reason of the Indian Claims Commission, the reason was not that these people were already being represented. That, I think, is ruled out.

Mr. Cox. Thank you, Mr. Chairman.

Senator BARTLETT. Are there any other statements, Mr. Coulter or Mr. Osceola?

Mr. OSCEOLA. No, sir.

Mr. COULTER. No, sir. Thank you.

Senator BARTLETT. I want to thank all the witnesses and all others who came here. I think the record is a good one; I certainly hope it is.

We will have the record open for 2 weeks. If that is extended, all the groups here will be advised of the new date.

The hearing is now adjourned.

[Whereupon, at 12:15 p.m., the hearing was adjourned.]

[Material and documentation supplied by Mr. Coulter follows:]

INDIAN LAW RESOURCE CENTER
1101 VERMONT AVENUE, N.W., WASHINGTON, D.C. 20005 • (202) 347-7520

May 9, 1978

Honorable James Abourezk
United States Senate Select
Committee on Indian Affairs
Room 5331, Dirksen Building
Washington, D.C. 20510

Re: S. 2188; S. 2000; Seminole Distribution Plan
of April 4, 1978.

Dear Senator Abourezk:

Enclosed is a Report to Congress which is submitted as requested on behalf of the traditional Seminoles who are opposing the passage of the above distribution bills and the payment of any Indian Claims Commission award which might jeopardize their property rights.

This Report and its exhibits document a century and a half of remarkably shoddy treatment which the traditional Seminoles of Florida have suffered as the United States government has relentlessly sought to dominate them and their lands. The most recent abuse of these Indian people by the United States government is the attempt to force payment on them—over their documented, clear objection—of an Indian Claims Commission award which would serve to extinguish their historic property rights, including their rights to their present homes and villages. In the guise of a beneficient payment of a few hundred dollars per Indian, the United States government is attempting to place the imprimatur of legitimacy on its massive violation of Seminole rights.

On behalf of the traditional Seminoles I urge you to insist that no action be taken on the pending distribution bills and that Congress disapprove any distribution plan and payment of the Seminole Claims award until there has been opportunity for Congress thoroughly to study the factual and legal issues raised in this Report and in the testimony already presented at a hearing held on March 2, 1978. Please contact me if you wish to have any matter in this Report clarified or supplemented.

Very truly yours,

Robert T. Coulter
Attorney for the Traditional
Seminoles

RTC/eam
cc: Honorable Dewey Bartlett
Honorable Lawton Chiles

enclosure

INDIAN LAW RESOURCE CENTER
1101 VERMONT AVENUE, N.W., WASHINGTON, D.C. 20005 • (202) 347-7520

REPORT TO CONGRESS:

SEMINOLE LAND RIGHTS IN FLORIDA AND THE AWARD OF THE INDIAN CLAIMS COMMISSION

INTRODUCTION

This report demonstrates that traditional Seminole Indians have today land rights in Southwest Florida which the United States government is legally and morally obligated to protect. Although there may be a valid legal claim to the return of land which the Seminoles have lost in the past, this report is not submitted in support of any such claim. Rather, it seeks to alert Congress to the fact that legislation now pending will have the effect of jeopardizing, and possibly extinguishing, the land rights of traditional, non-reservation Seminole people. The passage of S. 2000 or S. 2188 in their present form and the payment of the Indian Claims Commission awards which are the subject of these bills threatens the rights of this proud and independent people to the very homes and villages where they have lived for generations.

This report has been prepared in response to a request from Senator James Abourezk that relevant information concerning the effects of these bills on traditional Seminole people of Florida be submitted. (Exhibit 1) The report is supplemental to the testimony already given at hearings before the Senate Select Committee on Indian Affairs held on March 2, 1978, at which Guy Osceola, a spokesman for the traditional Seminoles, and Robert T. Coulter, Esq., counsel to the traditional Seminoles, testified. Because of the need for brevity, this report is a severely abridged account of the historical and legal material which has been compiled.

The traditional Seminole people oppose passage of either of the above bills and any payment of the Indian Claims Commission award which does not expressly preserve and protect their property rights. The traditional Seminole people have submitted a proposed amendment to the above bills seeking to protect their rights.

I. Brief Historical Background

A. Seminole Land Title in the Eighteenth and Nineteenth Centuries

At the time of earliest Spanish settlement in Florida, 1512, the area was inhabited by numerous indigenous peoples. More than 25 indigenous groups, totalling more than 50,000 persons, have been identified. See United States v. Seminole Indians, 180 Ct.Cl.375 (1967); Seminole Indians v. United States, Findings of Fact, 13 Ind.Cl.Comm. 326 (May 8, 1964). Subsequently, there was a marked population decline due in great part to the introduction of European diseases and the "missionary" activity of the Spanish.

In the early eighteenth century there began significant migrations of Indian people from the north into Florida. These peoples, principally of Creek origin, along with the surviving peoples remaining in South Florida, were to become known as "Seminoles." See, Sturtevant, "Creek into Seminole," in Leacock and Lurie, North American Indians in Historical Perspective. At that time, just as today, there were two principal separate language groups: the Muskogee-speaking and the Hitchiti-speaking. Ibid.

In 1763, Spain ceded its rights in Florida to Great Britain by the Treaty of Paris. Great Britain began, in 1763, its policy of giving express legal recognition and protection to Indian land titles throughout the Americas. This policy was first enunciated in the Royal Proclamation of 1763. The Proclamation is reprinted in C. Thomas' Introduction to C.

Royce, Indian Land Cessions in the United States, 18th Annual Report of the Bureau of American Ethnology (Smithsonian Institution, 1899). Britain subsequently consummated several treaties with the Seminoles in Florida guaranteeing the Seminoles' right to the soil.

Spain, which reacquired the European rights in Florida in 1783, continued the practice of treaty-making with the Seminoles. Spain repeatedly confirmed the Seminoles' right to the Florida lands with the exception of minor cessions made by the Seminoles. This was done by the Treaty of Pensacola, 1784, and the Treaty of Walnut Hills, 1793. The Supreme Court of the United States in an exhaustive opinion by Chief Justice John Marshall recited and discussed this history in United States v. Mitchel, 9 Pet.711, 751-756 (1835).

The Supreme Court further found that the Seminole lands in Florida were guaranteed and protected by the United States by treaty and by Acts of Congress (9 Pet. at 756). The Court found that:

> . . . [T]he United States could not have been otherwise than well informed at that time, as to the right of property in Indian lands in the Floridas. When they acquired these provinces by the treaty of cession, it was not stipulated, that any treaty with the Indians should be annulled, or its obligation be held less sacred than it was under Spain; nor is there the least reference to any intended change in the relations of the Indians towards the United States. They came in the place of the former sovereign, by compact, on stipulated terms, which bound them to respect all the existing rights of the inhabitants, of whatever description, whom the king had recognized as being under his protection. They could assume no right of conquest which may at any time have been vested in Great Britain or Spain, for they had been solemnly renounced, and new relations established between them, by solemn treaties; nor did they take possession on any such assumption of right; on the contrary, it was done under the guarantee of congress to the inhabitants, without distinction, of their rights of property, and with the continued

assurance of protection. They might, as the new sovereign, adopt any system of government or laws for the territory consistent with the treaty and the constitution; but instead of doing so, all former laws and municipal regulations which were in existence at the cession, were continued in force. It was not necessary for the United States, in the treaty of cession, to enter into any new stipulation to protect and maintain the Indians, as inhabitants of Florida, in the free enjoyment of their property, or as nations, contracting parties to the treaties of Pensacola and Walnut Hills, with Spain, in 1784 and 1793; for by the sixth article of the Louisiana treaty between France and the United States, they had promised "to execute such articles and treaties as may have been agreed on between Spain and the nations or tribes of Indians, until, by mutual consent, other suitable articles shall have been agreed upon." (1 Laws 137.) These were the treaties which guarantied to the Seminole Indians their lands, according to the right of property with which they possessed them, and which were adopted by the United States, who thus became the protectors of all the rights they had previously enjoyed, or could of right enjoy, under Great Britain or Spain, as individuals or nations, by any treaty to which the United States thus became parties in 1803.

When they acquired and took possession of the Floridas, these treaties remained in force over all the ceded territory, by the orders of the king, as the law which regulated the relations between him and all the Indians who were parties to them, and were binding on the United States, by the obligation they had assumed by the Louisiana treaty, as a supreme law of the land, which was inviolable by the power of congress. They were also binding as the fundamental law of Indian rights, acknowledged by royal orders and municipal regulations of the province, as the laws and ordinances of Spain in the ceded provinces, which were declared to continue in force by the proclamation of the governor in taking possession of the provinces, and by the acts of Congress, which assured all the inhabitants of protection in their property. It would be an unwarranted construction of these treaties, laws, ordinances and municipal regulations, were we to decide, that the Indians were not to be maintained in the enjoyment of all the rights which they could have enjoyed under either, had the provinces remained under the dominion of Spain. Mitchel v. United States, 9 Pet. at 754-755. (Emphasis added.)

This decision, Mitchel v. United States, 9 Pet. 711 (1835), was reaffirmed by the Supreme Court in Mitchel v. United States, 15 Pet. 53 (1841). The original Mitchel decision has never been reversed or modified.

This clear holding by the Supreme Court is of great importance

because of the arguments made recently by the United States Department of Justice that the Seminole lands are not treaty-guaranteed.

In 1823 the United States concluded a treaty with various Seminole leaders who purported to act for the entire Seminole Nation. Treaty of Camp Moultrie, 7 Stat. 224 (1823). Under this treaty the Seminole signatories purported to cede all the Seminole land in Florida in exchange for a reservation in central Florida. This treaty was not, however, effective to terminate the land rights of all Seminoles, because those who signed were clearly without authority to make the cession without the agreement of the chiefs who were absent. Even if one accepts as truthful the reports that representatives of 17 Seminole villages were present, that is not even half of the known villages. See, J. K. Mahon, The Second Seminole War 48 (1967). At this time the leadership of the Seminole Nation was not concentrated in a single chief or council, but was shared by all the villages. See, Covington, "White Control of Seminole Leadership," XVIII The Florida Athropologist 137 (1965).

Furthermore, the signatures on the treaty were procured by bribery and duress, according to voluminous evidence and exhibits submitted to the Claims Commission. For example, by an "Additional Article" to the treaty, large concessions of land, money and other favors were made personally to the six "Chiefs" who signed. 7 Stat. 226 (1823). See, generally, the exhibits filed with the Indian Claims Commission, Docket Nos. 73 and 151, and Petitioners' Brief, Docket Nos. 73 and 151, at pp. 10-16 (1961).

In 1832, the United States, in a further effort to remove the Seminoles from Florida to Oklahoma, negotiated an even more flagrantly fraudulent treaty, the Treaty of Payne's Landing. 7 Stat. 368 (1832). The Treaty of Payne's Landing provided that a delegation of Seminoles would travel to the territories west of the Mississippi River to determine whether "they be satisfied with the character of that country." The treaty provides that the Seminoles would cede the remainder of their land in Florida and remove west of the Mississippi if satisfied with the western country and if satisfied that the Creeks already there desired to unite with them. Just as with the Treaty of Moultrie Creek, many Seminoles did not participate in the Treaty of Payne's Landing and knew nothing of it, but continued to live as they had for many years, independent of the agreements made by other Seminoles. Historians both then and now uniformly regard the "treaty" as an "open fraud." See, J. K. Mahon, The Second Seminole War, 74 ff. (1967).

Under duress, and through the trickery of the United States Agent, the delegation of Seminoles sent to inspect the territory in the west signed a document called the Treaty of Fort Gibson, which declared that the delegation was satisfied with the new territory and that the nation agreed to move. 7 Stat. 423. The delegation, however, acted without any authorization from the Seminole Nation and had never returned to Florida to make their findings known to the nation. See, generally, J. K. Mahon, The Second Seminole War, 81-85 (1967). No Seminole chiefs authorized to do so ever ratified the Treaty of Payne's Landing or the

Treaty of Fort Gibson.

The Seminoles in Florida, quite naturally, refused to move, and the Second Seminole War ensued. (The first was fought 1817-1818.) The United States devoted years of warfare, millions of dollars and countless lives to its effort to remove the Seminoles. The Seminoles were never conquered nor subdued, and eventually the United States gave up its effort to remove the Seminoles by force. By 1842, the United States had determined to end the war and to seek an accommodation with the Seminoles.

Under instructions from the President and the Department of War, General William J. Worth negotiated a treaty ending the war in August 1842. See, generally, J. T. Sprague, The Florida War, 475 ff. (1948). On July 22, 1842, General Worth framed the agreement with Fosse Hadjo, an emissary of the Seminoles. The minutes of that meeting read in part:

> Colo Worth stated to Fosse Hadjo that he had but a short talk to make. He had received word from the Great Father in Washington that there must be no more fighting between his white & red children & that no more blood must be shed between them, but they must be friends & shake hands together, that although he lives a great distance from them he sees the bleached bones of those who have been killed & it makes his heart sad. That the Great Father who sends this word is not the same they had some time since but has been recently chosen by his white children. He is willing his red children should remain in Florida or go to Arkansas as they may prefer; . . .

Minutes of a Talk Held at Fort Brooke, July 22, 1842, Florida Territorial Papers, 517.

It is important to note that nothing in the minutes reflects any understanding that the agreement was temporary. It is apparent from the minutes

that the Seminoles were to remain in Florida forever if they so chose.

The Seminole territory agreed upon at Fort Brooke was the same territory which had been designated by the abortive agreement with General McComb in 1839. Generally it was the territory south of Pease Creek and east of Lake Okechobee, extending to the southern tip of Florida. (See Exhibit No. 2.)

As agreed, Hadjo returned on August 5, accompanied by Billy Bowlegs and Nocosemathlar, who had been authorized in advance by their proper councils. J. T. Sprague, The Florida War, 485 (1948). On August 12, General Worth reported that he had secured the agreement of the Chiefs to the terms stated on July 22.

The treaty, although formal in every respect and authorized by the highest authorities of the United States and of the Seminoles, was not reduced to a document signed by the parties. The reason for this is not known but probably relates to the legendary refusal of the Seminoles to sign a treaty and the bitter history of fraud and deception surrounding the unauthorized "treaties" of Moultrie Creek, Payne's Landing and Fort Gibson, described above. What is written of the 1842 treaty is recorded in various documents, primarily from General Worth. See, H. Doc. No. 82, 28th Cong., 1st Sess. (1844), containing a compilation of relevant documents. In international law an oral treaty is entirely valid if otherwise proper, there being no requirement that a treaty be in writing. Lauterpacht, Ed., I Oppenheim's International Law 898 (1958).

The treaty is also recorded in the oral history of the Seminole people, particularly the traditional people not living on the reservations. In the oral history, the treaty is understood to be a formal treaty with the United States—in fact, the only legitimate one. In the Seminole oral history, the treaty agreement was that the war should cease and the Seminoles were to be "left alone" in their territory in southwest Florida. These agreements were understood in absolute terms by the Seminoles. There are today living sources of this oral history, to testify as to the Seminole understanding of the agreement.

The treaty was adhered to and implemented by both the Seminoles and the United States. However, gradual unauthorized encroachments by non-Indians led to the establishment of a twenty-mile buffer zone along the boundary of the Seminole territory.

On May 19, 1845, President Polk approved the establishment of a neutral zone, which was to be neither surveyed nor settled. The area was described as a "reservation" around the "District set apart for the use and occupancy of the Seminoles in Florida." (See the documents and transcriptions attached as Exhibit 3.)

There is considerable evidence that the 1842 treaty was honored by both the Seminoles and the federal government for many years, in spite of extreme pressure from Florida citizens and politicians. For example, in 1853 President Fillmore sent a message to Congress noting that "ever since the arrangement above referred to, the Indians have manifested a desire to remain at peace with the whites." The message

also noted that the Seminoles continued to refuse to leave Florida, and left to Congress the question of whether to continue the 1842 agreement or to use armed warfare. See, also, Map of 1852 from the Report of the Commissioner of the General Land Office, 1853, showing the Seminole territory and the buffer zone with certain encroachments. Exhibit 4.

Congress, however, took no action with respect to the Seminole lands. No act of Congress ever expressly terminated the Seminole rights to that land. Likewise, no act of the Executive ever expressly terminated or modified the 1842 agreement as augmented by the 1845 Presidential Proclamation adding the buffer zone. Rather, the territory was very sporadically settled by non-Indians who continued the process of gradual encroachment and usurpation. In any event, the Seminoles have never been formally divested of their rights as recognized by the 1842 agreement and they have never been compensated for their loss.

There are at least two legal approaches to the question of Seminole rights in Florida. Under either view, the Seminoles had and legally still have recognized legal title to a substantial area of their original homeland.

Under one view, the treaty of 1842 as supplemented by the 1845 proclamation, created an "executive order reservation" which was never disestablished and which was acknowledged and confirmed by Congress (Act of Feb. 8, 1887, c. 119, § 1, 24 Stat. 388). As lands west of the Mississippi were opened to white settlement in the early heyday of Manifest Destiny, the Polk Administration discarded the Indian removal policy in

favor of a policy of confining Indians to specific "colonies" or reservations. The reservation set aside for the Seminoles in Florida was one of the first Indian reservations established by order of a United States President. Under settled federal law, the setting apart of the Seminole lands constituted the creation of an executive order reservation which is subject to the same legal protections as reservations created by treaties ratified by the Senate. Extensive legal authority on this subject may be found in F. Cohen, Handbook of Federal Indian Law, 299-302 (1942); U.S. Department of the Interior, Federal Indian Law, 613-622 (1958).

However, the Seminole right to their lands in Florida does not rest only on the 1842 treaty and Presidential proclamation. As discussed earlier, the Seminole property rights were solemnly guaranteed by treaty and acts of Congress at the time Spain ceded its rights in Florida to the United States. There is extensive historical authority, some of which has been cited earlier, that the so-called treaties made in 1823 and 1832 were fraudulent, and in any event they did not include and were not binding upon the Seminoles in south Florida who did not participate in the treaties, and who, in some instances, did not even know of them.

The Seminoles who remained in Florida fought a long and successful war against the United States to protect their homelands. If there were any question about the applicability of the earlier treaties to these Seminoles, that would be settled by the more than seven years of warfare that followed the Treaties of Payne's Landing and Fort Gibson. The territory protected by the 1842 agreement and the presidential order of

1845 is territory which had belonged to the Seminoles long before the existence of the United States, and which the Seminoles successfully defended and kept through warfare. Title derived and defended in this manner is recognized and protected by international law. See generally, Lauterpacht, Ed., II Oppenheim's International Law, 605-611 (1952); M. Akehurst, A Modern Introduction to International Law, 140 ff. (3rd ed., 1977).

The traditional Seminole people have never given up their rights to that territory. They have never ceded their lands and they have never been conquered. They have never subjected themselves to the jurisdiction of the United States and have never acknowledged any United States legal authority over them. The rights of these people are founded in international law as well as the domestic law of the United States. Accordingly, any derogation from their rights and any interference with their property will result in legal liability both domestically and internationally.

B. From the Polk Proclamation to the New Deal

Although the policy of removal to Oklahoma had come to an end, the Seminoles who remained in Florida were not afforded the security in their lands to which they were entitled under the 1842 treaty, Polk's Proclamation of 1845, and international law. Whites were permitted to encroach on Seminole land after the military operations had ended, and the federal

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government only sporadically took steps to fulfill its obligations. Nevertheless, by the turn of the century, the Seminoles still managed to maintain control over significant areas of land within the area which President Polk had acknowledged to be theirs. They made their living by farming, hunting, fishing and trading.

They were organized according to traditional clans, a very decentralized system of government. There were also major divisions among the Seminoles, the most prominent of which was the separation of the Miccosukees of the south from the Muskogees or Cow Creeks of the north. Matters of general importance to the Seminole people as a whole were addressed when the religious leaders periodically convened as a deliberative council at the time of the Green Corn Dance, the most important traditional ceremonial occasion. Except perhaps when at war with the United States, the Seminoles never were under any sustained centralized leadership, and even during the Seminole Wars the only centralized government was a loose military alliance.

In the early decades of the twentieth century, a flood of white immigration into the State of Florida led to a massive invasion of Seminole land. By the end of World War I the State of Florida and the United States were virtually ignoring the historic land rights of the Seminole people. In fact, the state and federal governments had for decades worked hand in glove without any Congressional authority or approval to remove Seminoles from farm lands desired by whites and to drive them into the deeper Everglades or restrict them to small reservations.

Although there was considerable dislocation caused by the white incursion, most Seminoles tenaciously continued their traditional way of life and remained in small Seminole villages outside of the reservations. Many of these villages were scattered near the Tamiami Trail and throughout the Everglades. The Seminoles in this southern area of Seminole country, predominantly Miccosukees, have maintained the most consistent resistance to the pressures which have been mounted to turn Seminoles away from their traditions and their land.

II. The Early New Deal and the Indian Reorganization Act

In the early 1930s, the New Deal of Franklin D. Roosevelt brought new attention to all Indians, including the Seminoles. The United States government through Secretary of Interior Harold Ickes and Commissioner of Indian Affairs

John Collier promised a new day for Indian peoples. The prior government policy of allotment of Indian lands and forced assimilation would be ended. A new policy of respect for Indian peoples and Indian government was promised under the Indian Reorganization Act (I.R.A.).

Traditional Seminoles in Florida had no more faith in the promises of these new government leaders or in these new policies than they had in the prior administrations. To traditional Seminoles, the I.R.A. presented a threat of growing federal interference in the daily affairs of Seminole people. Fiercely proud of their independence and their refusal to submit to military defeat by the United States, these people were not about to submit to benign assimilation through government give-away programs.

Thus, when Secretary Ickes and Commissioner Collier visited Seminole country in 1935 to push for I.R.A. acceptance, the Seminoles turned the discussions from government programs and I.R.A. elections to preservation of legal rights and restoration of Seminole land. A Department of Interior press release dated April 2, 1935, confirms that the government was making commitments to work for the restoration of Seminole lands and was paying specific attention to the preservation of Seminole rights to live in the area being proposed for the Everglades Park. (Exhibit 5) Other documents from government files disclose that the United States government acknowledged its duty to secure Seminole land

titles. (Exhibit 6)

At the time of the visit by Ickes and Collier, one group of northern Seminoles, predominantly Cow Creeks, presented to the government a petition entitled "Petition For Peace Treaty." (Exhibit 7) Although traditional Seminoles considered this document to be totally contrary to fundamental Seminole values--a complete sellout--it is noteworthy that even the so-called "progressive" Cow Creeks were interested in the restoration of a viable land base.

In response to this petition the Commissioner of Indian Affairs sent the Secretary of Interior a memorandum in which the issue of Seminole land holdings was discussed. The Commissioner's memorandum states that "most" of the scattered tracts which had already been purchased by the federal government for the Seminoles were "unsuitable for their use," and that the land which had been set aside for them by the State of Florida was "wholly unsuitable." (Exhibit 8)

The traditional Seminole leaders, predominantly Miccosukees from the southern part of Seminole country, reacted almost immediately when they learned of the petition which the Cow Creeks had presented. On the day following Interior's press release, six of the traditional chiefs, leaders and medicine men of the "true Seminole Indians" submitted their own petition disclaiming the "Petition For Peace Treaty" and reaffirming their opposition to the Indian Reorganization Act. (Exhibit 9) Cory Osceola, father of Guy Osceola, is

lead signatory of this petition. The petition of these traditional leaders concludes with the statement that the Seminoles intend to continue their "peaceful pursuits free from the ever-changing and hindering policies of the white man."

These events were well known to all who were interested in Seminole affairs. There was press coverage in Florida which mentions Cory Osceola and the attorney, O. B. White, who was assisting the traditional leaders. (Exhibit 10) There was also discussion of these developments within the Bureau of Indian Affairs. J. L. Glenn, a field officer of the Office of Indian Affairs, took the position that the protest petition of Cory Osceola and the other traditional leaders was simply the result of manipulation by whites. (Exhibits 11 and 12) Yet the same Mr. Glenn acknowledged in his 1935 Annual Report that there were in fact two groups of Seminoles. (Exhibit 13) He refers to them as the "northern group" (Muskogees or Cow Creeks) and the "southern group" (Miccosukees). After belittling the traditional Seminole petition, Mr. Glenn's report inadvertently acknowledges that motivations other than white manipulation were at the heart of the protest by this group:

> It also may be said that the tribe has devoted those two centuries of heroic struggle and sacrifice in an effort to escape the absorption and humiliation which have always been the consequence of becoming a ward of the white people. The Seminole is most deeply devoted to freedom and independence. He refuses to accept the status of a conquered man, or to enter into a relationship which ranks him socially as

> inferior to any so called predominate race. For more than two centuries he has been guided by the belief that he can find an escape from such a relationship by withdrawing from entangling contacts with the white man, and setting up a world of his own in which he and his are the predominate factors.
>
> (Exhibit 13b)

> The members of the southern group had encountered little or no trouble in living on their land under the status of a squatter. They saw no immediate need of purchasing its title. They were strongly convinced of their ownership of the whole peninsula. Some took the position that the legal title to Florida land was valid only by reason of the white man's laws, and the white man's ways, and that their people were bound by neither, but conducted their affairs wholly and exclusively according to the Indian social, political, and economic order. The Indians, therefore, should ignore the legal title to all Florida real estate. Others thought they should obtain as much land as the government was willing to secure for them. They requested the tract within Collier county that lies north of the Tamiami Trail and west of the Immokalee road.
>
> (Exhibit 13g)

The same report confirms that Secretary Ickes had pledged United States support of Seminole efforts to secure broader land tenure:

> The Indians, who joined in presenting the above petition [the "Petition For Peace Treaty"], were respectful and courteous. In manifestation of this they removed their shoes, and came into the presence of their guests unshod. The Officials from Washington complimented them on their past heroism, and pledged them a larger land program. The Secretary thought that it would be possible to obtain as much as 200,000 acres. The conference promoted that goodwill and friendship that ought to exist between the Seminoles and their government.

A central theme of Glenn's report is his argument for government support of the more "progressive" northern group who appeared amenable to the plan to consolidate the Seminoles

on reservation land.

A somewhat contrary position was urged by others within the Office of Indian Affairs. A 1936 report based on a 1935 study conducted by the Applied Anthropology Unit of the Office of Indian Affairs argued for formal recognition of the fact that there was a major division among the Seminoles. (Exhibit 14) The principal recommendation of this report is that "Mikasukis and Muskogees should be organized separately, if practicable from Indian Office viewpoint." It also recommends recognition of autonomy among the smaller governing units of Seminole society, and it concludes, "The clan must be taken as the basic economic unit." This report also concurs in the observation already made that there was a pressing need for land for exclusive Seminole use. The position which favored the recognition of significant diversity among the Seminoles would over the next two decades lose out to the Glenn position which insisted on treating the Seminoles as a monolithic Indian society.

Even though there was no historical evidence that the Seminoles were ever a unitary society under centralized government, and even though all parties concerned in 1935 were fully aware of the divisions and decentralization which existed in Seminole society, a United States policy was at that time being formulated to organize and deal with the Seminoles as a single unit. Of the two major groups of Seminoles who had come forward, one was ready to compromise

and deal with the United States government, willing to move to reservations. The other was insisting on its historic legal rights and sovereignty, wanting to be left alone on land they claimed was rightfully theirs.

The position of the latter group, the traditional Seminoles, was further dramatized in February 1936, when Florida Governor Dave Sholtz and his cabinet met in Seminole country with Seminole leaders. Cory Osceola was chief spokesman for the Seminoles, and again attorney O. B. White was present. There was newspaper coverage of the meeting which took place in a village off the Tamiami Trail, and a bronze historical marker commemorates the meeting by recording these words spoken by Cory Osceola to Governor Sholtz: "Pohaan Checkish [Just let us alone]." (Exhibit 15) They remained firm in their opposition to participation in any government programs. This message was conveyed in a letter from Governor Sholtz to Secretary Ickes. (Exhibit 16) The answering letter of Secretary Ickes is solicitous of Seminole needs, yet it indicates that the strong position on Seminole rights to use of Everglades Park which Ickes took the year before was already beginning to erode. (Exhibit 17)

The continuing threat to Seminole land was protested in April 1936 by F. J. Scott, a BIA Field Service Superintendent who wrote the Commissioner that all plans for the Everglades Park were to the "decided disadvantage" of the Seminoles. The Park, Scott wrote, would take a large part of the hunting

grounds now used by them as well as camp sites and garden plots. (Exhibit 18) Governor Sholtz urged (in more patronizing tones) that the Seminoles be allowed to remain in the Park area because, among other reasons, "it would add great color if they remained in the confines of the park." But he too agreed that Seminole hunting rights would have to be restricted in other areas. (Exhibit 19)

Again a protest of the traditional Seminole leaders was made and noted. By 1937, when efforts to evict Seminoles from the Everglades Park were under way, the newspapers carried stories with headlines about the fight which the Seminoles were preparing to wage. Among those leaders named in these newspaper accounts are Cory Osceola, three others who signed the 1935 protest petition, and Ingraham Billie, a man who would become a prominent leader of traditional Seminoles in later years. (Exhibit 20)

A 1938 letter from the Director of the National Park Service underscores the declining fortunes of the Seminoles who lived in the Everglades area. The evolving government plan would give them access to the Park area as boat guides for tourists. (Exhibit 21)

As the government deliberately moved to bolster the reservation group of "progressive" Seminoles, many of the traditional, off-reservation Seminoles came under increasing pressure to leave their homelands. The heady words and promises of Secreatry Ickes and Commissioner Collier were

forgotten. By 1940, traditional Seminoles were less secure in their lands than ever before.

But throughout this early period under the New Deal, clear notice was given by the traditional Seminole leaders that they would not acquiesce in the relentless white encroachment on their land and rights. It was no secret who these leaders were or where they could be found. Cory Osceola and the other leaders of the traditional Seminoles would continue to protest and vex the United States government for the decades to come.

III. The Early Years of the Claim, 1949-1957

A. Protests Against the Initiation of the Claim

By the late 1940s there were three small reservations set aside for Seminole Indians: Brighton, Big Cypress, and Dania. Although an increasing number of Seminoles had been induced or compelled to live on these reservations, it is not certain what percentaged lived on and off reservation at that time. There was no accurate census.

The United States began providing services to the reservation groups, and set up a cattle-raising project for them. The non-reservation, traditional Seminoles expressly refused to become involved in the BIA programs.

There still was no formally recognized government for any of the Seminoles, either on-reservation or off-reservation. The traditional Green Corn Dance continued to be the

principal embodiment of Seminole government.

After the Indian Claims Commission Act was passed in 1946, the BIA decided that the Seminoles should and would present a claim for compensation for their lands in Florida. The Superintendent of the Seminole Indian Agency, Kenneth A. Marmon, helped foster the initiation of the claim. He arranged for a meeting on one of the Seminole reservations at which twelve individual trustees of the government cattle project were signed up as Seminole claimants. All twelve were residents of the reservations. Traditional, non-reservation Seminoles had absolutely nothing to do with the initiation of this claim which became known in the Indian Claims Commission as Docket 73 (and, later, 73A).

It was clear to Mr. Marmon from the beginning (as it would have been clear to any casual student of Seminole history) that the filing of such a claim would bring vociferous protest from the traditional Seminoles. Anticipating their objection, Marmon wrote a letter to accompany the first request for approval of the claims attorney contract. That letter sought to discredit the inevitable traditional Seminole protest which would follow. They "might wish to contest the contract," he wrote. In this letter Marmon misstated the facts in order to augment the case in favor of the reservation Seminoles who were bringing the claim. (Exhibit 22) First, Marmon wrote that the claims contracts were signed by "duly elected representatives of the three reservations" although

he knew that the twelve signatories were simply cattle trustees and not duly elected representatives. As noted above, there was no recognized Seminole government at that time. Second, he wrote that the "Southern Seminoles (Miccosukees) who reside along the Tamiami Trail and in Miami" numbered approximately 150. As the BIA would concede only five years later, the true numerical strength of the traditional Seminoles was at least twice that number. Perhaps it was in fact a majority of all Seminoles then in Florida.

It may be that Marmon's underestimate of their numbers was due to the lack of contact with the non-reservation Seminoles, a fact which Marmon admitted in a letter of February 8, 1950, to the Commissioner of Indian Affairs:

> This office does not come in contact too much with the Tamiami Trail Organization. However, when problems occur or when meetings are necessary to discuss problems with this group, the following members are recognized by this office as comprising the Tamiami Trail Council group: Cory Osceola, Wm. McKinley Osceola, John Osceola, Ingram Billie, Frank Charles and Jimmie Billie.
>
> (Exhibit 23)

The traditional Seminole leaders, whom Marmon knew by name, did indeed contest the contract and have continued to contest the contract and the claims of Docket 73 and 73A. Guy Osceola and other spokesmen and leaders of traditional Seminoles are the successors to this non-reservation, traditional group which had by 1949 been variously named the "Southern Group," "Miccosukees," "Tamiami Trail Group,"

"Tamiami Trail Organization," "Tamiami Trail Council," and "True Seminoles of Florida." Though their name would continue to change over the next few decades, their identity was never in doubt.

The attorneys who contracted with the cattle trustees to file the claims in the Indian Claims Commission were John O. Jackson and Roger J. Waybright of Jacksonville, Florida. They were permitted to associate with them a Washington, D.C. attorney, Guy Martin. Within eight years, only one of these original claims attorneys would remain in the case. As subsequent documents will demonstrate, the turnover of claims attorneys in this case was great in the following years. This turnover is directly related to the fact that there never has been a legitimate, unified "Seminole Tribe of Florida" which could lawfully present itself as party-claimant for all Seminole peoples.

As soon as word of the claims contract reached the traditional Seminoles, the contest over the claim began in earnest. On August 1, 1950, O. B. White, the attorney who had already been working with the traditional group when they met with Ickes and Collier fifteen years earlier, immediately fired off a protest letter to the claims attorneys Jackson and Waybright. White wrote that he represented the Seminoles from five Florida counties, and that his clients had not been informed of the claims meetings or contracts. (Exhibit 24) Waybright responded saying that his clients

were the "duly elected Trustees" of the Seminole Indians of Florida, that he was acting for "not part of the tribe, but for all of the tribe." (Exhibit 25)

With tensions building about the legitimacy of the claims contract, Mr. Marmon of the BIA wrote Jackson and Waybright a curt letter dated August 15, 1950, which insisted that they have a meeting with the "Indians along the Trail," including their leaders, Cory Osceola and William McKinley Osceola. (Exhibit 26) Two days later, O. B. White wrote another letter to the claims attorneys telling them that his clients would dissociate themselves from any claims activity. (Exhibit 27)

It was only after this exchange that attorney Waybright first visited his so-called "clients" along the Tamiami Trail. He subsequently wrote the Commissioner that these Seminoles were a "few scattered non-reservation Indians," and he strongly suggested that they had been rounded up by O. B. White and others, whome he sought to characterize as recent intermeddlers who were stirring up the Indians. (Exhibit 28) Only seven years later Waybright would reverse himself and withdraw from the case after belatedly realizing that at least one-third of the Florida Seminoles steadfastly opposed the bringing of the claim.

In September 1950 the traditional Seminoles again registered a protest to the claim. This time they petitioned through the Sheriff of Collier County, Florida. The Sheriff

wrote a letter to United States Senator Spessard Holland which attested to the legitimacy of the leadership of Cory Osceola, Ingraham Billie and the others whose names were becoming familiar by this time. (Exhibit 29) This letter of protest was forwarded to the BIA for response. The Commissioner's response to Senator Holland is especially instructive in that it suggests the Indians opposing the claim could simply elect to opt out of the claims process:

> If any Tribal Indians do not desire to participate in any award to the Seminole Indians of Florida they will not have to accept any per capita payment or other benefits derived from a favorable judgment.

The Commissioner's letter also altered the official position on the legal capacity of those twelve cattle trustees who executed the claims contract. No longer were they termed "duly elected representatives." Instead, they were "individual" Seminoles who "negotiated" a contract after being "authorized to do so" at a meeting called for that purpose. (Exhibit 30)

Notwithstanding the protests made, the claims contracts with Jackson and Waybright were approved and they were permitted to prosecute the Docket 73 claims which got off to a shaky start in 1950. Having failed to stop the initiation of the claims, the traditional Seminoles would doggedly seek to stop them during the course of the next twenty-eight years.

B. Early Efforts to Dissociate from the Claims Process

On October 1, 1953, another formal protest was made by the traditional Seminoles. This time they were represented by a different attorney, Morton H. Silver, of Miami. This time they referred to themselves as the "General Council of the Seminole Indians." Letters were sent to the Indian Claims Commission, the Commissioner of Indian Affairs, and the Attorney General, which included these remarks:

> The General Council has stated that the [claims] petitions have not been authorized by them or for them.
>
> The General Council has stated that it is not their desire or intention, now or in the future, to accept any money from the United States Government.
>
> (Exhibit 31)

A sworn statement of opposition to the claim, signed by Ingraham Billie, Head Medicine Man, and by Buffalo Tiger, interpreter, was annexed to each letter. The Attorney General's response resurrected the false and previously discredited notion that the twelve signatories of the claims contract were in fact "duly elected trustees." (Exhibit 32)

As the claims process limped forward, the United States government in 1953 simultaneously began its policy of Indian termination, naming the Seminoles as a tribe to be terminated. At this historical juncture, one might reflect upon the 1935 protest of Cory Osceola and the other traditional leaders who asked to be "free from the ever-changing and hindering policies of the white man." (See Exhibit 9)

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In discussing the termination policy, an Assistant Secretary of the Interior observed in a letter to attorney Silver that the Seminoles were still divided in two basic groups in 1953:

> We have been aware for some time of the two lingual groups and of the lack of unity in tribal organization, but the relationship of the General Council of Seminole Indians to the tribe is not clear. We greatly appreciate receiving the views of the group and shall give them careful consideration.
>
> (Exhibit 33)

In a December 1953 letter to United States Senator George Smathers, Mr. Marmon, BIA Seminole Agency Superintendent, stated that there were "two distinct bands--Cow Creeks and Miccosukais--numbering approximately 870 individuals." (Exhibit 34) Marmon noted that neither band had a recognized tribal organization and that each had its own Green Corn Dance Council. The off-reservation band is described as "rabidly opposed to any change in their way of life. They feel they are getting along alright and have left the impression that they want to be left alone." This traditional group (which he called "Mr. Silver's group") is said not to exceed 250 individuals, an increase of 100 individuals from Marmon's estimate of 1949 (see Exhibit 22) and yet short of the total government estimate of about 375 which a BIA report would make the next year. Marmon stated in the same letter that because of "friction between the bands for various reasons, little headway has been made" in setting up a Business

Committee or Board of Directors to represent the Seminole Tribe in all of their tribal affairs.

In the same month, attorney Morton Silver again wrote the Indian Claims Commission restating the position of his clients that Dockets 73 and 73A had not been authorized by the "Mikasuki Tribe of Seminoles," and calling on the Commission to investigate. (Exhibit 35) The Clerk of the Commission responded in a letter dated December 28, 1953, which stated that the Commission was obliged to proceed with the claims, but "of course this will not bar the Mikasuki Seminoles from formally submitting objections to the prosecution of the claims . . . perhaps you should present your objections with as little delay as possible." (Exhibit 36)

C. The Buckskin Declaration

On March 1, 1954, a petition entitled the "Buckskin Declaration" was delivered at the U.S. Capitol Building in Washington, D.C. by Buffalo Tiger, George Osceola and Jimmie Billie, non-reservation Seminoles. Attorney Morton H. Silver accompanied them. The Buckskin Declaration is a formal petition to the President of the United States from the General Council of the Mikasuki Tribe of Seminole Indians in the State of Florida. It presents a series of grievances and outlines the traditional Seminole view of their relationship to the United States:

To the Most Honorable President of the United States of America
Dwight D. Eisenhower

Our Most Solemn and Respectful Greetings:

We, the General Council, being the governing body, of the Mikasuki Tribe of Seminole Indians in the State of Florida, have met in formal council in the Everglades in this time of decision to our Tribe and appeal to you as a great leader of your people to dispense the justice which will preserve our freedom, property rights and independence.

We, unconquered, have been at peace with your Nation for over one hundred years. Our history tells us that in the past treaties have been made with the Nations of Great Britain and Spain, recognizing and entitling us to vast portions of lands in what is now known as the State of Florida.

When your nation in 1821 made a treaty with the country of Spain you agreed to recognize our property rights in such of those lands that at that time were recognized by Spain. Subsequently your Nation made treaties with our independent Nation, all of which were dishonored by your Nation either by failure to act or by provoked wars.

Under the last treaty your Nation made with our Nation we were entitled to all of those lands as shown by the "Map of the Seat of War in Florida compiled by order of Brig. General Zachary Taylor, principally from the surveys and Reconnaissances of the Officers of the U. S. Army by Capt. John MacKay and Lt. J. E. Blake" in 1839; as well as the lands due us under various other treaties.

We, the Mikasuki Tribe of the Seminole Nation, have made no requests of any kind upon your government since the McComb Treaty of 1839. We have never asked for nor taken any assistance, in money or in any other thing, from your Nation.

We have for over one hundred years lived on lands in the Everglades, some of which were established as Indian Reservations, and for over one hundred years we have not been discontent with our relationship, because you let us alone and we left you alone. For over one hundred years we have not allowed the conduct we have received from your government to disturb us in spite of many insults to our Nation, chief of which has been the deliberate confusion of our Mikasuki Tribe of Seminole Indians, governed by our General

Council, with the Muskogee Tribe of Seminole Indians in order to avoid recognition of our tribal government, independence, rights and customs.

Now, and for the first time in over one hundred years, we are obliged to address ourselves to your government.

There has been filed before the Indian Claims Commission in your government, without our authority, a claim, supposedly by us, and supposedly to compensate our Tribe with money for lands taken from us by the United States Government in the past. We want no money.

The Congress of the United States we learn is considering laws to make us equal, supposedly, to White Men and to take away what little tribal lands your government has left us, all under the thoery that our Tribe wants to be or should be treated as White Men with the rights of White Men to own individual land.

We have expressed our wishes, our customs and our view as a Tribe through our General Council which governs us to your government officials but have been ignored, given little courtesy and much insult, had your local Indian Agent interfering in our internal affairs and had your Secretary of the Interior tell us to change the form of government under which we have lived for centuries.

We have, and have had for centuries, our own culture, our own customs, our own government, our own language, and our own way of life which is different from the government, the culture, the customs, the language, and the way of life of the White Man. We do not say that we are superior or inferior to the White Man and we do not say that the White Man is superior or inferior to us.

We do say that we are not White Men but Indians, do not wish to become White Men but wish to remain Indians, and have an outlook on all of these things different from the outlook of the White Man. We do not wish to own lands because our land is for all of us. We live on our land, which is the land of all of our Tribe, and we live from our land which is the land of all of our Tribe. We have failed to have your Indian Agent or your Secretary of the Interior or your other government officials understand our outlook.

We are therefore solemnly and respectfully requesting that you appoint a special representative to act for you, who is not connected with any branch of your government, who is fair and impartial, and who will be instructed by

> you to meet with us so that we may make ourselves understood to him, so that he may try to understand us, and so that a satisfactory agreement can be reached between your Nation and our Nation on the preservation of the lands to which we are entitled under all past treaties, under the law of nations, and under justice; and the recognition of our tribal government, the General Council, so that we and you may live together in this land which was all once our land.

A number of follow-up protests were lodged with the Office of the President in the following months.

The clear objection which the petition makes to the continuation of the claims in the Indian Claims Commission was repeated to the Commission again in a letter dated April 5, 1954, from attorney Silver. (Exhibit 37)

By letter dated August 16, 1954, the President of the United States notified Ingraham Billie of the Mikasuki Seminole Tribe that Indian Affairs Commissioner Glenn L. Emmons had been assigned as a special representative to meet with the traditional Seminoles. (Exhibit 38)

At the same time, the BIA was reformulating its position on the legitimacy of the attorney contracts which initiated the claims of Dockets 73 and 73A. In a letter dated August 23, 1954, Acting BIA Commissioner Greenwood completely abandoned the discredited notion that the twelve cattle trustees were "duly elected representatives" of the Seminole Indians of Florida. He wrote that they were merely "individuals" acting on behalf of all Seminole Indians:

> Since no tribal organization exists of the Seminoles of

> Florida, individual Indians may execute a contract on behalf of the Seminole Indians of Florida.
> (Exhibit 39)

His letter says nothing about the rights of those other Seminole individuals or groups who do not want to be represented by the self-appointed individuals who acted to make a claim for others over their objection.

D. The Motion to Quash the Claims

After failing through protests and petitions to stop the unauthorized claims process from starting or from continuing, an effort was made to enter the claims litigation itself and demand its termination. On September 17, 1954, a document entitled "Special Appearance and Motion to Quash" was filed in the Indian Claims Commission in Dockets 73 and 73A by Morton H. Silver on behalf of Ingraham Billie, Jimmie Billie and thirteen other individuals acting on their own behalf and for the General Council of the Miccosukee Seminole Nation. (Exhibit 40) Buffalo Tiger was the official interpreter and witness to the document, which states the principal concern of these traditional Seminoles as follows:

> That the Miccosukee Seminole Nation (Florida) has never authorized this claim, cannot be bound by this proceeding, and has rights to lands in Florida that they are not willing to exchange for money, nor surrender.

The claims attorneys, Rogert J. Waybright, John Jackson and Guy Martin, filed a reply to this motion which asked that the Motion to Quash be stricken from the record since the persons

(Exhibit 41)
filing the motion were not proper parties to the proceeding. Needless to say, it is difficult to reconcile how attorneys purporting to represent all Seminoles could take the position that the traditional Seminoles were not parties and should not even be granted a hearing by the Commission! In this regard, the claims attorneys' financial interest in the continuation of the claim (possible 10% attorneys' fees on a $50,000,000 claim) should be kept in mind.

BIA Superintendent Marmon shortly thereafter wrote attorney Waybright a letter supporting his efforts to keep the traditionals out of the claim. (Exhibit 42) Marmon wrote that the signatories to the attorney claim contract were "representatives of the three federal reservations," and he argued that the "great majority of the Seminoles are in sympathy with this [claims] action." Three years later Waybright would regret having relied on this analysis by Mr. Marmon, an analysis which was clearly clouded by Marmon's desire to bolster the reservation Seminoles.

The Clerk of the Indian Claims Commission signaled the doom of the Motion to Quash in a letter to Silver of December 2, 1954 which stated: "The people whom you represent do not seem to be parties to these proceedings." (Exhibit 43) Attorney Silver began to prepare his case by seeking through subpoena to take the deposition of Superintendent Marmon. The Indian Claims Commission thwarted Silver's efforts by refusing to allow him to issue the subpoena.

Ironically, at the same time that the traditional Miccosukees were being rebuffed in the Indian Claims Commission, Commissioner Emmons was carrying out the responsibility assigned to him by the White House and was arranging a meeting in Jimmie Tiger's village, a traditional Seminole village along the Tamiami Trail, in order to "bring about a better understanding between the Miccosukee Seminole people and the Government of the United States." (Exhibit 44) While one hand of the government was extended to the traditional Seminoles in peace and understanding, another hand of government was about to slam the door on their effort to have their day in the Indian Claims Commission.

E. The Commissioner's 1954 Visit and the Report on the Florida Seminoles

In December 1954 Commissioner Glenn L. Emmons made a five-day visit to Seminole country in Florida in keeping with a promise made by the President. A member of his staff made an extensive report on this visit which addressed many of the issues which the traditional Seminoles had been consistently raising with every governmental official who visited the area since Ickes and Collier appeared in 1935. This Report on the Florida Seminoles (Exhibit 45) is a watershed in the history of the relationship of non-reservation Seminoles to the United States government. For the first time, the United States government acknowledged that the government of the traditional Seminoles "is not, as we occasionally suspected before visit-

ing Florida, an organization recently thrown together by some Indian extremists or an ad hoc group pulled together by Morton Silver for purposes of his own. Actually it goes back for many generations and was, until comparatively recent years, the only forum available to the Florida Indians for discussion of problems affecting the whole tribal group." (Exhibit 45-L)

In assessing the numerical strength of the traditional Seminoles, the Report concludes that it lay somewhere around midway between the estimate of 150 which had been argued by the claims attorney Waybright and the estimate of 600 which had been argued by the General Council attorney Silver. Marmon's prior estimates (and much of his prior commentary on the Seminoles) were dismissed as unreliable.

The Report notes that a split had occurred among the traditionals. The two principal groupings of traditional, non-reservation Seminoles were called the Cory Osceola Group and the General Council Group, but their goals were largely identical:

> Basically, the "General Council" group and the Cory Osceola faction are aiming at the same objective, operating within the framework of a single culture, and disturbed by precisely identical problems. The cleavage that separates them apparently is nothing more than a personal dispute which came to a head quite recently between Cory Osceola on the one hand and some of the "General Council" leaders, such as Ingraham Billie, on the other.
>
> (Exhibit 45k)

The Report does not attempt, however, to discount the significance of the division among the "two main groupings" of Seminoles:

> The real cleavage in the Tribe today, as we see it, is between (1) a predominantly (but not exclusively) Miccosukee group, living chiefly along the Trail and in the Everglades, whose members deliberately reject the mores of non-Indian society and prefer to continue living along traditional lines in a semi-primitive, hunting-and-fishing economy, and (2) a mixed Miccosukee and Muskogee group composed principally of people living on the three reservations who, in the main, accept the framework of the non-Indian society around them and want to improve their economic and social status within the broad pattern of that society.
>
> (Exhibit 45p)
>
> . . . . . .
>
> But the main cleavage in the Tribe--between the traditionalist Trail Indians and the progressive-minded reservation people--is obviously neither transitory nor trivial. It involves a fundamental difference in outlook, a sharp contrast in aspirations for the future. The two groups are in all probability completely irreconcilable and will have to be administratively dealt with as wholly separate entities. Any program or proposed solution which ignores these facts and attempts to treat the Florida Seminoles as a homogeneous tribe is almost certainly foredoomed to failure.
>
> (Exhibit 45q)

The Report includes an account of a meeting with the General Council in which the issue of traditional Seminole land rights is discussed:

> At this meeting one major point emerged from the comments made by the Indian spokesmen which has not been adequately covered previously in this report. It is that these Indians, ordinarily referred to in Indian Bureau reports and elsewhere as "squatters living along the Tamiami Trail," are in their own view nothing of the kind. As they see it, they and their ancestors before them for many generations have occupied and used these Everglades lands and any

> claims of ownership made by white people or governmental agencies are wholly unjust and even irrelevant. The point was made perhaps most vividly by Medicine Man Sam Jones when he said, as interpreted by Buffalo Tiger: "The land I stand on is my body. I want you to help me keep it."
>
> (Exhibit 45s)

The 1954 visit of Commissioner Emmons and the tenor of the Report on the Florida Seminoles gave reason to hope that the United States government would begin treating the traditional Seminoles with the respect and dignity to which they were clearly entitled.

F. The Decision to Strike the Motion to Quash

Morton Silver continued to press the Indian Claims Commission to grant his Motion to Quash the claims. Although he formally represented only the General Council Group and not "the Cory Osceola Group" at this time, it is clear from the Report on the Florida Seminoles that the government was fully aware that all traditional Seminoles were unified on their philosophical and political objection to these claims. At least insofar as he was seeking an end to the claims, Silver was in effect arguing for a position with which all traditional Seminoles agreed.

On April 7, 1955, Silver sent the Indian Claims Commission the last of a series of documents in support of his Motion to Quash. (Exhibit 46) Among the more pertinent statements in this document is an expression of fear that the claims would have an adverse impact on Seminole land rights:

> Furthermore the General Council did not employ the attorneys who filed these claims nor do they wish to have their rights to the land they live on converted to a money judgment.

On the following day, the Indian Claims Commission issued an order which denied the traditional Seminoles any hearing (after cancelling the hearing date which the Commission had set at first) and ruled as a matter of "law" that the cattle trustees who filed the claims were entitled, as individuals, to represent all the Seminoles. The Special Appearance and Motion to Quash was stricken from the record.

Although the Commission cavalierly struck the Motion to Quash, its decision offered the traditional Seminoles the assurance that the claimants would "upon the trial" be put to the test of establishing their right to represent all Seminoles:

> In any event, upon the trial of these cases the petitioners will have the burden of proving who they are legally entitled to represent and no one will be bound by the decision in the case who is not legally represented by the petitioners in 73 and 73A and their attorneys.
>
> (Exhibit 47)

According to this statement of Edgar F. deWitt, the Chief Commissioner, the traditional Seminoles would not automatically be bound by the Commission's decision to proceed.

In fact, Commissioner deWitt expressly took the position in a letter of April 22, 1955, to a Congressman who had made an inquiry on behalf of the traditional Seminoles that subse-

quent intervention in the claims cases would probably be allowed:

> However, the writer is of the opinion that the Indians involved in this motion to quash, as an identifiable group and as Indians who might be affected by any decisions in either Docket 73 or 73-A, would probably be entitled to intervene in said docket numbers as intervenors and bring to the attention of the Commission whatever facts are material to their rights, as issues of fact, when case tried on merits.
>
> (Exhibit 48)

These assurances would all prove to be false in the years to come, for the General Council and other traditional Seminoles would never be granted their day in court.

Morton Silver took an appeal to the Court of Claims from the order to strike his Motion to Quash, and was finally denied relief in 1956 in the case entitled Ingraham Billie v. Seminole Indians of the State of Florida, 137 Ct.Cl. 161, 146 F.Supp. 459 (1956), cert. denied 355 U.S. 843 (1957). In its decision, the Court of Claims wrote:

> It seems to be appellant's position that although it is not and does not wish to be a party to the suit, its title to part of the land which is the subject matter of the suit is paramount, and that a decree of the Indian Claims Commission establishing the rights of the original parties to that subject matter (land) would work an injustice and irreparable injury on the appellant. If appellant's title to the land which is the subject matter of the suit is indeed paramount, his paramount title will not be affected by the decree of the Commission as to the rights of the original parties since it will not purport to adjudicate appellant's title or right to the land in question.
>
> Since the order appealed from is not a final order and does not finally determine some positive legal right of the appellants, the appeal must be dismissed as not coming within the jurisdiction of the Court of Claims to review, . . .

Federal courts would later contradict this conclusion by ruling that the Indian Claims Commission decisions do serve to extinguish Indian land rights. The "paramount title" of the traditional Seminoles has always been threatened by Dockets 73 and 73A, just as the traditional Seminoles suspected.

G. Termination Hearings and Steps Toward Formal Recognition of the General Council Group

In April 1955 hearing were held in Seminole country pursuant to the Congressional resolution on termination of the Seminoles. (See: Hearings Before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, House of Representatives, 84th Congress, Pursuant to H.Res. 30, Seminole Indians, Florida, April 6 & 7, 1955, Serial No. 8.) During the course of these hearings much testimony focused on the need to preserve Seminole land rights. At one point Buffalo Tiger, interpreting for Jimmie Billie, made this statement:

> Jimmie Billy say for his people, all we ask is for land, and if people live on reservation want the money, they can go ahead and take the money; we are not going to fight against them. And we don't want those people fight against us. All we want is hunting land for our homes and our rights and to be Indians, and he likes the life to be Indian. That is what he wants, and that is what most of them want down here.
>
> So he says, if they want the money, they can go ahead and take the money and live on reservation. If they want that, we are not going to bother them, and as long as they don't bother us on this side, but he says you must recognize those people and us down here are two separate setups [Hearings, p. 43].

At another point in the testimony Buffalo Tiger was asked by Congressman Miller about the $50 million claims made in Dockets 73 and 73A:

> DR. MILLER: You claim $50 million?
>
> MR. TIGER: No, we don't. We did not.
>
> DR. MILLER: How much do you claim?
>
> MR. TIGER: We don't want a claim for money; we want a claim for land [Hearings, p. 45].

At another point in the proceedings Ingraham Billie says: "If you just leave land alone so we could live on. That is what we want" (Hearings, p. 47).

A good deal of the hearings involve an attack by a Congressman and others on attorney Morton Silver, an attack which is obviously encouraged by those who were urging that the division among the Seminoles was solely a product of intermeddling by this white attorney, just as others had blamed O. B. White two decades before.

Meanwhile, Commissioner Emmons was continuing negotiations about formal recognition with Buffalo Tiger, Ingraham Billie and other General Council leaders, and with Mr. Silver. A letter from Emmons dated November 4, 1955, demonstrates that progress had been made, and it included in accompanying notes a statement of the "clear" understanding that "the Miccosukee are interested in land rather than money." (Exhibit 49) Two further BIA reports dated April 2, 1956, confirm continuing Seminole negotiations "with representatives

of both major Indian groups--those residing on the three reservations and those affiliated with the traditional medicine men under the leadership of Ingraham Billie." (Exhibits 50 and 51)

Although all traditional Seminoles were in agreement as to their opposition to money claims in the Indian Claims Commission, those traditional Seminoles associated with Cory Osceola were opposed to any move to have them recognized by the BIA and therefore did not join in these negotiations.

Meanwhile, changes were being made in the attorneys involved. During 1955 an attorney named Effie Knowles was added as a claims attorney, and she was promised one quarter of the attorneys fees which would be shared with John Q. Jackson, Roger J. Waybright and Guy Martin, the original claims attorneys. The Florida law firm of Caldwell, Parker, Foster, Wigginton and Miller agreed to work with Morton Silver on behalf of the "Miccosukee Seminole Nation."

At the same time, the dispute over the original claims attorney contract heated up. In a letter dated December 7, 1956, claims attorney Waybright repeated his contention that the original cattle trustees who executed his contract were "the authorized representatives of the whole Seminole tribe . . . " (Exhibit 52) He said he was representing every member of the whole Seminole tribe, whether of Miccosukee or Cow Creek descent, including those fifteen individuals who had signed the Special Appearance and Motion to Quash. In

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short, Waybright contended that he was representing even those who were clearly his adversaries and who were fighting his every move, a bizarre attorney-client relationship to say the least.

In the same month, Morton Silver opened up a new legal attack on the attorney claims contract in a letter addressed to Commissioner Emmons. (Exhibit 53) The Solicitor's office of the Department of the Interior took the view that the original contract was legal and should be renewed. It washed its hands of the question of whether the traditional Seminoles had a right to be heard in the claims process, a matter which "the Indian Claims Commission has complete jurisdiction to determine." (Exhibit 54) This conclusion completely ignored the manipulation which the BIA, through Superintendent Marmon and others, had undertaken during the prior seven years to keep the reservation group in the claim and to stop the traditional Seminoles from interfering.

IV. The Middle Years of the Claim, 1957-1961

A. The ACLU Files Objection

Another watershed year for the traditional Seminoles is 1957. On February 7, 1957, the American Civil Liberties Union wrote to the Court of Claims. (Morton Silver's motion for rehearing was then pending.) The ACLU raised the question of whether constitutional rights of the Miccosukee Nation had been protected, since

> It appears that the aims of the twelve Indians and the Nation are in direct conflict, in that the twelve Indians are seeking money, while the Nation seems to be primarily interested in preserving its ancestral tribal lands.
>
> (Exhibit 55)

Notwithstanding all objections, the Court of Claims denied the rehearing on March 6, 1957.

B. The State of Florida's Recognition of the General Council Group

A few months later the State of Florida officially recognized the "Everglades Miccosukee General Council," under the leadership of Buffalo Tiger, as a separate Indian group. A memorandum of the meeting and agreement of Florida officials (including the Governor) and the Council is further evidence of the split between the reservation and non-reservation Seminoles. (Exhibit 56) The memorandum and agreement is signed by Max Denton, then U.S. Commissioner of Indian Affairs.

C. Claims Attorney Waybright Resigns, Acknowledging Lack of Support

The most significant event of 1957 took place after I.R.A. elections were held in Seminole country in August: Claims attorneys Roger J. Waybright and Guy Martin withdrew from the case. Waybright submitted a 20-page resignation letter. (Exhibit 57) The letter of Waybright shows that his resignation was triggered by the belated realization

that he was not in fact representing all of the Seminoles:

> The election result is a clear demonstration that about a third of the adult Seminoles in Florida are opposed to the presenting of the claims of the tribe to the Indian Claims Commission, and thus in effect opposed to our representing the tribe in connection with those claims.
>
> (Exhibit 57r)
>
> . . . . . .
>
> I did not realize at the beginning, nor at any time until the tribal election two months ago, that one-third of the tribe we are representing has never really supported that effort.
>
> (Exhibit 57s)
>
> . . . . . .
>
> I do not believe that I can reasonably be expected to spend additional years of work, and additional thousands of dollars, in an effort to obtain compensation for a tribe one-third of the members of which have rather clearly indicated that they are opposed to my efforts.
>
> (Exhibit 57s)

Attorneys John O. Jackson and Effie Knowles apparently refused to face the fact that a significant number of their "clients" wanted them off the case. They remained on as claims attorneys. In a letter of January 7, 1958, they invited Marvin J. Sonosky, a Washington, D.C. attorney, to join with them as a claims attorney. (Exhibit 58) In the same letter all blame for the differences and conflict between off-reservation Indians and reservation Indians was placed on the attorneys for the non-reservation Seminoles.

D. The Federal Government's Official Recognition of the General Council Group

Also in January of 1958, the four years of negotiations between Morton Silver for the "General Council" group of

non-reservation Seminoles finally bore fruit. Commissioner Emmons granted that organization, now called The Executive Council of the Everglades Miccosukee Tribe of Seminole Indians, formal recognition. (Exhibit 59) The Commissioner's recognition letter states in part:

> I am satisfied that your organization includes in its membership a substantial number of Seminole Indians of Florida who are not affiliated with the reservation organizations nor participating in the services now being sponsored by this Bureau.
> . . . . . .
> More specifically, we are recognizing your organization as qualified to speak for its members on matters which are of concern to the Florida Seminoles as a whole (such as the pending claim against the United States). . . . [emphasis added]

It should be noted that the Cory Osceola group did not formally join or participate in efforts to obtain recognition, and did not officially join the newly recognized group. The traditionals remain split on this issue. The traditionals nevertheless remained wholly unified with respect to the claims issue and other substantive issues affecting them.

E. Open Conflict Breaks Out Among Attorneys

In January 1958 Morton Silver and the Caldwell law firm began negotiating with John O. Jackson, to have themselves joined as attorneys in the claims case. A series of telegrams and letters shows that the Executive Council, with Buffalo Tiger as Chairman, immediately protested any effort to join in the claims process. The Executive Council insisted that

a prior condition of any money claims involvement must be a confirmation of their ancestral lands. They would talk about money only after their land rights had been settled. (Exhibits 60 to 62) In a document entitled Agreement and Letter of Authority dated March 30, 1958, Buffalo Tiger and the other Executive Council leaders authorized an "alliance" with attorney Jackson under the condition that "it is distinctly understood" that the "primary objective of the Miccosukee Tribe" is to obtain confirmation of a portion of its ancestral lands. (Exhibit 63) The same document insists that the "alliance" with the claims attorneys be terminated if the land question cannot be resolved before the final hearing on the money claims in Dockets 73 and 73A.

Here again was a clearly stated desire to avoid any prejudice to Seminole land rights which might flow from payment of the money claims. The same message was repeated again in a letter which Buffalo Tiger and other Executive Council leaders sent over their own signatures to Commissioner Emmons on April 17, 1958. (Exhibit 64)

Rifts between the various attorneys then developed in an almost hopelessly confusing sequence. The Caldwell firm broke with Silver, leaving Silver and Miller (a former Caldwell partner) as attorneys for the Executive Council. (Exhibit 65) John O. Jackson then terminated his association with Caldwell and Silver, saying the Executive Council's insistence on the priority of the land claim issue was

inconsistent with his position on the money claim issue. (Exhibit 66) In a letter of May 2, 1958, Silver tried to maintain the association with Jackson. (Exhibit 67) Silver stated his opinion that "the full settlement of all disputes between the United States and the two recognized tribes of Florida Indians cannot be attained unless the land and money claims are both allowed. . . . "

Making sure that their voice was heard through all of the attorney commotion, Buffalo Tiger and the Executive Council wrote their own letter to John O. Jackson on May 4, 1958, with a copy to the Indian Claims Commission, formally notifying Jackson that he was not authorized to represent them:

> We wish you all the luck in the world with your 50,000,000 dollars, if you can get it without our Tribe. But when you break your promise and tell us you want nothing to do with what our Tribe wants and want nothing to do with our Tribe, we want to make it very clear to you that you better NOT use our name in your $50,000,000 dollar claim and you are NOT to say you are our lawyer in that claim, and we mean it.
>
> (Exhibit 68)

To compound the confusion, attorneys Silver and Caldwell eventually ended up in a lawsuit in the Florida State courts over their respective obligations and possible ethical conflicts. Meanwhile, Jackson made a separate association with the Caldwell firm which cut out Silver and Miller and which was approved by the Commissioner in January 1958, but which was opposed by claims attorneys.

Because of the confusion, the lawsuit between Silver and

the Caldwell firm, and the various potential ethical conflicts, the Commissioner finally agreed in July of 1959 that the Caldwell firm should be out of the claims case. The end of the attorney merry-go-round was reached when attorneys Roy L. Struble and Charles Bragman were approved to join John O. Jackson and Effie Knowles as claims attorneys for "The Seminole Tribe of Florida" in Dockets 73 and 73A.

This sordid sequence of attorney in-fighting is highly significant in that it demonstrates a clear awareness among the claims attorneys themselves that representation of both groups of Seminoles could create ethical problems. As they fought over the right to handle the claim the claims attorneys sought to keep out any attorneys who had associated with the efforts of the traditional Seminoles who had tried to stop the claim. As claims attorney Effie Knowles wrote in a letter dated September 10, 1959, there was anger about the "unmitigated gall and brass" of attorneys "who had previously tried to wreck the CLAIMS." (Exhibit 69) These struggles over attorney contracts seem to suggest that in the minds of some of the claims attorneys their true clients were the CLAIMS, not the Seminoles.

F. Another Petition to the President

On September 20, 1958, the Executive Council of the Everglades Miccosukee Tribe of Seminole Indians again filed a petition with the President of the United States. A lengthy document entitled "Compromise Offer of Miccosukee Tribe for Settlement of Its Claims Against

the United States and Florida" was submitted by mail to President Eisenhower. (Exhibit 70) A memorandum signed by Morton Silver in support of Miccosukee legal rights was included with this document. All of these materials were submitted to the BIA as well.

Once again all traditional Seminoles did not join in this petition, the central thrust of which is a demand that Miccosukee land rights be secured to "a portion" of their "ancestral homeland." However, all individuals and agencies within the United States government which were responsible for Seminole affairs were on notice of the consensus which existed among all traditional Seminoles and their leaders on the claims issue. Even though many traditional Seminoles—such as the so-called "Cory Osceola Group"—did not file annual or regular written opposition to the government's policies or to the continuation of the Docket 73 claims, their position on this point was continually made known to BIA agents and other governmental officials who occasionally made contact with them along the Tamiami Trail and in the Everglades area.

G. Continuing Efforts to Work on Land Problems Through the Department of the Interior

On July 12, 1960, the Secretary of the Interior wrote Buffalo Tiger and the Executive Council of the Miccosukee Tribe of Seminole Indians a letter reaffirming the formal recognition which Commissioner Emmons had granted them in January of 1958. (Exhibit 71) New negotiations were begun to resolve Seminole land problems, and

new promises of cooperation in seeking solutions to Seminole land problems were made. (Exhibit 72)

H. General Council Recognition Qualified to Prohibit Attorney Contract

In June of 1961, a new hard-line position developed within the government on the claims. Seemingly out of the blue, the Solicitor's office of Department of Interior denied a request by Morton Silver that a claims contract be approved between him and the Everglade-Miccosukee Tribe of Seminole Indians which would allow him to intervene in the on-going claims Dockets 73 and 73A. (Exhibit 73) Although the Everglades Miccosukee Tribe of Seminole Indians had been formally recognized by Commissioner Emmons in 1958 "as qualified to speak for its members on matters which are of concern to the Florida Seminoles as a whole (such as the pending claim against the United States)," and although this recognition had been expressly approved by the Secretary of the Interior just eleven months previously, they were abruptly denied the approval of the BIA when they sought to intervene in the claim to present their position.

According to the letter from the Solicitor's Office, the prior recognition by the federal government which allowed Buffalo Tiger and the Executive Council to "speak" for their people only allowed them to utter words as spokesmen. Only claims attorney John O. Jackson and his associates Effie Knowles, Roy Struble and Charles Brageman were approved to

present their position or take legal action for them since these claims attorneys "represent all the Seminole Indians of the State of Florida." The prior "recognition" was eviscerated through a not very subtle twisting of language.

It is never clearly explained why the division among the Florida Seminoles was being blindly ignored on this one point, since in virtually every other aspect of United States-Seminole relations, the legitimacy of the split among the Seminoles had been acknowledged and accepted since the 1954 visit of Commissioner Emmons and the 1954 Report on the Florida Seminoles.

I. The Motion to Dismiss

Having failed to gain the backing of the BIA, Morton Silver and the Executive Council of the Miccosukee Tribe of Seminole Indians (also known then as the Miccosukee Seminole Nation) again took their case directly to the Indian Claims Commission. On September 18, 1961, they filed a Motion to Dismiss in Dockets 73 and 73A. Without hearing, the Commission denied their motion on the same day it was filed, stating that since the Miccosukees had not filed a timely separate claim, they had no standing to appear as a separate claimant in the cases. (Exhibits 74 and 75)

The reasoning of this Commission decision is completely absurd. It fails to address the fact that the Miccosukees were not seeking to file a claim but to dismiss a claim.

The decision to deny them any hearing whatsoever is also completely irreconcilable with the prior history of traditional Seminole protests and with previous assurances made by the same Indian Claims Commission. As the documentary evidence amply proves, clear notice of the desire to dismiss the claim had been given by traditional Seminole leaders and their attorneys throughout the pendency of the claim, beginning with the protests against the signing of contracts which were made at the time of execution. The traditional Seminoles had made numerous requests to dismiss the claim, and these requests had been filed with every responsible party they could find, from the claims attorneys to the BIA to the Indian Claims Commission to the President of the United States!

Moreover, it is impossible to reconcile this decision with the Indian Claims Commission's 1954 decision on the Motion to Quash which included assurances that these same traditional Seminoles would be allowed to intervene at the time of trial, and that the petitioning claimants would have the burden of proving their right to represent all Seminoles.

Denial of the motion to dismiss on the day of filing without hearing and without justification is completely inconsistent with this prior history. To put the matter in legal terms, the Commission's denial was completely arbitrary and capricious, and a denial of constitutional due process.

To put the matter in terms of common understanding, the Commission's decision was extremely unfair.

V. The Last Years of the Claims

A. The 1968 Motion to Intervene and Approval of an Attorney Contract

In 1962, the Miccosukee Tribe of Indians of Florida (under the continuing leadership of Buffalo Tiger and an Executive Council) adopted an I.R.A. Constitution. Six years later, a group led by Buffalo Tiger, now operating under the I.R.A., made one last effort to intervene in the claim. On January 29, 1968, a motion to intervene in Dockets 73 and 73A was filed on behalf of the "Miccosukee Tribe" by Buffalo Tiger and Sonny Billie. Their attorney was Arthur Lazarus, Jr., of Strasser, Spiegelburg, Fried, Frank and Kampelman, Washington, D.C. The motion, like all those filed previously, was denied.

The intervention of attorney Lazarus into the case is most significant in that it signaled another reversal of BIA policy. This policy concerned the approval of attorney claims contracts for the Miccosukee group. Abandoning the position that this matter was within the exclusive jurisdiction of the Indian Claims Commission (See Part III.G, above), and simultaneously abandoning the idea that recognition of this group means something less than the right to present

their position before the Commission (see Part IV.H, above), the BIA formally approved the contract which permitted Lazarus to represent the Miccosukee group in the claims Dockets 73 and 73A:

> We have grave reservations whether [the efforts to intervene] can be squared with the best interests of the Miccosukee group, let alone those of the Seminole Indians generally. But, because it is beyond our competence to determine the merits of their legal position, and because they are now an organized and recognized group of Indians, we do not feel that it would be appropriate to disapprove the proposed contract for this reason.
>
> (Exhibit 76b)

The motion to intervene which Lazarus filed was a curious anomaly because it appeared on the surface to be a request for money compensation--a position inconsistent with that group's expressed desires both before and after the motion. Apart from the fact that Lazarus was the first attorney seeking to represent the Miccosukees who had filed papers indicating a willingness to pursue monetary compensation in the claims cases, there is no other apparent change in circumstances which would explain how the approval of this attorney contract could be squared with all of the prior disapprovals.

Many other traditional Seminoles, including the people for whom Guy Osceola is a spokesman, were in no way associated with the motion to intervene. They have continued categorically to oppose the claims. The adoption of an I.R.A. constitution under the auspices of the federal government had finalized the division between Buffalo Tiger's group and other

traditional Seminoles who continued to be associated with Cory Osceola and other traditional Seminole leaders.

B. Osceola v. Kuykendall: The Final Effort to Seek Judicial Review

At last in 1970 the Indian Claims Commission process began to come to a conclusion. On October 22, 1970, the Commission made a final award of $12,262,780.63. On appeal, the Court of Claims remanded the case for more definite findings as to the value of the land. Seminole Indians v. United States, 455 F. 2d 539, 197 Ct. Cl. 350 (1972). Finally, a joint motion and stipulation for entry of final judgment in the amount of $16,000,000 were filed on March 17, 1976. The joint motion stipulated that the judgment "shall finally dispose of all rights, claims or demands which plaintiffs asserted or could have asserted with respect to the subject matter of Docket Nos. 73 and 151." On April 27, 1976, the Commission entered its final judgment and award in accordance with the compromise settlement.

Just as the Commission was preparing to enter its final award and judgment, Guy Osceola, a son of Cory Osceola who was a leader of early opposition to the claims, filed suit in the Federal District Court in Washington, D.C., in behalf of all the traditional Seminoles. The suit, filed on March 26, 1976, was directed against the Indian Claims Commissioners and sought to enjoin the Commission from entering judgment. The suit also sought a declaration that the actions of the Commission and the Claims Commission statute are in violation

of the United States Constitution because, among other reasons, they deprive the traditional Seminoles of their rights and property without due process of law.

The Complaint in the suit, which is attached as Exhibit 77, states that the suit is brought in behalf of "those Seminole people who by Seminole law and usage are entitled to live on and utilize Seminole land and other property and who do not wish to surrender such rights in return for monetary damages or compensation and who have not actually authorized nor consented to the presentation of a claim to the Indian Claims Commission."

The Complaint asserted that the Seminoles have actual, present rights to their lands in Florida. The Complaint does not limit those rights to mere "aboriginal" title or some lesser possessory interest. Rather, the suit stated that the plaintiffs have an interest in the land as members of the Seminole Nation which is and was protected by treaties with the United States. The suit asserts that the Seminole Nation has been recognized by legal acts of the United States as constituting a separate nation and that the rights of the Seminole Nation are protected by international law as well as the law of the United states.

The suit specifically complains that the Commission and the statute under which it operates have acted to deprive the traditional Seminoles of their property and other rights without giving them reasonable notice and an opportunity to be heard. This violates not only

the United States Constitution but the Claims Commission statute as well. See, 25 U.S.C. § 70 p. The Commission also has refused to permit those Seminoles who wish to maintain their rights the opportunity to exclude themselves from the effects of the Commissions's judgment. This failure is also a denial of due process of law. Hansberry v. Lee, 311 U.S. 32 (1940).

The suit also alleged that the statute is unconstitutional because it gives the Department of the Interior overbroad discretion to determine who may proceed before the Commission. The entire statutory scheme is challenged as operating to deprive Indian people of their rights without due process, in violation of other constitutional provisions and in violation of international law.

The District Court found that the case presented substantial constitutional issues and convened a three-judge Court to hear the case. A temporary restraining order against the Commission was denied on the ground that entry of the Commission's judgment would not affect the Seminoles' rights. Rather, the Court said, the res judicata and bar provisions of the statute could be effective only when the award is actually paid. Osceola v. Kuykendall, Civ. No. 76-492, Findings of Fact and Conclusions of Law (filed Apr. 7, 1976, D.D.C.). (Exhibit 78)

As the case progressed, several other traditional Seminole leaders applied to the Court to join Osceola as plaintiffs in the lawsuit. Their affidavits showed clearly that they live in villages with other Seminoles without any legal right other than their rights as Seminoles

25-417 0 - 78 - 9

to live in their homelands as guaranteed by treaty. The affidavits also point out the importance of hunting, fishing and gathering rights over the lands where they live. These important affidavits are attached as Exhibit 79.

One of the most shocking developments of the case occurred on April 30, 1976, when the United States Department of Justice served its motion to dismiss arguing that the United States has the legal "right" to take the Seminoles' land without due process or compensation of any sort. The Justice Department argued with shocking frankness that the Seminoles' property is simply not protected by the Constitution or by any other law, and that therefore the Commission's actions cannot be challenged. The Justice Department's Memorandum on this matter is attached as Exhibit 80.

The court received full briefing and oral argument in which it was made perfectly plain that the Seminoles claim to have treaty-guaranteed lands. The court was also urged to reject the Justice Department's shocking and racist argument that Indian property is not protected by the United States Constitution. The District Court, however, refused to hold a hearing to receive evidence or testimony from the Seminoles.

On March 11, 1977, the District Court filed its decision adopting completely the Justice Department's argument. The District Court decided that whatever rights or property the traditional Seminoles have, the United States is free to take them away without due process.

The Court virtually ignored all the other allegations and causes of action in the Complaint and dismissed the case. The Court's Memorandum Opinion is attached as Exhibit 81.

On July 5, 1977, Osceola appealed directly to the Supreme Court. The Jurisdictional Statement, setting forth the legal arguments for overturning the lower court's opinion, is Exhibit 82. The Supreme Court, by a summary order on October 31, 1977, declined to hear the case on the ground that the lower court decision had not been a decision on the constitutional merits of the case. (Exhibit 83)

In November, 1977, Osceola sought to have the District Court enter a new order to permit an appeal to be taken to the Court of Appeals in light of the Supreme Court's surprising decision that the lower court's decision had not been on the merits. The District Court refused the motion for a new order, and Osceola has now appealed from the denial of that request.

The United States Department of Justice has taken the position that Osceola is not entitled to any appeal in this case. A Justice Department attorney has advised that he will ask the Court of Appeals to grant summary affirmance of the District Court's order, thus permanently ending the Seminoles' opportunity for a "day in court."

It is important to note that in more than 28 years of proceedings the traditional Seminoles have never been accorded a single evidentiary hearing either in the Commission or in any court. And now that a district court has announced its truly shocking decision that Seminole

property is not protected by the Constitution, the Seminoles are being denied the right to any appeal to a higher court.

Some of this history was presented in a hearing before the Senate Select Committee on Indian Affairs on March 2, 1978, in the testimony of Guy Osceola and Robert T. Coulter. Bills S. 2000 and S. 2188 concerning the distribution and payment of the Seminole claims awards were being considered at that time.

Subsequent to that hearing, on April 4, 1978, the Secretary of the Interior submitted to Congress a proposed distribution plan which, if not disapproved by congressional resolution, will automatically provide for payment of the claim award sixty days from the date of submission. Counsel to the traditional Seminoles has sought to stop this latest unlawful attempt to deprive his clients of an opportunity to have their position fully heard and considered by Congress. Letters requesting a withdrawal of this plan and a return to the regular legislative process, including consideration of S. 2000 and S. 2188 and proposed amendments, are included as Exhibits 84 and 85.

CONCLUSION

The foregoing establishes that the Seminoles have present, treaty-guaranteed rights to the lands where they live and other lands in Florida. The claim prosecuted in the Indian Claims Commission was unauthorized by the traditional Seminoles, unlawful, and in some respects fraudulent.

Payment of this claim under either pending bill or under the distribution plan will jeopardize or extinguish the traditional Seminoles' rights to the lands where their homes and villages are located.

It is unthinkable that Congress would knowingly enact legislation which would take Indian land under these circumstances without due process and in violation of both the Constitution and international law. Rather, Congress must act to preserve and protect these Indian property rights.

It is therefore requested:

(1) That no action be taken on S. 2000 and S. 2188.

(2) That the Department of Interior or other appropriate agency be directed to submit a full report on the factual and legal issues raised by this report of the traditional Seminoles.

(3) That any legislation enacted include the proposed amendment to S. 2000 and S. 2188 offered by Guy Osceola. See Exhibit 86.

(4) That the Senate and House of Representatives refuse to accept the judgment distribution plan submitted by the Department of the Interior on April 4, 1978, or, in the alternative, that a resolution be adopted disapproving the plan.

(5) That the Congress take such other steps as may be necessary to preserve and protect the rights of the Seminole people.

Respectfully submitted,

Robert T. Coulter
Attorney for the
Traditional Seminoles

Indian Law Resource Center
1101 Vermont Avenue, N.W.
Washington, D.C. 20005
202 / 347-7520

May 1978

United States Senate

SELECT COMMITTEE ON INDIAN AFFAIRS
WASHINGTON, D.C. 20510

February 23, 1978

Mr. Robert Coulter
Institute for the Development of Indian Law
927 15th Street, N.W.
Washington, D.C. 20005

Dear Mr. Coulter:

I would appreciate it if you would supply the Senate Select Committee on Indian Affairs with any relevant information concerning the effects of S. 2000 and S. 2188 on the traditional Seminole Nation of Florida. The Committee has scheduled a hearing on these bills for March 2, 1978.

Sincerely,

James Abourezk
United States Senate

EXHIBIT 1

25-417 O - 78 (Faces p. 130)

Communications of the Genl. Land Office, dated May 14, 1845 in relation to the request of the Secretary of War, for reservation of certain lines in Florida.

Approved. May 14, 1845
J. Polk

Approved 19th May 1845 —
Geo. W. Bell
Sec'y

See maps of the state of Florida in book of diagrams — also letter of the Secretary of War of the 17th May 1845 and recommendation of the 19th May 1845

Memorandum.

Within the red lines in the country occupied by the Seminole by treaty with August 14th 1842. in which, by the former, they were allowed to live, hunt and plant.

Between the red and blue lines is the neutral ground, under instructions from the Commissioner of the General Land Office of May 1845.

The Stones in the Indian Pledge Stones

Δ Δ - Indian huts of one, two, and three families.

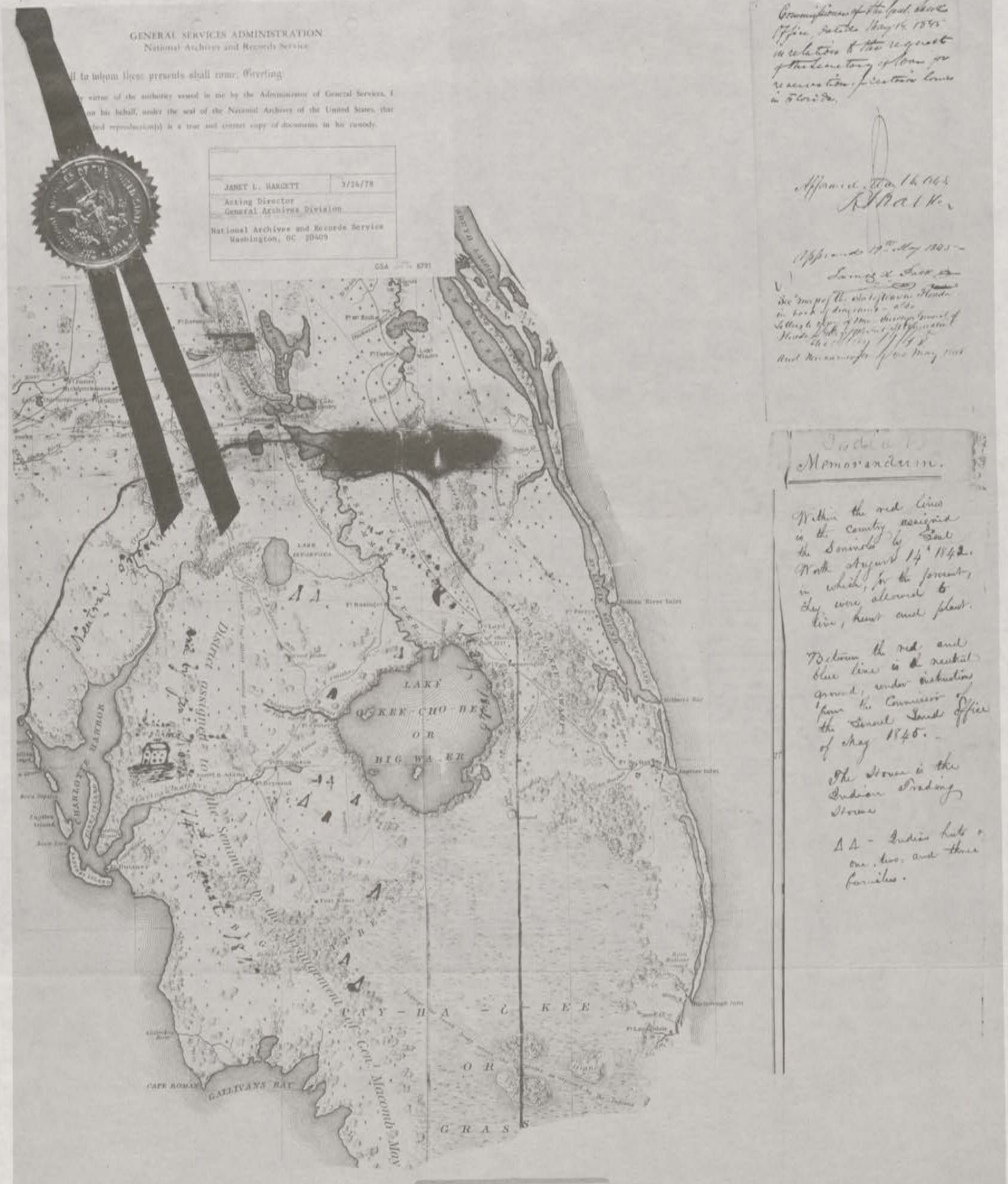


EXHIBIT 2

JAMES SHIELDS TO THE SECRETARY OF THE TREASURY

(NA:GLO, Fla. Indian Reserv. File:ALS)

GENERAL LAND OFFICE, May 14th 1845.

SIR, I have the honor to return herewith the letter to you from the Secretary of War, of the 10th instant, and its enclosures, relative to the additional reservation of twenty five miles around the district set apart for the use and occupancy of the Seminoles in Florida, by Gen[l] Macomb in 1839.

On the accompanying diagram this district is represented, as near as practicable, by red lines. The yellow lines embrace the twenty five miles additional, which the War Department suggests shall be reserved as neutral ground. These lines, you will perceive, embrace a number of Townships marked T, of which the Township boundaries only have been surveyed; and a few of those colored blue, which have been subdivided and recently proclaimed for sale, but not yet offered.

It is presumed that the object of the War Department would be obtained by limiting this reservation to twenty miles, the boundaries of which are indicated by green lines on the accompanying diagram, excluding the whole of Townships 28 & 29 of Range 22, and Townships 33 and 34 of Range 21, which could therefore be offered in accordance with the proclamation now issued. By thus reducing this reservation, the symmetry of these townships would be preserved, and the lands would probably bring a better price to the Government, and be more valuable to the settlers;—and the only interferences with the proclamations, would be the suspension of a part of Township 24, Range 29, and the whole of fractional Township 26, Range 31.

I respectfully submit this matter for your consideration, and upon receipt of your decision the necessary orders will be immediately issued to the Surveyor General and the Land officers.

With great respect, Your Obt. Servt.
JA[s] SHIELDS Commissioner

HON: R. J. WALKER, Secy of the Treasy.

(Endorsed) Commissioner of the Genl. Land Office, dated May 14. 1845. in relation to the request of the Secretary of War for reservation of certain lands in Florida.

Approved May 16. 1845
/s/ R J Walker

Approved 19th May 1845
/s/ James K Polk

See "Map of the Seat of War in Florida"—in book of diagrams—also Letters to Secy of War—Surveyor General of Florida—& Regr & Rec at St Augustine and Newnansville of 20 May 1845—Recd May 19/45

EXHIBIT 3a

THE SECRETARY OF THE TREASURY TO THE PRESIDENT

(NA:TD, ST Misc. Lets. to Pres.)

TREASURY DEPARTMENT May 17th 1845

SIR, I have the honor herewith to submit the enclosed communications from the Secretary of War and the Commissioner of the Genl Land office, with the accompanying papers, relative to an additional reservation of public lands around the District set apart for the use and occupancy of the Seminoles in Florida.

The Secretary of War proposes a reservation of twenty five miles around the District in question. The Commissioner of the General Land Office suggests that the reservation be limited to twenty miles, as a reservation of that extent would probably accomplish the object of the War Department, & the only interference with the proclamation for sale now issued, would be the suspension of a part of township 24. Range 29 and the whole of fractional township 26. Range 30.

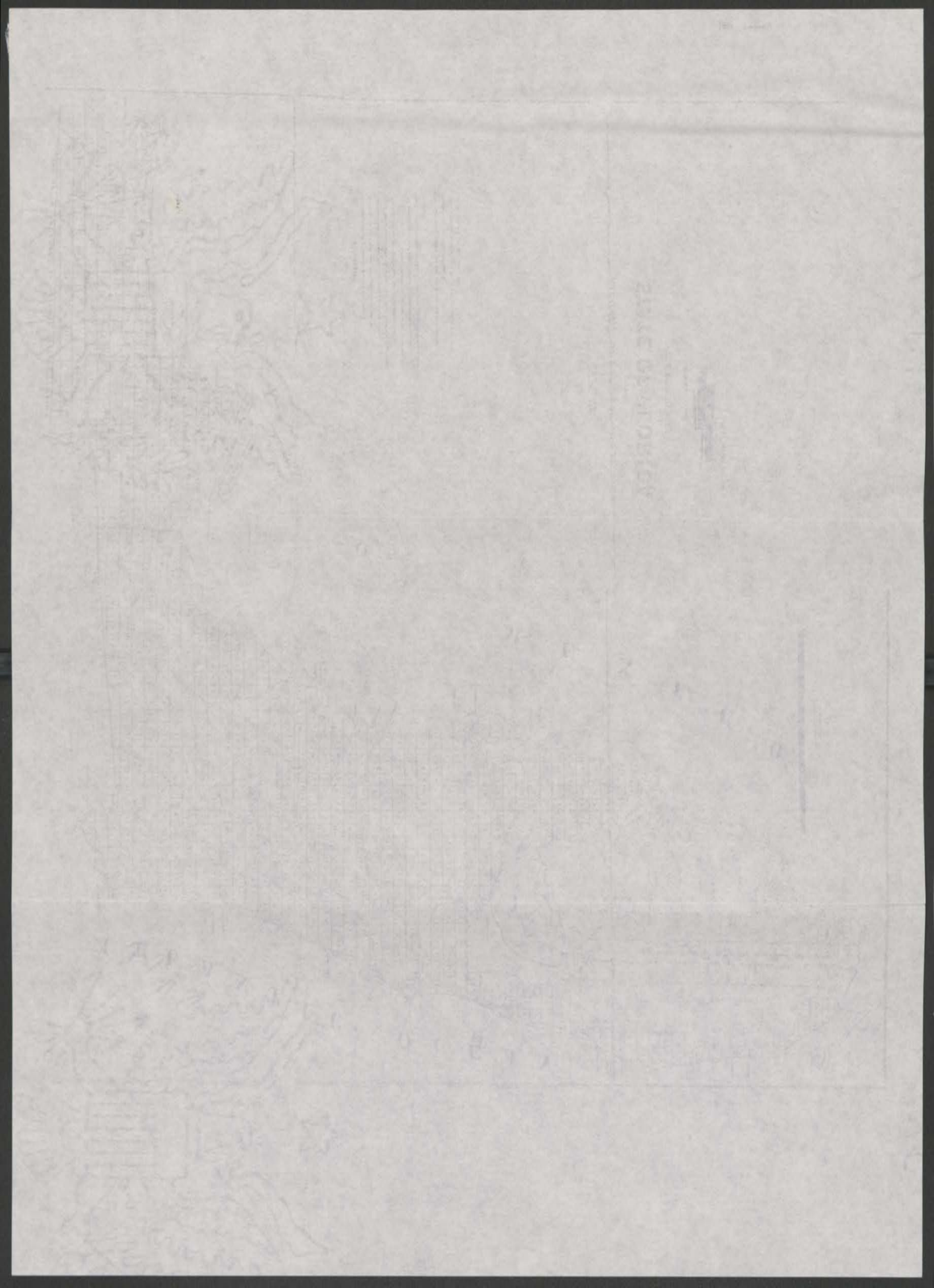
On the enclosed diagram, the Seminole District is represented, as nearly as practicable, by red lines, the reservation proposed by the War Department, as neutral ground by yellow lines, and the reservation as recommended by the Commissioner, by green lines. The townships colored blue have been proclaimed for sale, and it will be perceived that the reservation suggested by the Commissioner would interfere with the existing proclamation only to the extent before stated, and would preserve unbroken townships 25 & 29 of Range 22 & townships 33 & 34 of Range 21 which being now proclaimed, could by the adoption of that reservation, be offered for sale.

I approve of the reservation proposed by the Commissioner, and respectfully submit the papers, with my recommendations that it receive the sanction of the President.

I have the honor to be, Very respectfully Yr obt.Servt.
R. J. Walker Secretary of the Treasury

THE PRESIDENT OF THE UNITED STATES.

EXHIBIT 3b



JAMES SHIELDS TO THE SECRETARY OF WAR

(NA:WD, AGO Lets. Recd., S 146:LS)

GENERAL LAND OFFICE, May 20th 1845.

SIR, I have the honor to inform you, that the President of the United States on the 19th instant, directed that a strip of the public lands, twenty miles in width, around the District set apart from (sic) (for) the use and occupancy of the Seminoles in Florida, should be reserved from Survey and sale, as requested by you on the 10th instant; and the necessary instructions to carry into effect this reservation, were this day sent to the Surveyor General of Florida, and the Land Officers at St Augustine and Newnansville, in Florida. The documents enclosed by you to the Secretary of the Treasury on the 10th instant are herewith returned.

With great respect, Your Obt: Servt,

JAS SHIELDS Commissioner

HON: Wm L. MARCY, Secy of War.

(Endorsed) Honb Jas: Shields General Land Office May 20/45 Has directed the strip of land 20 miles wide around Dist set apart for Seminols in Flo. to be reserved from Survey & sale. Returns papers Copy sent to Brig Genl Worth with letter dated May 26. 1845. L.T. May.24.1845 146 149 C 1845. L 82. Rec May 24/45 Adjt Genl.

EXHIBIT 3c

DEPARTMENT OF THE INTERIOR
MEMORANDUM FOR THE PRESS

FOR RELEASE IN AFTERNOON PAPERS
OF TUESDAY, APRIL 2, 1935.

An appeal for fulfillment of a broken pledge given them more than a century ago by the American Government has been made by the Seminole Indians of Florida to Harold L. Ickes, Secretary of the Interior, and John Collier, Commissioner of Indian Affairs.

Speaking through interpreters, the Seminole leaders explained to the Secretary and the Commissioner, on their recent visit to the Indians in the Everglades, that in the long wars waged between the Seminoles and American forces, the Indians had never been defeated, but despite this fact lived now as mere squatters on land which they believed properly to be their own. They cited the Treaty of September 18, 1823 in which they were promised ownership of far more land than they now occupy.

At the same time the Seminoles presented a formal petition asking for large areas north, south and west of Lake Okeechobee, totaling nearly 3,000,000 acres. The 1823 Treaty offered 5,000,000, together with other benefits.

During the Spanish sovereignty over Florida, the Seminoles held great areas of the best farm lands and they were primarily farmers and only secondarily huntsmen and dwellers in the hammocks and swamps. The Seminole Wars, while never breaking their resistance, drove them into the wildest areas of the Everglades of southern Florida. Their religious law requires that each man shall cultivate his field every year, but the cultivable fields are few in the area to which the Seminoles retreated.

EXHIBIT 5a

The Seminoles achieved a remarkable adaptation to the conditions within the Everglades, so that now they appear almost as native to the hammocks and prairies and lakes as the wildfowl, the raccoons and the otters.

But drainage has diminished the Everglades, and uncontrolled hunting by sportsmen and commercial hunters has enormously depleted the wild life. Gradually the Seminoles have been forced by the impoverishment of the wilderness area to go into the coast towns and into commercial camps where frequently they become mere objects for the curious to gaze on. However, all but a handful of Seminoles still contrive to spend the larger part of each year within the Everglades.

Secretary Ickes, in replying to the petition of the Seminole leaders, explained the plan for the creation of a National Park in the southern extremity of the Everglades, and stated that for a considerable time to come, in any event, he believed the Seminoles ought to have the right of subsistence hunting and fishing within the proposed Park, and that they should always have the labor preference. He added that he would support a plan in cooperation with the State of Florida, for buying substantial areas to the north of the park, to be made into a permanent Indian reservation as the Seminoles' home for all time. Commenting on the Seminoles' petition, Commissioner Collier stated on his return to Washington:

"Three million acres probably never can be bought by the Government for the Seminoles. A part of the land they have petitioned for—land which they regard as morally theirs already—is highly developed truck and citrus fruit land. The Seminoles' request must be weighed with the land requirements of

EXHIBIT 5b

Indians in other parts of the country, which are great as there are more than 100,000 of totally landless Indians.

"Already the Government is negotiating for the purchase of three tracts for the Seminoles, and cattle should be supplied which they can herd upon their little reservation already established south of Lake Okeechobee. In exchange for their 100,000 acres of relatively worthless land and water within the proposed park area, we hope that Florida will supply them with 100,000 acres north of the Tamiami Trail, close to the park area. Altogether, acreage of a quarter of a million probably can be supplied these Indians for a permanent reservation. Then, if the Federal Government and the State of Florida cooperate energetically, wild life protection and restoration can be set in motion through the whole park area and in a million acres, at least, of the Everglades north of the park area. With land for planting, and land for stock grazing, and with a greatly increased game supply, and with a proper development and marketing of their crafts, the Seminoles undoubtedly will be able to develop a successful life of the kind they want, which is the life of wild Indians living in the fastnesses."

Secretary Ickes made this comment:

"When the Seminoles are called wild Indians, it must not be understood that they are fierce, uncouth, or dangerous to their neighbors. The opposite is the fact. The Seminoles are one of the gentlest of peoples. Their social organization is a rather complicated one and imposes duties upon its members. Their camps in the Everglades are places of natural beauty. One of these camps which I visited, and which had to be reached over a rather faint trail in the jungle, had been occupied for many years, and yet the over-leaning trees were not burnt or scarred, and the forest surroundings were actually less disturbed

EXHIBIT 5c

than they would have been through habitation by the raccoon, the otter or the bear. Undoubtedly the Seminoles have a feeling for those aspects of nature which appeal to our own most subtly developed emotions; and they are not cruel hunters or trappers; they even make pets of such creatures as racccons and otters. The Seminoles' desire to continue the primitive life ought to be viewed with sympathy by the American people, and it is within the power of the Government and the State of Florida to salvage and re-create the Everglades, with the Indians as part of them, through meeting to a generous extent the Indians' own wishes."

EXHIBIT 5d

(CUFT)

March 26, 1935

Mr. W. Stanley Hanson,
Secretary, The Seminole Indian Association of Florida,
Fort Myers, Florida.

Dear Mr. Hanson:

I am glad to have your letter of March 21. Secretary Ickes and I will welcome every bit of true information, and every relevant suggestion respecting the Seminoles.

However, I am compelled to raise the question why you did not ascertain the facts as to what did take place at West Palm Beach, before you released a newspaper criticism and wrote your letter.

You refer to a so-called treaty adopted at West Palm Beach by "irresponsible parties." This matter is pure fiction; no treaty, real or so-called, was or could be adopted at Palm Beach or elsewhere.

A number of the Seminoles, at Palm Beach, voiced the desire for secure land titles and a reservation of adequate size. I have no knowledge as to whether they were the most representative Seminoles, but I have no doubt that all the Seminoles do desire this advantage, and I share with Secretary Ickes the view that it is the government's duty to supply it to them.

The incident was so simple and so large a number of people are acquainted with what actually transpired, that I must treat as a remark not made in good faith but for political or publicity purposes, the following words: "The Seminole Indian Association of Florida herewith registers official protest with you against this buffoonery of signing treaties with irresponsible Seminoles * * *."

You are not a Seminole Indian. So far as I can make out from your letterhead, there is not a Seminole on your directorate. Your organization is not the Seminole Indian Association of Florida, as its name evidently seeks to convey and as your letter assumes. You have been for years a candidate for a position in the Seminole work of the Indian Office. That is your inalienable right. But it is not your right to conduct a white organization which pretends to be an organization of Seminole Indians, and it is foolish to make vociferous protest against an alleged incident which as a matter of common knowledge and of fact never took place.

Sincerely yours,

(Signed) JOHN COLLIER

Commissioner (CUFT)

EXHIBIT 6a

WITH SECRETARY ICKES AND THE SEMINOLES

Finally the accidental, one-way road faded altogether. Then we walked across logs, the damp faint trail through velvet-dark loam leading us on into a tropical jungle. Five months hence, water will cover jungle floor, log crossings and one way road. A five-foot rainfall in sixty days will turn the almost limitless Everglades into a million-islanded and blossom-crowned inland sea.

So, nearly at twilight, we reached the Indian camp. More brightly because of the gathering tropical dimness glittered the Indian costume-colors of painted-cup, of jasmine and of quaker-lady and red-breast, in this wild garden of human life. For a Seminole camp in the true wilds is an incarnation and a victory of the wilderness itself, and not an alien presence in the wilderness.

After many years, this habitation of thirty human beings has left even the immediate jungle unscarred and unsoiled; and they - these humans - (in their stillness of speech, their quietness of motion, their unconscious poses suggestive of *** what? Of the painted beings of the Egyptian Book of the Dead! Yes, that is what they elusively call into memory) - these humans are robed with all the colors of jungle and marsh and winged cloud of marsh-fowl. It was no show occasion; they are always thus clothed.

Two interpretations were necessary, for two dialects are

EXHIBIT 6b

used by the Seminoles. Not many words were exchanged, for the medicine-men and clan-leaders were going to meet us formally the ensuing day. What communicated far more was the handclasp of those long delicate dark hands - electrical hands, vibrant with a heatless fire, hands of women and men deeply evolved as living spirits and yet faithfully animal - animal, and possessed of the long lost unrecoverable wilderness heritage we grown-up white men cannot have for our own. We adult whites can watch as on another planet's shore the earth-fire flush and wane, build and fade through sky, through prairie and marsh and jungle-trees and through the wild creatures (whose sensitiveness so far exceeds our own) and these wild men (whose gentleness so exceeds ours).

* * * * * * * * * *

Here are millions of acres - millions even yet, after drainage has turned wide areas into commonplaceness. Wild life has been ruthlessly depleted through the whole of the Everglades through a practically complete withholding of protection. Sport and commerce have gone far in their ravages. What was it the five hundred Seminoles asked us?

To be protected in their "wild" life. To be given a nursing service with Indian nurses. To be paid an annuity. (This last, of course, they cannot be given.)

To grant their essential request will be to save the Everglades. It will require making a wilderness area of this re-

gion which Nature long ago delivered to beauty, to magic and to the delight of wild creatures. The result can be attained through joint action by five elements - which are

The State of Florida
The Seminole bands
The National Park Service
The Indian Service
The Land Program of F.E.R.A.

Secretary Ickes, at West Palm Beach March twentieth, pledged his cooperation to the Seminoles. He reminded the white congregation as well as the Indians that these shy Seminoles, a hundred years ago, had fought and beaten - across seven years - an army of twenty-three thousand white men. Fewer than one thousand Seminole fighters had waged this war, and they had never surrendered; now the long truce might be ended with peace, and not without victory for the three parties to the old struggle. Victory for the Seminoles; and for the universe of plants and animals in the Everglades; and for the white people who now, and in thousands of years to come, will desire the wilderness.

* * * * * * * *

SEMINOLE POLICY

Is it our duty to "civilize" the Seminoles?

They have bad teeth (apparently, bad in the measure of their contact with civilized foods). Probably they have too many enteric disorders, and there are sanitary and health habits which,

EXHIBIT 6d

25-417 0 - 78 - 10

perhaps, they well might learn.

They are now too poor. Added to more of wild range, and greater security on the widened range, they need cattle; and they need to farm more extensively (subsistence farming). Their religious custom directs that the man shall always cultivate a field.

Somewhat their craft output might be improved, and better marketed. But cautiously.

Possibly - it might be- a very few of their young people should be chosen to receive an education most carefully planned - in English, in buying and selling, in modern health science, in biology, zoology, ecology and anthropology. These young people might mediate between the tribe and the white world; particularly they might work to lead their people to become wild life conservationists. For now, though they do not kill for "sport", the Seminoles are not conservationists.

Personally, I hesitate at one step more than the above. I deeply doubt the widsom of schooling the Seminoles. Let English come, and the newspaper, and that kingly confidence, that radiant reality, which is their life in the wild, might grow less, might fade away. And what worth would be the exchange?

The immediate duty is clear, and sufficient for the day is the duty thereof. (a) To acquire lands for them, and priorities in the proposed, and greatly-to-be-desired, Everglades National Park. (b) To stock their range with beef cattle and to get milk

EXHIBIT 6e

products into their diet. (c) To fight the bootlegger. (d) To try to bring to an end the commercial show-camps near Miami and on the Temiami Trail. (e) To protect the Seminoles against any and every interference and invasion which they do not genuinely seek and want; including invasion by the Indian Service and by the anthropologists and the missionaries.

Possibly the Seminoles' position is unique among that of all Indians. An almost unique history within an environment unexampled in the United States has created an adaptation- a physical and social structure - most delicate, yet ample, and life sustaining. It may be that no other structure would uphold their spiritual life at all. And it is by the spirit that they live. Hence, beyond restoring those equilibriums of the natural environment which the white man has destroyed, and thus making possible a better life within their own social structure and their own unhesitant and powerful and sane instinct - beyond that point, we should go with extreme caution in Seminole matters, and perhaps we had better not go at all.

* * * * * * * * * * *

EMERGENCY FUNDS

It is reasonably certain that emergency funds for Indian Service will be renewed. These funds will be available for Indian E.C.W., for roads, for erosion work, and probably for hospitals

EXHIBIT 6f

and schools.

Upon the Indians, their superintendents and the headquarters staff a severe obligation will rest: First, to plan wisely; to construct only needed works; to bear in mind the subject of future maintenance of whatever is constructed; to bring every item of emergency work within a long-range economic and social plan for each reservation. And second, to plan by and with the Indians. There should be no single case of a project adopted without Indian participation in its choice and its planning. If true Indian participation in this project-planning is not obtainable now, it means something wrong in reservation administration through the past two years.

These emergency grants are not just a fund for employing Indians in these depression years. They are (or could be, and must be) the means of laying a broad and intelligently conceived foundation for permanent Indian life.

Let each of us make this task his own!

JOHN COLLIER

Commissioner of Indian Affairs

6

EXHIBIT 6g

HIS EXCELLENCY, FRANKLIN D. ROOSEVELT
PRESIDENT, UNITED STATES OF AMERICA

PETITION FOR
PEACE TREATY

WHEREAS, a state of war has existed between the Seminole Indians of Florida and the United States of America, since the year 1835; and

WHEREAS, during the Seminole Wars our fathers had taken from them by the United States of America all of their hunting grounds, their homes, and their properties; and

WHEREAS, we, their sons, have been deprived of the hunting grounds of our fathers which should belong to us; and

WHEREAS, the Seminoles of Florida have no hunting grounds except those designated as Indian Reservations, which are no good; and

WHEREAS, our people are without means of caring for themselves; and

WHEREAS, because of the state of war that has been existent between the Seminoles of Florida and the United States of America for one hundred years, the Great Government of the United States of America cannot provide for us and our children;

NOW, THEREFORE, we, the Seminole Indians of Florida, on the one hundreth aniversary of the war between our fathers and the Great Government of the United States of America, do hereby petition the United States of America for a treaty of peace and beg that our people be given reparation for the losses that they have sustained;

EXHIBIT 7a

1. That they be recognized and granted all the rights and privileges of citizens of the United States of America;

2. That the United States of America grant unto the Seminole Indians of Florida:

(a) All of the land in Collier County north of the Everglades National Park;

(b) All of the land in Martin County and Okeechobee County known as Indian Prairie;

(c) All of the land in St. Lucie County known as the Cow Creek Country;

(d) Monthly payments to such Indians of Florida of $15.00 per capita;

3. And in consideration of the foregoing, the Seminole Indians of Florida will swear allegiance to the United States of America.

Respectfully submitted,

EXHIBIT 7b

REFER IN REPLY TO THE FOLLOWING:

ADDRESS ONLY THE COMMISSIONER OF INDIAN AFFAIRS

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON

Coor.

March 13, 1935.

MEMORANDUM FOR SECRETARY ICKES:

Re your memorandum of March 13, attached, enclosing Seminole (of Florida) Petition For Peace Treaty.

I see no reason why the petition should not be transmitted to the President in the present form. However:

(1) By Act of Congress approved March 3, 1871, no Indian nation or tribe may be acknowledged as an independent unit with whom the United States may contract a treaty.

(2) The Indians are now citizens of the United States.

(3) The lands requested in the petition are all now in private or State ownership. Approximately 23,000 acres in scattered tracts have been purchased by the Federal Government in the past for the use of these Indians. Most of this is unsuitable for their use. Approximately 100,000 acres have been set aside by the State of Florida for their use, but it is wholly unsuitable for them and is unused by them. The Indian Service at the present time is attempting to purchase some 5,000 acres, in three tracts, under the so-called Submarginal Land Program, the land being suitable for them. The Indian Service is also trying to make arrangements with the State to exchange some of the unsuitable land for State-owned land which the Indians may use.

(4) I am attaching two memoranda giving more complete information on this matter.

Commissioner.

EXHIBIT 8

We, the Chiefs, Leaders, Medicine Men, being the duly constituted authority to speak for and on behalf of the true Seminole Indians who live in the Big Cypress Country in Eastern Dade, Northern Monroe, Eastern Collier, Southern Lee and Henry Counties, in the Southern portion of the State of Florida, desiring to voice the protest of our people and after consultation with the members of our tribe, desire to call attention of the Indian Commissioner to the fact that the Seminoles are not at peace and have never signed any Peace Treaty with the Government of the United States of America.

The interest of the Seminole Indians in their residence in the Big Cypress Country in their hunting grounds is that of hundreds of years standing, and our homes are established thereat, and we are informed that the Indian Agent situated at Dania on the East Coast of Florida, miles distant from our habitation has, or will, present to the Honorable Indian Commissioner and to the Government's Council--Committee on Indian Affairs, a petition purporting to express the will of the Seminole Tribe in Florida, and we, the undersigned, being the hereditary and select head-men and councilors of the Seminole Tribe, respectfully protest against HR7902 and S2755, being Legislation concerning Indian affairs, and expressly request the Honorable Committee on Indian affairs to exclude the Seminole Indians of the Big Cypress Country of South Florida from the operation and effects of said bill.

Therefore, truly, the voice and will of the true Seminoles of Florida has spoken in the interest of its people, and we do hereby repeat and renew our protest against the aforesaid Legislation, desiring to live as our fathers lived, giving our lives to that end in honoring their memory and courage, never surrendering the heritage they gave us; always defending our rights and continuing our peaceful pursuits free from the ever-changing and hindering policies of the white man.

CORY OSCEOLA

WILLIAM McKINLEY OSCEOLA

RICHARD OSCEOLA

CHARLIE HIS MARK BILLIE

JOSIE BILLIE

CHESTNUT BILLIE

EXHIBIT 9a

STATE OF FLORIDA)
COUNTY OF DADE)

Before me, W. F. BLANTON, County Judge of Dade County, Florida, personally appeared CORY OSCEOLA, WILLIAM McKINLEY, OSCEOLA, RICHARD OSCEOLA, CHARLIE BILLIE, JOSIE BILLIE and CHESTNUT BILLIE who, after being duly sworn according to law depose and says That they are the hereditary Chiefs, Leaders, Medicine Men and Councilors of the Seminole Indians of the Big Cypress Country in Southwestern Florida; that they have held a tribal council and each of them acknowledge the execution of the foregoing resolution and protest for the purposes therein contained and for and on behalf of the Seminole Indians, and each of the above named persons acknowledge for himself and not for the other that said protest is well and truly the voice of their people, the Seminoles.

In witness whereof, each of the parties have subscribed to said instrument before me, this 3rd day of April, A. D. 1935, in Chambers, at Miami, Florida.

W. F. BLANTON
COUNTY JUDGE

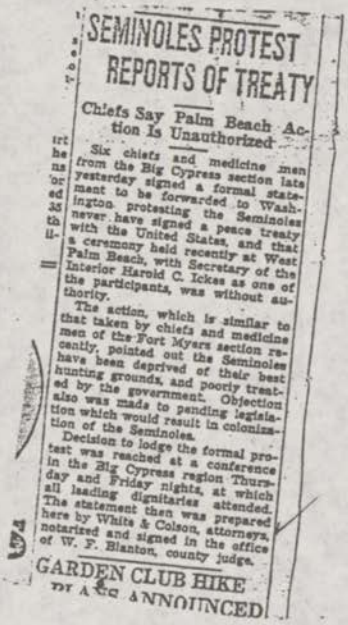
(Seal)
of
COUNTY JUDGE
DADE COUNTY, FLORIDA

Certified - a True Copy

O.R. [illegible]

[illegible]

EXHIBIT 9b



SEMINOLES PROTEST REPORTS OF TREATY

Chiefs Say Palm Beach Action Is Unauthorized

Six chiefs and medicine men from the Big Cypress section late yesterday signed a formal statement to be forwarded to Washington protesting the Seminoles never have signed a peace treaty with the United States, and that a ceremony held recently at West Palm Beach, with Secretary of the Interior Harold C. Ickes as one of the participants, was without authority.

The action, which is similar to that taken by chiefs and medicine men of the Fort Myers section recently, pointed out the Seminoles have been deprived of their best hunting grounds, and poorly treated by the government. Objection also was made to pending legislation which would result in colonization of the Seminoles.

Decision to lodge the formal protest was reached at a conference in the Big Cypress region Thursday and Friday nights, at which all leading dignitaries attended. The statement then was prepared here by White & Colson, attorneys, notarized and signed in the office of W. F. Blanton, county judge.

GARDEN CLUB HIKE ANNOUNCED

FREEDOM FIRST

DIVISION exists in the ranks of the Seminole Indians relative to accepting the kindly offices of the Great White Father in Washington, submission to his decrees in return for specified land grants and financial aid.

Seminoles in the Big Cypress Country object to the recent peace parley with Secretary of the Interior Ickes at West Palm Beach, declare it was unauthorized. So they sent a delegation of their chiefs to Miami to present an affidavit to protest to County Judge W. Frank Blanton against the Wheeler-Howard bill.

Peace and surrender may be all right for some Indians and for palefaces, but not for the true, stalwart Seminole braves who have roamed the fastnesses of Florida for decades, perhaps centuries. They may not be able to claim their inheritance of all Florida, but they still possess their hunting grounds in the wilderness of the Everglades. They remain free men. They love liberty, the open sky, the adventure of struggle and hardships and fighting for a living. They place that above ease and security and comfort and government pensions. They ask no relief, no assurance of shelter and food. They are willing to risk hunger in exchange for liberty. They want nothing of government but to be left alone.

Oh! noble Seminoles, oh! ye braves in your bright array, you possess the spirit of your ancestors, you shame the soft members of your race, you disgrace the whites of civilization who forget their past, their wars for independence, putting liberty above all else. Today freedom is a byword to be scoffed at and trailed in the dust. Adventure and daring and individual striving are qualities to be read about in biography and history, not to be observed. Only a few prefer conflict and struggle and freedom. Among them are these Seminoles of the Big Cypress. All honor to them.

EXHIBIT 10a

NEW RESERVATION FOR INDIANS MAY SOON BE PROVIDED

Governor Will Cooperate with Secretary Ickes in Seminole Plans

A new reservation of approximately 100,000 acres was in prospect today for the remaining remnants of the once great tribe of Seminole Indians in Florida, despite claims by the Seminole Indian association that a "sun dance" here was "a burlesque."

Would Trade Land

The proposal by Secretary Harold L. Ickes of the Federal Department of the Interior to trade with the state of Florida for a new reservation for the Seminoles drew from Governor Dave Sholtz at Tallahassee a promise to "cooperate in every way. The new reservation would be located north of the present areas occupied by the Indians in the South Florida everglades section.

At Fort Myers, the Seminole Indian association used the words "fake" and "burlesque" in referring to an Indian sun dance at West Palm Beach which Secretary Ickes attended with John Collier, Federal commissioner of Indian affairs. It said medicine men of the Indian groups did not attend.

Replying, the West Palm Beach Recreation Commission said the ceremony which included presentation of a petition to the United States officials was arranged "in all seriousness and there is every reason to believe it will result in good

(Continued on Page Twenty-Four

EXHIBIT 10b

...AMI, FLORIDA HERALD TELEPHONE 2-7401 THURSDAY, APRIL 4, 1935

...MINOLE LEADERS OPPOSED TO 'PEACE'

Continued From Page 1

...ra to address their tribal fo...
...ia.
...e tides of indignation surged to
flood, receded and surged anew.
...ng views were expressed, excep-
...n taken and charges hurled about.
Indians were aroused to a fever
...t of anger. Of that there could
...o doubt. Their interests had
...n betrayed at the West Palm
...ch pow-wow, and they were de-
...rmined to set the wrong a'right.
...nally, out of the deliberations
...e came the determination to
...e their protests in tangible form.
...y had made peace with the United
...tes? Never! They perhaps were
...enemies of the white man's gov-
...rnment, but they still were free and
...dependent. They would express
...ir views, place themselves on record
...repudiation of the purported treaty
...ich had been signed at West Palm
...ch.
Cold contempt was expressed for
...y part which said, that "we have
...en deprived of the hunting grounds,
...ept those designated as Indian
...servations which are no good," and
...s "because of the state of war
...istant between the Seminoles of
...rida and the United States for
...years, the great government can-
...t provide for us and our children."
...e Big Cypress Swamp Seminoles
...so rejected the idea of petitioning
...all rights and privileges of citi-
...ip and the formal grant of cer-
...in lands they claimed. They claimed
...e whole of Florida, and while per-
...ps they couldn't have it they
...uldn't compromise on any such
...ited boundaries as were set forth
...the West Palm Beach negotiations.
The aftermath of the deliberations
...the council meetings was the de-
...ent of the six chiefs upon Miami
...ere the affidavit in protest was
...rn up and sworn before County
...ge Blanton yesterday. After set-
...g forth their basic opposition to
...peace treaty with the government
...the United States' as framed in
...e opening paragraph, their affi-
...it continued as follows:
"The interest of the Seminole In-
...ans in their residence in the Big
...press country in their hunting
...ounds is that of hundreds of years
...anding, and our homes are estab-
...shed thereat, and we are informed
...at the Indian agent situated at
...mia, on the East Coast of Florida,
...re distant from our habitation.
...k, or will, present to the honable
...ian commissioner and to govern-
...nt's council, the committee on In-
...n affairs, a petition purporting to
...press the will of the Seminole tribe
...Florida, and we, the undersigned,
...ng the hereditary and select head-
...n and councilors of the Seminale
...e, respectfully protest against
...1908 and S3736, being legislation
...ecting Indian affairs, and re-
...ently request the honorable Com-
...tee on Indian affairs to exclude
...Seminale Indians of the Big Cy-
...ss country of south Florida from
...operation and effects of the said
...
"Therefore, truly, the voice and
...of the true Seminoles of Florida
...spoken in the interest of its peo-
...and we do hereby repeat and
...ew our protest against the afore-
...[illegible]men, desiring to live as
...[illegible]

ting our rights and continuing our peaceful pursuits free from the ever-changing and hindering policies of the white man."

The affidavit was signed by Cory Osceola, William McKinley Osceola, Richard Osceola, Charlie Billie, Josie Billie and Chestnut Billie. The Osceolas are direct descendants of the original Chief Osceola and the Billies are descendants of Chief Billie Bowlegs.

The original of the affidavit, Mr. White said after the ceremonial signing, will be sent to the joint committee on Indian affairs. A copy will be sent to Secretary of the Interior Ickes, and another copy will be sent to the United States commissioner of Indian affairs.

The Miami attorney added in explanation that the objection of the Seminoles of the Big Cypress swamp to the signing of the peace treaty by the Indians in the West Palm Beach section, was based on the claim that these latter Indians were not true Seminoles but were Creek and Seminoles who had married into the Creek tribe. This was a custom, Mr. White said, which was not favored by the Cypress Swamp Indians.

The Seminoles of Big Cypress number approximately 350 persons, while the Creeks have a strength of approximately 275 persons. A number of the "true" Seminoles attended the ceremonies at West Palm Beach, but acted as "observers" and declined to take any part in the festivities or the signing of the treaty in the name of the Seminole nation, Mr. White said.

Under the terms of the Wheeler-Howard bill, on which hearings are being held before the Indian affairs committee, it is designed to grant to Indians living under federal tutelage freedom to organize for the purpose of local self government. It also provides for economic enterprises and the necessary training of the Indians in administrative and economic affairs, and at the same time promote more effective administration of justice in matters effecting Indian tribes and communities by establishing a federal court of Indian affairs.

The "true" Seminoles of South Florida object to such "colonizing", as they are by inheritance hunters and hunters and desire to live alone with their families in the fastness of the Big Cypress swamp. They also contend that they are not vested with any rights granted by the government, and that they do not seek fraternalism with the government, but desire to be left alone.

"The government, the Indians claim has established a reservation at Dania to take care of indifferent Creeks as well as Seminoles, although few Seminoles avail themselves of the service, Mr. White said.

Under the proposed legislation the measure shall first be voted on by a referendum among the tribes. Up the middle of last May, Mr. White said, hearings before the Indian affairs committee indicate that 55 tribes have approved the plan, and of the Florida Seminoles 15 tribes have rejected it. The reports of tribes accepting the plan were that the action was not taken by the tribe councils, but by a minority of the tribesmen, in one instance only 1,200 of a tribe of 8,200 Indians voting.

The Florida Seminoles also object to the clause in the proposed legislation which allows squaws the right to vote with the men. The Seminoles do not object to the establishing of a federal court for other tribes, but do not believe that it will be conducive to the future of the Seminole who lives in tribal relations. The court sessions are held twice a year once in June with the Green Corn dance and again in the fall of the year at the Snake dance. Sessions of court are held by the chiefs during these ceremonies.

Following the conference in Miami the chiefs and headmen of the Seminoles returned to their homes in the Big Cypress country.

EXHIBIT 10c

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
FIELD SERVICE

Seminole Agency
Dania, Florida
April 4, 1935

The Commissioner of Indian Affairs,
Washington, D. C.

My dear Mr. Commissioner:

With reference to the inclosed news paper story the following may be of service to you:

Personnel

William McKinley and Cory Osceola, assisted by such whits friends as Lasher and others, are the leaders back of this affair. These two Indians are closely allied with the commercial camps of Miami. They resented the fact that they were not visited during your stay in Florida. They exploit their own people for the white man's gain.

Richard Osceola, Charlie Billie, Chestnut Billie, and Josie Billie were at the West Palm Beach conference, and none of them except Charlie Billie took exceptions to the petition.

Charlie Billie in the conference which the Florida Indians had over these plans stated that he had heard that the Government proposed to give all of south Florida to the Indians, and he wanted that or he would "talk no more". It was explained that the white man had built such cities at the Palm Beaches, Miami, etc. on this land now, and it could not be given to the Indians. But he stated with due dignity that he "would talk no more". He is therefore not a party to the petition.

Richard and Chestnut are young boys who have no standing in Indian councils. They are intelligent boys. They are rather progressive, and I believe would favor any intelligent program for their people. Richard drove a tractor here at the Agency for eight or ten months, and has been especially anxious to get the land in Indian Prairie.

Josie Billie was the first member of the Indian group who sat in on the conference at West Palm Beach. He is an intelligent Indian. Some of the other Indians keep him frightened the most of the time.

Representation

EXHIBIT 11a

The leadership of William and Cory is by the white man's appointment. Cory was the chief as long as he was employed at Musa Isle to manage the Indians at this commercial camp. He was fired, and William was employed in his place, and duely became the "CHIEF".

The leaders among the northern group are Sam Jones, and Billie Stewart. The latter represented this group at the conference at West Palm Beach. The southern group is led by such Indians as Billie Motlce, Cufney Tiger, Ingram Billie, Brown Tiger, Whitney Cypress, and Charlie Cypress. Brown Tiger and Charlie Cypress were at West Palm Beach. Unfortunately Brown was intoxicated at the time of the conference, and did not "sit in". However he told me two days before that he agreed to the proposal for lands. Charlie Cypress was one of the several Indians who had the talk at the West Palm Beach conference.

Mr. Black told me that some of the Florida people stated to him that if the Florida Indians manifest any agreeable relation to the Government the "gate receipts" in the shows and commercial camps would be affected adversely. The inclosed article is calculated to arouse even greater interest in the Seminole, and thus save the face of the commercial people. Aside from William and Cory these Indians are not bitter. Their most genuine sentiment is expressed in their statement that they had not been at war with the white people for a a century, and they did not want to hear any more of war.

Reorganization Act.

This election was discussed with Cory in January. He told me at that time that he thought it would be good for his people. After he had discussed it with his white associates in Miami he said the Indians did not want to vote, because they did not understand the law. I told him I would be glad to explain it to him, and did discuss it with him.

On the day of the election I explained to him and William that I had to give the Indians an opportunity to vote. I stated that they did not have to vote if they did not want to. I offered to use Cory in the election and told him he could tell the voters anything he wanted to tell them.

Every effort was made to give the absentee Indians an opportunity to submit their votes. The decision was left entirely to each Indian.

EXHIBIT 11b

The arrangement which Congress made, while it may have given advantages to some groups of Indians, did not suit the Florida situation. The use of the ballot for public affairs is an innovation to these tribesmen. No man can make intelligent voters out of them in a few months, or a few generations.

The election was administered as justly as I was able to administer it.

Respectfully yours,

J. L. Glenn, Financial Clerk

EXHIBIT 11c

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
FIELD SERVICE

Dania, Florida
April 5, 1935

Mr. A. C. Monahan,
Assistant to the Commissioner,
Washington, D. C.

My dear Mr. Monahan:

The inclosed short clipping is from yesterday's Miami Daily News. I sent Mr. Collier the story as it was featured in the Herald with some local facts which may aid him.

In my opinion these Indians are being "WORKED" by that Miami group of politicians. How would they have ever thought to executing their protest before a judge as a means of making it "legal".

On last Saturday I talked of this matter to Josie Billie, and told him that in the petition at Palm Beach the Indians made no promises whatever. They merely asked for some things that belonged to them. He answered : " I understand. Tucker and Hanson talk too much".

The editorial is from the Herald of today. I am afraid it is based upon a presupposition which does not exist. The motives back of this protest had their origin in the designing white man's scheming brain.

Sincerely yours,

J. L. Glenn

J. L. Glenn, Financial Clerk

EXHIBIT 12a

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
FIELD SERVICE

Dania, Florida
April 18, 1935

21092

The Commissioner of Indian Affairs,
Washington, D. C.

My dear Mr. Commissioner:

Information came to me today that attorney O. B. White of Miami and his confederates are laboring with the Indian Congressional Committee of Congress to obtain a Congressional investigation of:

1. The incident at West Palm Beach wherein the petition was submitted to the Honerable Secretary of Interior.

2. The Indian Reorganization Act election at this unit.

Mr. Tucker of Miami who has interested himself in the Miami group of Indians was at the Seminole Agency on April 10th making investigations relative to the above matters. I am told that he is assisted by Bert Lasner, Cory Osceola, and William McKinley. O. B. White is an attorney for Lasher, according to the information I have.

I have also been told that O. B. White has been de-barred from the Florida State Bar Association. This statement should be investigated before it is used against him, but he is said to have an unfavorable reputation.

I am informed that this group have been in correspondence with Congressman Will Rogers. I know nothing of the nature of that correspondence.

The above is submitted for your information.

Respectfully yours,

J. L. Glenn, Financial Clerk

EXHIBIT 12b

ANNUAL REPORT

Narrative Section

1935

Seminole Agency
Dania, Fla.

Prepared by

J. L. Glenn
Officer in Charge

EXHIBIT 13a

ANNUAL REPORT
1935
SEMINOLE AGENCY

********** NARRATIVE SECTION **********

SECTION No. THE SEMINOLES

The Seminoles have maintained themselves as a separate tribe for less than two and a half centuries. Their forefathers were Creeks who lived in Georgia, spoke the Muskogee language, and adhered to the common forms of the social, political, and religious life of the Creek Nation.

According to Indian tradition, in these earlier years a family who lived on the western border of the Creek country fraternized with a Choctaw neighbor, and in time learned to speak a broken Choctaw. The new dialect was handed down through the descendants of the family and developed into what is known as the Miccasukee language.

In the migration to Florida an over wholmingly large number of the emigrants spoke the common language of the Nation, but the most of the small band of Miccasukee speaking Creeks accompanied them in the trek southward. Thus, although the Florida Indians came to be made up of two language groups, they are of one blood, and have a common social, political, and religious background.

During their great war with the white race about 4000 of the major language group were expatriated and driven to Oklahoma. Perhaps not more than a dozen families of this group were left in Florida. Today they number about 150 Indians, and live north of Lake Okeechobee. For almost a decade their homeland has been depleted of game, and they are now rapidly changing from the status of a hunter to that of a day laborer, subsistence farmer, and stockman. They have made much progress in learning to speak the English language, and in gaining both confidence in and friendliness toward the white man. They are sociable, wholesome, energetic, and progressive.

The Miccasukee language group escaped largely from capture by the white army during the Seminole War, and remained within the state. They comprise more than two thirds of the Indians of Florida, and live largely in a region about thirty miles south of Lake Okeechobee. Until recent years their homeland has been stocked comparatively well with game, and they have found subsistence for themselves and their families in the life of a hunter.

Perhaps the most outstanding characteristic of the tribe as a whole has been its proud and violent antipathy toward the white man. Clay MacCauley in the year 1880 stated that its members "are antagonistic to the white man as a race, and the white man's culture ... The feeling of the tribe is antagonistic to such primary education as reading, writing, and calculation."

He states that the brother of Billie Powell refused to concur in such sentiment, and deserted his Indian camp life, and went to the white settlement to live in a white home. MacCauley says that he over heard members of the tribe threaten to kill this Indian, and a later story states that he was indicted before the Seminole court, convicted, and executed.

EXHIBIT 13b

MacCauley adds: "They are decided in their enmity to any representative of the white man's government and to everything which bears upon it the government's mark ... The wars of their ancestors, extending over nearly two centuries, did the most to make them the brave and proud people they are ... They are now strong, fearless, haughty, and independent."

It also may be said that the tribe has devoted those two centuries of heroic struggle and sacrifice in an effort to escape the absorption and humiliation which have always been the consequence of becoming a ward of the white people. The Seminole is most deeply devoted to freedom and independence. He refuses to accept the status of a conquered man, or to enter into a relationship which ranks him socially as inferior to any so called predominate race. For more than two centuries he has been guided by the belief that he can find an escape from such a relationship by withdrawing from entangling contacts with the white man, and setting up a world of his own in which he and his are the predominate factors. It was this that led him to abandon his home in Georgia and to re-establish himself in a new and strange region in the northern part of Florida, and later to give over this section to the white emigrants and to settle again on new lands toward the center of the state, and finally to flee before the army of his enemy to the Everglades. Here he found a great natural barrier which has greatly aided him in his quest for his major objective.

Because of this subsequent hatred for the government, and because of the large measure of economic independence which his final homeland afforded him, and because of its inaccessibility no effort was made to include him under the Indian Service until about four decades ago. However, even before there was a Florida Indian Service, he had not succeeded in escaping entangling white contacts. Among the first institutions to undertake his conversion to the things of the white race was the saloon. As early as a half century ago such an establishment was located in the heart of his homeland, and liquor for his consumption was freighted in an ox cart through cradless swamps over many weary miles. Other saloons were conveniently located at trading posts which he visited. MacCauley mentions the fact that the Seminoles were accustomed to engage in drinking "sprees" during their infrequent visits to white settlements.

Local tradition states that these saloon keepers were anxious enough to entice the visiting band of Indians into their establishments, and provide them with whiskey for the money which they had received for the sale of the products of their hunting and trapping, but when this money was exhausted and the Seminoles were overcome with intoxication, they were thrust out at the back door of the saloon and left to any exposure which chance might bring them.

Other stories of this tradition claim that the education of the Seminole has been promoted again by smart young whites who found great pleasure in taking some aggressive young Indian into the saloon and getting him drunk, or, in more recent years, in introducing him into those social circles of prostitution which are found in some Florida cities. The success of such missionary endeavor is confirmed by Nash's statement that in 1930 one half of the earnings of the tribe was expended for whiskey, and that venereal infection had made a recent appearance in the tribe, and during the above year had spread to a little less than 4% of its total population.

It should not be forgotten that during the half century there have been anumber of sturdy and genuine white citizens who have manifested a kindly and an unselfish interest in this rugged group. The first Indian Agent, Dr. J. E. Brecht, was such a character. He established a sawmill at the frontier village of Immokalee, and began a program which proposed a new economic independence for them.

He discovered that the land on which the Indian lived was coming rapidly into the possession of the white man. Through the devotion of much time and effort he succeeded in securing for the Seminoles about 10,000 acres of land. Already the white people had obtained all of the more valuable tracts, and it later developed that the greater portions of the area secured for the Indians was of little value.

As a physician he doctored their sick, and taught them the prevention of disease. There is every possible reason to believe that his unselfish service and wise leadership would have been invaluable to those Indians.

But wherever Indians and white men meet there seems to be an inevitable clash of interests. As this early period the Seminoles had become sufficiently entangled with white contacts to arouse such a collision. As men in the industrial world often establish a "corner" on some commercial product, and through unfair advantage, realize enormous profits, so have there been those who have established a "corner" on the emotional life of this or the other Indian group, and thereby realized selfish benefits in one form or another.

The Seminole's embittered past, and his fear of white contacts made him an easy victim of this type of abuse. Selfish and unscrupulous whitemen were quick to seek to set up a domination over him. They gained his acquaintance, and led him to believe that they were protecting him from the craft, greed, and deceitfulness of his traditional enemy. He made no investigation of the charges he heard. They were free to invent whatever story that might best serve their purpose. As soon as a given ward boss set up his domination over a group of Indians he was able to use them for the promotion of his own selfish interest.

The Seminole's extreme bitterness toward the government has made it all but impossible for government officials to extend to him the government's program of justice and equity. Dr. B recht, because of his relation with the government, found it scarcely possible to combat the domination of selfish and unscrupulous white men.

In his day there were yellow and unprincipled publications which were ready to form a collusion with corrupted politicians, and the ward bosses of the Indian groups. B recht was attacked by such a newspaper in Ft. Myers. Material for these attacks is readily obtainable. A gorge of whiskey will sweep away any independent judgment which the Indian may have formed of a given government representative, and will liberate his old tide of racial bitterness toward his traditional enemy.

Brecht's work in purchasing this land withdrew him from contact with the Indian population, which in turn afforded the ward bosses of his day a larger opportunity to impair his influence with the members of the tribe. Thus the government's first constructive endeavor in behalf of these people was rather effectively obstructed by ward bosses who were moved by the fear that their domination over the Indian might thereby be broken.

Because the Miccasukee language group has been sheltered by the inaccessibility of their homeland, and has had less contacts with the masses of the white citizenship, they have been more greatly victimized by this abuse than the Indians of the northern group. T heir hatred of the white man and his government has been effectively promoted and propogated by those who seek to dominate them. This has been especially true in recent years

among the Miami division of this group.

About two decades ago an aggressive young Indian who owned and operated a store in Ft. Lauderdale, conceived of the plan of charging an admission to white tourists who visited his camp. He prospered, and later enlarged his trade by moving his business to Miami. He became so successful that white men robbed him of his establishment, and began the promotion of a business that has "boomed" the tourist trade of Miami and yielded its citizens many thousands of dollars annually.

The "ballahoo" of these show places featured the Indian as an unconquered, unrelenting, and implacable enemy of the ways of the white man, and especially of the white man's government. The management was represented as the great benefactor, and the government and its agent as the chief malefactors of the tribe.

The Seminole was flattered at being accorded the status of an unconquered man. His past wrongs inclined him to believe the charges against the government, and to confide in the management of these show places. Thus he came to yield to ward bossism.

The white tourist was amazed to see a people "who had conquered the American government," was disgusted with the insanitation of the Indian, and knew enough of the government's past treatment of the Seminole to accept the charges relative to the character of its present treatment.

It was not known by either the tourist or the Indian that the management in one case stated frankly that any solution of the Florida Indian problem would ruin his business. The injustice, distress, poverty, ignorance and disease of the tribe are the materials which boom such business. Day after day for more than a decade the Miami Indians have listened to a type of ballahoo which has had for its purpose the promotion and propagation of the Indian's bitterness toward the things of the government, and an effective blockade of the government's attempt to extend a program of justice and equity to their people.

SECTION No. II THE LAND PROGRAM

As has been said above, the tribe has devoted two centuries of heroic struggle and sacrifice in an effort to escape the absorption and humiliation which have been the natural consequence of becoming wards of the white people. Because of the Seminole's devotion to freedom and independence he has refused to accept the status of a conquered man, or to enter into an inferior social relationship.

In all of these things he should have the most sincere sympathy and the highest admiration of every individual who cherishes those essential and fundamental principles of democracy which have been translated into the social, political, and religious life of the American people by men like Washington, Jefferson, and Lincoln. But his bitterness toward other races, and his submission to the domination of bossism are matters of regret.

It also has been stated that for two and a half centuries he has been guided by a belief that he can find an escape to a subordinate economic, political and social status by withdrawing from entangling white contacts, and by setting up a world of his own in which he and his are predominate factors.

In this effort he has insisted on maintaining a squatter status toward the land on which he has set up his camp. The consequence is inevitable. The land becomes the legal property of members of the white race, and he is driven from his home.

His great objective, like all ideals, never will be realized completely. But they, who love democracy, hope he may have means through which he can enjoy it in part. His "dream world" cannot be set up until he holds the legal title to its real estate. B ut this is a concession to the white man's ways. For, according to the Indian social, political and religious order, land is a public possession, and its title cannot be conveyed by law.

The proposal of the government to buy the title to a homeland for the tribe must be treated also as a concession to the white man's claim to Florida. The Seminoles believe that they justly own the peninsula. In the sight of Justice and their Great Spirit they cannot sacrifice the heritage which God and His great Law has granted them.

Such sentiment is noble. But where are the white people, who, because of it, will vacate their cities and farms to the red men? Naturally the white people feel that they, too, have a heritage that comes in somewhere in the order of things. It is therefore futile for the Indian Office to propose to grant the Seminole the full measure of his expectation. He must concede that title to real estate is conveyed by law, and that it is now in the possession of the legal owners, and that, at least, expediency requires that he shall come to re-own it through purchase. It may be restated that the welfare and progress of the Seminoles, the efficiency and thoroughness of the Florida Indian Service, and it may be added, the only possible first step toward a partial realization of the great dream of these people require the purchase of an adequate homeland for them.

Because of the consideration of these facts the Officer in Charge has regarded the Department's land buying program as the most essential feature of the year. A recital of the land which, for a number of years, has been owned by the government for these Indians is impressive. There are 99,000 acres in Monroe county, 23,061 acres in Hendry county, 2,166 acres in Martin county, 960 acres in Collier county, and 480 acres in Broward county. Because the acreage is so large the Indian has been condemned again and again for not using the property which has been purchased for his use. Mr. Nash, in his report, says that these Indians have no land problem until they use the land they now have. However, with reference to the most of this acreage it may be said that if the white man had known of any use he could have made of it, the Indian never would have gotten it. If the white man is unable to find any use for such property, how many years may be expected to elapse before the Indian finds a use for it? Until either the Indian or the white man can find a use for it the tribesmen are justified in not using it. In the meantime he needs no more of this kind of land.

As has been said in a rehabilitation proposal, the new purchase area must contain the essential and fundamental physical values which will make possible a program of growth and development that will effect the permanent rehabilitation of the tribe. By reason of its location and the character of its resources it must be potentially fitted for handling all phases of the social and economic life of the group.

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If the tribe's own major objective is to be given consideration, it must not be broken up into small and widely scattered tracts. A scattered people are easily conquered and absorbed. They are helpless in their attempt to resist those social forces which compel them to occupy a subordinate social status. They are socially crushed, and cannot retain for themselves the possession of pride, strength, fearlessness, nor independence - elements of character which have been cherished so strongly by the Seminoles.

Ultimately the prime quest of life is neither the possession of wealth, nor power, nor even knowledge, but CHARACTER. Man's large concern is so to conduct himself that, through the varied events of his life, he shall reveal no weakness, foolishness nor wickedness. Rehabilitation programs should provide their clients with some wealth, some power, and some knowledge, but above all they should provide them with the essential conditions which create and maintain character. A plan which proposes a scattered Florida Indian population does not meet the most important specification of all rehabilitation programs. It would divest the Seminole of his ruggedness and indivualism, and would defeat him in his major aims and purposes.

Mr. Nash did not wholly neglect the land needs of the tribe. He proposed that the 99,000 acres in Monroe county should be exchanged for an equal acreage in the area north of the Everglades National Park. This section is one of the better hunting grounds of the state, is the present home of many Indians, and will afford the Seminoles an opportunity to derive some of the benefits which the Park will bring Florida. The proposal is sound and has had the support of the Officer in Charge, but the laws which make possible such an exchange were not obtained until the spring of 1935.

About a year before this, the local administrative officer was authorized to begin work on a land purchasing program which was to extend through a number of years. Options were obtained on four sections in Collier county near Miles City, and four sections in Glades county near Brighton. The program was submitted to Dr. W. A. Hartman, Regional Director of the Resettlement Administration, for his examination and approval. But his authority provided for the purchase of submarginal land. It was thought that the 125,000 acres mentioned above was enough of this type of land. The two tracts proposed for purchase had been chosen because they contained land which the Indians, themselves, prized, and which seem to meet rehabilitation requirements. The timber on the Collier county tract indicated that it was not submarginal in character. However it was broken with swamps and out-crops of rock. Dr. Hartman was not satisfied with it. He was anxious to aid the Florida Indians and approved the purchase of both of the tracts. His Washington Office, however, did not sustain his approval, and the whole project was rejected.

The Officer in Charge was then instructed to divide the proposal and submit each tract as a separate project. This was done and the Glades county project was accepted and its purchase authorized.

A number of objections had risen against the other tract. The Officer in Charge believed that some of these might be removed if he should secure the services of a competent and disinterested timber cruiser and appraiser through the State Forester. This state department appointed a member of its staff who cruised the timber, appraised the land and prepared the report on this tract. The Resettlement Administration of Washington again rejected the proposal. Dr. Hartman then furnished a member of his staff who prepared a third report, but it was rejected.

EXHIBIT 13g

It had required a year to carry through these negotiations. During the latter part of the spring of 1935 the title to the Glades county land was accepted and its purchase was completed. It contains a number of valuable and beautiful hammocks, and is prized greatly by the Indians, themselves. Dr. Hartman expressed the opinion that there is not a tract of land that is now owned by any Indians within the United States that is better adapted to the rehabilitation requirements of these people.

As the President's administrative plan developed, a much larger land program seemed possible for the Seminoles. For many months Officer in Charge met members of the tribe and discussed such a program with them. They pressed anew their claim to the whole of the peninsula. Some objected that the proposal contemplated the purchase of their own land from a people who did not own it. Some recalled that in the last treaty, which the government made with them, they were to have all of the territory south of Peace Creek. Although this included such cities as the Palm Beaches, Miami, Key West and Ft. Myers, they thought that they should demand this or they should accept nothing. Others thought it was wise to support as large a program as the government would undertake.

Among the Indians of the northern group many families wanted to buy the small, irregular and scattered fields on which they lived. The following case is typical. One family lives in an isolated white settlement composed, at least in part, of bootleggers. No other Indians live near. The father died of intoxication. The boys are often drunk and are often in jail. Four of the girls have half-white children. These people want to remain in this environment, and want the government to buy the land on which they live.

This and other local problems have led the Officer in Charge to believe that sound leadership requires that all of the Indians in the northern section shall be grouped in a single community. Twenty-five or fifty years will demonstrate the soundness of such leadership. If the group is to continue to be scattered among the white population, and if some of its families are to continue to live under their present environment they largely will be crushed before another two and a half decades.

The Indians of this section, however, finally agreed that they wanted Indian Prairie in Glades county, Blue Field and Cow Creek in St. Lucie county, and Ft. Drum swamp in Okeechobee County.

The members of the southern group had encountered little or no trouble in living on their land under the status of a squatter. They saw no immediate need of purchasing its title. They were strongly convinced of their ownership of the whole peninsula. Some took the position that the legal title to Florida land was valid only by reason of the white man's laws, and the white man's ways, and that their people were bound by neither, but conducted their affairs wholly and exclusively according to the Indian social, political, and economic order. The Indians, therefore, should ignore the legal title to all Florida real estate. Others thought they should obtain as much land as the government was willing to secure for them. They requested the tract within Collier county that lies north of the Tamiami Trail and west of the Immokalee road.

During the development of these negotiations certain officials of West Palm Beach met the Officer in Charge and proposed that their city should act as host to the Secretary of Interior and the Commissioner of Indian Affairs. They stated that in a telephone conversation the Secretary had spoken with favor to their proposal. They expressed an interest in the rehabilitation of the Seminoles, and believed that such plans would be promoted by the visit of these administrative officers. They expressed a desire to learn

just what program the Indian people wanted. The Officer in Charge told them of the several tracts of land which had been requested by the different Seminole groups. They thought that the Indians should have an additional benefit of an annuity of ten or fifteen dollars per month per family.

A proposal, containing these two items, was prepared and submitted to the Washington Officials. It was represented as the probable thing that the Seminoles would expect of them. After it had been examined, the invitation was accepted.

Since the Florida Indians may gain no possible advantage through the propagation of their bitterness toward government representatives the Officer in Charge, for a number of years, has striven to liberate them from this old hatred, and he, together with other interested citizens, used every effort to prepare them for a cordial and beneficial conference with their guests. The event was the one hundredth anniversary of the beginning of the Seminole War, and was the first time in their history that they had been honored by a visit from the Commissioner or the Secretary. The visit indicated a new interest in their welfare, and promised an unprecedented opportunity to enlarge and strengthen that interest.

But certain self-appointed "guardians" of the tribe became greatly excited lest the "poor Indian" was about to be tricked. Municipal rivalry projected itself into the occasion, and made a show of child-like conduct. Predatory interests were aroused. The management of one of the commercial Indian villages expressed the opinion that the proposed conference was a foolish move on the part of the people of Florida. For, if the Indian in this conference manifested a friendship for the government, and if the press of the nation published this fact, the tourist would lose interest in seeing him, and the trade which had grown out of this interest would be lost. All of these agencies conspired to embitter the Indians toward the conference, and frighten them a way from it, and thereby to lead them to retain their reputation as the unrelenting enemies of the American government.

Fortunately for the Seminoles, the old tradition is more and more coming to be a myth. As has been indicated above, there were those among them who had met the Officer in Charge and had joined with him in planning the proposed land program. And there were those who could not be frightened away from the opportunity to meet the Washington Officials and request the purchase of these lands.

The Commissioner wanted to visit a camp that had been untouched by white influence, and to meet a group of Indians who were engaged in their native occupations rather than in the show life of Miami or the Tamiami Trail. Since the party was large and the time was limited ti was thought that Johnny Buster's camp at Deep Lake in Collier county was the best location for such a conference. A number of Indians, including one of the medicine men, were present, but the group did not claim to represent the tribe in an official way, and made no requests, but stated that they would be satisfied with the plans which should be agreed upon at the conference on the following day at West Palm Beach.

A much larger band had already gathered at the East Coast city. It was hoped that all of the leaders of the tribe might join in this final conference. But unfortunately the Seminole's faith in the American government is easily crushed. Oscoola, himself, had been captured under a flag of truce, and the tribe on other occasions had experienced a kindred treatment from its enemy. Some of the leaders thought that it was a wiser plan to remain at their camps, plant their corn, and forget the white man.

When the Officer in Charge saw that the full representation of the tribe would not be present at the final conference he

advised those present to submit their request in the form of a petition. Since the right of petition belongs to the humblest citizen this group were at liberty to petition their quests without doing wrong to other leaders who refused to join in the conference.

The band at West Palm Beach gathered on the previous day and discussed the proposal which they wanted to present. They withdrew themselves from every white individual. It so happened that the Officer in Charge was engaged with the group on the West Coast during this day. They formulated their plans and marked off on a map the areas which each group desired. The following is the petition which they submitted:

"We a group of the Seminole Indians of Florida, assembled in conference on the one hundredth anniversary of the Seminole War, beg you to hear us:

"The Seminole Indians have not been at war with the United States for one hundred years. The Seminole Indians live in peace and happiness in the Everglades, and have pleasant relations with the United States government. The Seminole Indians want a better understanding with the United States government and want to hear no more about war.

"We have learned from our forefathers of the losses of our people in the Seminole War, and during recent years have witnessed the coming of the white man into the last remnant of our homeland.

"We have seen them drain our lakes and waterways, cultivate our fields, harvest our forests, kill our game, and take possession of our hunting grounds and homes. We have found that it now grows more and more difficult to provide food and clothing for our wives and children.

"We request and petition you to use your influence with the Congress and the President of the United States to obtain for us the following lands and benefits:

"I. All of the lands in the state of Florida as marked on the map attached hereto, including:

"(a) Lands in Collier, Hendry, Broward, and Dade counties known as the Big Cypress.

"(b) Lands in Glades county known as Indian Prairie.

"(c) Lands in Martin and St. Lucie counties known as the Cow Creek country and the Blue Field section.

"(d) Lands in Indian River and Okeechobee counties known as the Ft. Drum swamp.

"II. For the loss of our other lands and our property an annuity of $15 per capita per month.

"III. The full time nursing services of Indian nurses."

It should be noticed that the band represent themselves as simply a "group of the Seminole Indians". They "petition" for the benefits. That local government officials have been able to win the good faith ofmany of the Seminoles is attested by the second paragraph of the petition. Many of them have had genuine, wholesome, and cordial relations with the Officer in Charge. The friendship has been mutual.

EXHIBIT 13j

The Indians, who joined in presenting the above petition, were respectful and courteous. In manifestation of this they removed their shoes, and came into the presence of their guests unshod. The Officials from Washington complimented them on their past heroism, and pledged them a larger land program. The Secretary thought that it would be possible to obtain as much as 200,000 acres. The conference promoted that goodwill and friendship that ought to exist between the Seminoles and their government.

A few weeks later the Assistant to the Commissioner met the Officer in Charge in Tallahassee, and in conference with the Governor, explained that the Federal government proposed to buy about six townships of land for the Seminoles which would be located in Collier county north of the Everglades National Park. The state legislature was requested to enact a law authorizing the Governor to exchange the 99,000 acre tract in Monroe county for an equal acreage adjoining the proposed Federal purchase. This was agreed upon, and the proposed law was enacted.

On May 10, 1935 the Officer in Charge was instructed to begin negotiations for the purchase of the several tracts of land that were requested by the Seminoles. As before, the program was to be submitted to the Regional Director of the Resettlement Administration for his examination and approval. The whole purchase was to be made by his department.

Ten days later the Officer in Charge obtained an appointment with Dr. W. A. Hartman, and discussed with him these plans. Of the five tracts which the Indians wanted, he thought that Indian Prairie alone met the rehabilitation specifications and requirements of his department. He raised the further objection that the work required by the Resettlement Administration for the justification of the purchase of 200,000 acres of land was more than one man could accomplish in the alloted time. He thought that all of the time would be consumed in mere preliminaries, and that when the time had expired, none of the land would be in final condition for purchase. He recommended that, if the entire program were presented, the several tracts should be prepared consecutively, rather than simultaneously.

According to the instructions of the Indian Office Dr. Hartman was in charge of the land program. His department controlled the funds through which such a purchase was possible. On the other hand the Indian Office urged that the program should be based on the Indian's own judgment of his needs. It was difficult to reconcile those two requirements.

The Resettlement Administration was composed of men who were trained in the science of land utilization. These men had set up certain necessary standards, and specifications which every tract of land was required to meet before it could be bought for rehabilitation purposes.

The Indians know nothing of such standards, and it was difficult, in some cases, to defend the tract of land which they chose from the charge that it did not meet these specifications. For example, it would require much argument to convince land utilization scientists that the Ft. Drum Swamp was potentially fitted for handling all phases of the social and economic life of these Indians. Dr. Hartman, as a scientist himself, did not want to make such claims before his department for several of the Indian's selections. From the standpoint of his department it would jeopardize the whole project to include within it those tracts of land which were obviously unsuited to the requirements of rehabilitation.

But the Officer in Charge and the Indian Office wanted the land for other purposes. Their aims were not those of the Resettlement Administration. The Officer in Charge was very much interested in the rehabilitation of the tribe, and wanted lands

that were fitted to meet these needs. But he also wanted all of the property he might be able to get for the Indians, and he wanted to fulfill the expectation of the Indians, which had grown out of the conference at West Palm Beach. He saw the difficulty in the attempt to reconcile these aims. As a preliminary step he and Dr. Hartman agreed that all of the several tracts should be included in a first proposal, and that the tracts should be prepared in a consecutive order for approval and final purchase. Dr. Hartman gave his immediate approval of the Indian Prairie tract. According to the instructions from the Indian Office the Officer in Charge was authorized to appraise only those tracts that had been approved by Dr. Hartman. He was therefore authorized to appraise the Glades county lands of Indian Prairie, but must await until Hartman approved the other tracts before they could be appraised.

On his return from this conference he was joined by a representative from the Indian land office, and they examined the lands under consideration, and began the negotiations for obtaining options on them. This work was completed toward the latter part of May, and the Officer in Charge began immediate work on securing all of the material in preparing and submitting the preliminary proposal.

This proposal covered a total of 230,000 acres, and included sixteen sections in Blue Field, thirty two sections in the Cow Creek county, a larger area in Indian Prairie, and more than six townships in Collier county. It was completed on June 12th and forwarded to Dr. Hartman's office. Since one and only one tract had had the approval of Hartman, it and it alone was ordered appraised by the Officer in Charge. As stated above, he was required to await the action of Dr. Hartman before he had authority to proceed with the appraisal of the other tracts.

Dr. Hartman's office informed the Officer in Charge that his preliminary report had been received, and that the Resettlement Administration was being reorganized, and that the Regional Director was in Washington, and that action on the proposal must await until he returned.

The appraisal report on 45,000 acres of the Indian Prairie land was completed on July 22nd. Since the Officer in Charge had had no further word from Dr. Hartman's office, he left immediately with the report for the Regional Office at Gainesville, Florida. The conference was not encouraging. Dr. Hartman was more thoroughly absorbed with the aims of his department. He was more completely convinced that he could not approve of the whole of the proposal. He felt that such approval would compromise his office and his profession.

The Officer in Charge was disturbed over these facts. He felt that the Indian Office was not in a position to abandon the proposed purchase of the large tract north of the Everglades National Park. He recognized that from a rehabilitation standpoint it would be difficult to justify the cost of the project. The area was large, inaccessible, and did not admit of intensive utilization. Since the options had been obtained it became possible to so reblock the tract to eliminate considerable high priced land and to include an equal acreage of land costing less than sixty-five cents per acre. On August 4th he proposed to the Indian Office a rearrangement of this land which now included townships 48, 49, 50, and 51 of ranges 33 and 34. The state owned townships of the above numbers in range 35. The entire tract is 18 miles wide and 23 miles long, included the Hendry county reservation, provides a splendid hunting ground, and affords the Florida Indians the opportunity to share the benefits growing out of the Everglades National Park.

Dr. Hartman was provided with a copy of this proposal, but it did not receive his approval. For he believed that even these changes had not brought the proposal within the aims and standards

of the Resettlement Administration. The Indian Office made no reply to the proposal, and, apparently, recognized no difficulty in reconciling the aims of the two departments. It merely grew more and more impatient over the delay in the completion of the Florida land buying program, but it neither provided the funds for the purchase, nor the authority to "go over the head" of Dr. Hartman.

In the former purchase it had suggested that the project should be divided into two parts, and each part should be permitted to stand on its own merits. From the standpoint of the field this seemed the only means of getting any one part of the land purchased. This would place the Indian Prairie project in line for final approval and purchase, and would permit other, and less favorable tracts to be proposed separately.

The Officer in Charge met Dr. Hartman on August 23rd in Gainesville and this plan was agreed upon, and the proposal on the Indian Prairie project was prepared in his office in conjunction with members of his staff, and received his approval and was forwarded to his Washington office for its approval. His Washington office informed him that the proposal was not supported by the Indian Office, and it must be dropped. Apparently, difficulty in reconciling the aims of the two departments had projected itself into the relationship of the administrative officials of Washington.

In the meantime Congress had made a new appropriation of four billion dollars for relief, and planning boards had been set up in each state, and a Federal Coordinator had been appointed. Among the proposed projects of the state was a levee on the northwest shore of Lake Okeechobee which was to cost between three and four million dollars, and was to protect less than four hundred people from the flood water of the Lake at the time of a hurricane. These people live on the Lake shore. Such hurricanes are not likely to visit any one community more than once in ten years.

The Indian Prairie reservation is located on this Lake shore. The Indians have their homes on the high hammocks that are found several miles from the water's edge. They need no levee to protect them from these flood waters. The whole Lake shore could be bought for a small percent of the cost of the levee. It seemed logical, therefore, for the government to buy this lake shore, convert it into a game preserve, and hunting ground, and cattle range for the Indians, and give it to them.

Such a project was prepared by the Officer in Charge, was approved by the State Planning Board, some of the leading engineers of the state, and some of the members of Congress. But the Indian Office did not support it.

One of the responsibilities which came to the Officer in Charge, during the early part of the year, was the task of conducting an election among the Seminoles on their possible adoption of the provisions of the Indian Reorganization Act. Among other things, this act provided for Indian participation in the affairs of the tribe, and for buying them additional lands. At their conference at West Palm Beach they had asked for both of these things. The election was called for March 30th. At first even the Miami Indians were favorable toward it. But they were subjected to the usual agitation and propagation of fear and suspicion. On the day of the election one of their leaders had been so aroused that he thought the Officer in Charge might find himself dead if he persisted in the election plans. He was informed that there was no occasion for this emotional excitement, and that the Indians would be treated justly. His brother was asked to assist in conducting the election.

The majority of the Indians were fair minded in their attitude, but stated that they know nothing of elections, and

less of the issues of this one. Again they wanted to go back to their camps, plant their corn, and forget the white man.

There were those who had taken part in the conference at West Palm Beach. Their confidence in the justice and equity of the government and its representatives had been strengthened. They wanted land, and they wanted Indian participation in their affairs, and believed the support of this Act would bring them these benefits. They voted for the measure.

In the late summer of 1935 the Indian Office allotted $25,000 of the Indian Reorganization Act appropriation for the purchase of land for the Seminoles. It was of the opinion that this money should be used for the purchase of land for the southern group of Indians.

The Officer in Charge felt that if the program must be reduced to such a small purchase, the aims back of its selection must be rehabilitation. The land must admit of intensive utilization. The investment of the money must secure a maximum production for the support of the members of the tribe. Even with this the Indian families would suffer enough poverty. He believed that the greatest opportunity to carry out these aims was found in the Indian Prairie county. Here were found range for cattle, and hammocks for subsistence farming.

The Indian Office proposed to take the final program out of his hands and entrust it to another. A representative of the Indian land office was sent to Florida. Much time was given in making a study of all of the tracts of land which the Indians had wanted both in the northern and southern Indian country. The representative was convinced that the Indian Prairie section afforded the greatest opportunities, and he and the Officer in Charge planned a final land program for the Seminoles. It was recognized that two types of land were needed. The Indians should have grazing land and hammocks for subsistence farming. The appraisal report on the 45,000 acre project gave them the opportunity to block out within that area the best of each type of this land. The final program called for 4,522.11 acres of the higher hammock land, and 3,417.59 acres of the lower grazing land. The board of appraisers had fixed the estimated value of this tract at about $8. per acre. The owners had agreed to accept an average of a little less than $4.00 per acre.

The proposal was submitted to Dr. Hartman's office on November 20th, and was approved and forwarded to the Indian Office. The Indian Office rejected it, and took the supervision of this program away from the Officer in Charge.

During the whole of this work the Officer in Charge has traveled between fifty and sixty thousand miles. He has traversed almost impassable swamps in meeting the Indians and discussing with them their land needs. He has given no end of thought to land conditions in South Florida, and to the requirements of the Seminoles. At times he has worked through the whole of the night in rushing proposals and preparing maps, and other data for these programs. A large program has been set-up and a great deal of information has been gained on it, but only 2,600 acres of land has been purchased.

It is still largely true that the welfare and progress of the Seminoles and the efficiency and thoroughness of the Florida Indian Service require the purchase of an adequate homeland for the tribe. It is also true that the land which has been optioned for four dollars per acre will be selling for three or four times that amount within the next decade. The area north of the Everglades National Park, and the Indian Prairie tract are best suited for the uses of the Florida Seminoles, and ultimately they should be set aside for that purpose.

EXHIBIT 13n

SECTION No. III THE INDUSTRIAL PROGRAM

One of the important features of any sound land program is the opportunity it offers the Indians to improve and make secure their own economic independence. The Seminole industrial program has been a large element in the aims and plans of the year.

Toward the latter part of January the Indian Office furnished the Seminoles with seventy-two head of thoroughbred Angus cattle. These stock have been located at Dania and have done well.

In November the Officer in Charge was authorized to prepare a rehabilitation program for the tribe, and submit it to Dr. Philip Weltner, Reginnal Director of the Resettlement Administration, for his examination and approval. Dr. Weltner was of the opinion that the money for such a project could be obtained only on the basis of a loan. He directed members of his staff to assist in the preparation of a second proposal. A diligent and sincere effort was made to so plan the program that it would fit the needs and conditions of the Indians, and at the same time meet the requirements of Resettlement Administration. The final proposal provided for the expenditure of approximately thirty thousand dollars, and planned to resettle forty Indian families on the hammocks of the Indian Prairie lands. The Officer in Charge did not feel justified in accepting the money on the basis of a loan, and the Washington Office of the Resettlement Administration did not want to furnish the money as a grant. The proposal was dropped.

However Dr. Weltner stated that he had 2,000 head of cattle he would give the Seminoles. Five hundred forty seven were shipped immediately, and arrangements were completed for the shipment of another five hundrod head. In the meantime the Indian Office had rejected the final land program, and many of the cattle already received were starving to death because the lower grazing lands had not been purchased. The second shipment was abandoned.

In conjunction with the cattle and land program the Indian Office has supplied the local unit with funds for the support of the largest labor program the Seminoles have ever experienced. The following table shows the number of Indians employed, and the amount of money paid directly to the Indians for each month of the year:

Month	No. Indians Employed	No. Man-days Worked	Total Indian Pay Roll
July	34	287	$ 399.85
August	54	526	1163.62
September	49	782	1186.60
October	49	767	1114.22
November	44	577	600.70
December	20	348	931.78
January	20	272	43[illegible]
February	15	185	643.80
March	15	172	240.[illegible]
April	17	173	272.60
May	14	219	272.10
June	15	147	75.00

*During some of the above months payment was delayed to the following month.

EXHIBIT 13o

It will be seen that, during part of the year, a crew of fifty Indians were employed in this program. The total encampment numbered about one hundred fifty men, women, and children. They came from all sections of the Indian country, and worked with as much industry as any crew of any other type of men. They were engaged in clearing their reservation and sodding it for a stock range.

For the whole of the year the selfish and predatory interests had continued to fight the land program. As usual they were arounsed by the success of this enterprise. Their attempts to intimidate the Indian population proved quite ineffective. Their next recourse is to institute a lobby against any official who successfully opposes them and either dislodge him or discredit his work. They enlisted the services of yellow hournalism and paraded the officer as a miscreant before the public. They represented the project as worthless and a sheer waste of funds. But their conduct reveals the bitterness of their own defeat. For one time the Florida Indians joined extensively with the government in a program of setting up a social and an economic world of their own in which they and theirs are predominate.

SECTION No. IV — HEALTH

During the past year disease has brought more than its usual burden of trouble to the Seminoles. There have been a total of eighteen deaths. The following is an incomplete list of the cases of illness that have been treated by the Indian Service doctors during the year:

Disease of the Throat and Respiratory System:	No. of Cases.	Total No. of Treatments.
Tonsilitis	8	9
Bronchitis	21	35
Influenza	76	102
Pneumonia	3	6
Tuberculosis	4	16
Plurisy	3	12
Total	115	180
Disease of Digestive System:		
Indigestion	26	37
Gastritis	18	28
Biliousness	19	20
Hookworm	46	91
Typhoid	1	33
Total	119	209
Disease of Excretory System:		
Constipation	6	6
Diarrhoea	33	54
Dysentery	12	15
Pyelitis	7	15
Total	58	90
Circulatory Diseases:		
Heart Trouble	23	63
Anaemia	12	36
Total	35	99

EXHIBIT 13p

Sensory Diseases:	No. of Cases.	Total No. of Treatments.
Conjunctivitis	7	7
Insomnia	1	2
Total	8	9
Diseases of Reproductive System:		
Syphilis	2	2
Gonorrhoea	9	23
Soft Chancre	1	1
Endometritis	1	7
Total	13	33
Disease of Joints:		
Arthritis	23	60
Neuralgia	2	2
Total	25	62
Disease of Skin:		
Abscess	12	28
Carbuncle	3	6
Total	15	34
Contagious Diseases not Listed Above:		
Measles	12	15
Whooping Cough	9	10
Malaria	13	29
Chicken Pox	3	3
Dengue	7	9
Total	44	66
Final Total	432	782

The Florida Indian Service has continued its vigilance in its effort to combat these ailments. The following table shows in part the extent of this work during the year.

Physician	Location	No. of Calls	Annual Cost
Holmes	Miami	266	$1217.51
Roper	Hollywood	291	961.50
Pender	Everglades	238	485.70
Davis	Okeechobee	117	450.00
Boothe	Ft. Pierce	85	188.00
Spooner	Immokalee	45	97.32
	Total	1042	$3400.03

In addition there were several physicians who were employed on special cases, and Dr. Pender rendered some service gratis.

A total of 24 Indians were hospitalized through the year at a cost of $1072.24. The Health division of the Indian Service is to be commended for conducting a clinic among these Indians in the spring of 1935. It was assisted by the State Board of Health. The undertaking manifest a new interest in the Seminoles and should lead to new and larger benefits in this health program.

EXHIBIT 13q

SECTION No. V EDUCATION

It will be recalled that in 1880 MacCauley stated that he found the Seminoles embittered against such primary forms of education as reading, writing, and calculation. But the school is one of the greatest things the white man has to give to the Indian.

Because the labor program brought a large encampment of Seminoles to the Agency their day school has reached a wider group than during any previous year in their history. The enrollment, including night students, numbered fifty. Many of the young Indian men learned enough to be able to write post cards and short letters. The day students enjoy their school days as much as the children of any other race, and are energetic and quick to learn. Some of them are able to read and write satisfactorily.

Some of the Indians living north of Lake Okeechobee, and some living in Collier county are friendly toward schools, and will soon seek these benefits. The Miami group are still unfavorable toward the white man's system of conveying thought through writing. This, and opposition from commercialized interests, and limitations growing out of the illness of the teacher led the government to discontinue the Miami school. The Indian, unfortunately, suffers the major loss.

SECTION No. VI RELIEF

The relief load during the year for the aged and indigent members of the tribe cost a total of $1,637.96. This is the heaviest burden that has ever been borne by the unit in a single year for this group, and is indicative of the poverty and distress which is more and more oppressing the tribe. It is another reminder of the need of the purchase of a sound land program for the tribe.

FINAL SECTION CONCLUSION

MacCauley's last paragraph written for the Bureau of Ethnology in 1880 is strangely modern.

"But soon a great and rapid change must take place. The large immigration of white population into Florida, and especially the attempts at present being made to drain Lake Okeechobee and the Everglades, make it certain, as I have said, that the Seminole is about to enter a future unlike any past he has known. But now that new factors are beginning to direct his career, and not that he can no longer retreat, now that he can no longer successfully contend, now that he is to be forced into close, unavoidable contact with men he has known only as enemies, what will he become? If we anger him, he still can do much harm before we can conquer him; but if we seek, by a proper policy, to do him justice, he may yet be made our friend and ally. Already, to the dislike of the old men of the tribe, some young braves show a willingness to break down the ancient barriers between them and our people, and I believe it possible that with encouragement, at a time not far distant, all these Indians may become our friends, forgetting their tragic past in a peaceful and prosperous future."

EXHIBIT 13r

The Officer in Charge has sought to pursue such a policy. To this end he has endeavored to humanize, rather than institutionalize, the Indian Service program. He has striven to be a neighbor and a friend to the Seminoles as well as their leader and guide. He has labored over and above the duties of his office to demonstrate to them the genuineness of this friendship. When members of the tribe were sick, hungry, or cold, and the Agency funds were exhausted, he has given them food from his own pantry, and quilts from his own bed. He has gone into the swamps to answer their call for help when he, himself, was exhausted from over work. When they were ill and stranded he has carried supplies on his back to them through miles of mud and water.

In his relation to them he has not wanted them to occupy a subordinate social status. He believes that those essential and fundamental principles of democracy which have been translated into the social, political, and religious life of the American people by men like Washington, Jefferson, and Lincoln should be translated also into their lives. He has striven to emancipate them from selfish domination, and to establish a friendship between them and the democratic and unselfish white social groups.

He believes that character, more than all other values, is the ultimate quest of life, and he does not want to see the present generation of Seminoles robbed of those qualities of pride, independence, and the love of freedom which have sustained their ancestors through two and a half centuries of heroic achievement. Any peaceful and prosperous future which may be theirs must contain all of those possessions.

J. L. Glenn, Officer in Charge.

EXHIBIT 13s

REPORT ON THE SEMINOLE INDIANS OF FLORIDA

by

MR. GENE STIRLING

Division of Education

OFFICE OF INDIAN AFFAIRS

Applied Anthropology Unit

1933

EXHIBIT 14a

FOREWORD

Mr. Gene Stirling, acting as Collaborator in the Education Division, was sent to make an ethnological study of the Seminole in Florida during the spring of 1935, before the inception of the Applied Anthropology Unit. He worked in close contact with the Seminole through the fall of that year. His work was jointly financed by Harvard University and the Indian Service.

This report is only preliminary to his full ethnological report and was drawn up primarily for administrative use in the Indian Office.

H. Scudder Mekeel
Field Representative
in charge of
Applied Anthropology.

EXHIBIT 14b

SUMMARY OF RECOMMENDATIONS FROM I.R. SPERLING'S SEMINOLE REPORT

ORGANIZATION

1) Mikasukis and Muskogees should be organized separately, if practicable from Indian Office viewpoint.

2) The local divisions should have as much autonomy as possible, each with a local council (Cow Creek, Miami, Big Cypress). Each has a recognized headman at the present time.

3) Headmen should be "elected" according to present informal system.

4) Seminoles must be very tactfully approached and much time given them for decisions after everything has been carefully explained, since they are still very suspicious of the U. S. government.

EDUCATION

1) Establish day schools where the Seminole settlements are — in line with whatever economic developments that may be planned.

2) A bus system necessary for bringing children into the day schools.

3) Make arrangements for children, who live too far away even to be reached by a bus system, to be boarded by relatives living near a school.

4) Day-school idea must be sold to headmen and enlist their aid and active support. (Communities should aid in school building if possible. H.S.M.)

5) Start an adult educational program stressing agricultural development.

6) Encourage Arts and Crafts (apart from "Seminole Villages" in towns! H.S.M.)

7) Start Health-Education program and health work in the communities.

ECONOMICS

1) Provide large consolidated blocks of land for Seminoles' exclusive use (for hunting and agriculture.)

EXHIBIT 14c

2) Promote and sponsor a return to agriculture (both cash and subsistence crops). A full-time extension man needed.

3) Stock program could be added if sufficient land is made available.

4) The clan must be taken as the basic economic unit. Voluntary associations should be encouraged through picking one man in a group and let him choose his associates.

5) Make arrangements with the Park Service for Indians to hunt and fish in the Everglades National Park--also to carry on agriculture and stock-raising.

6) Improve Seminole Arts and Crafts and establish a trade mark for their goods.

7) White-controlled exhibition camps should be supervised or better yet, be discontinued (H.S.M. from Nash's 1930 report and Stirling's statements).

EXHIBIT 14d

SOCIAL AND POLITICAL ORGANIZATION

A brief review of Seminole history is helpful in understanding their social and political organization. They were formed around two distinct nuclei. The first had Hitchiti people as the dominant element along with other groups from Georgia and Alabama. These people evolved into the present day Mikasuki, speaking a Hitchiti dialect. The other branch of the Seminoles were composed largely of Creek Indians. This division became what is now known as the Muskogee, or Cow Creek Seminoles who speak a Muskogee dialect. The languages of these two groups are closely related, though not mutually understandable.

The two groups have never been united politically except, perhaps, for a period during the Seminole Wars when they functioned under one military authority. There have been no Seminole Chiefs for a number of years. Political power is now vested in what might be termed Councils, though largely composed of Medicine Men. Important decisions, however, require a general meeting of the whole group.

The past relations of the Seminoles with government officials and white people in general, have been such as to make the Indians very sceptical and distrustful of government plans and promises. This attitude is a factor that must always be considered and appreciated in dealing with these people.

The clan is the fundamental unit in their social organization. These clans are matrilineal. Inheritance is through the females of the family. A Medicine Man, for example, normally acquires his position from his mother's brother and passes it on to his sister's son. By this means, such positions are kept within the clan and so do not pass to other clans as would be the case if inheritance was from father to son.

The Seminoles group themselves into clan communities, the women of each group all belonging to the same clan, the men from other clans. The women of each settlement are usually closely related. A typical community might be composed of a grandmother, her daughters, and her daughters' daughters, and perhaps female first cousins of any of these women. The male members would be the husbands and unmarried boys of these women. The husbands might be from several different clans. The boys of the community, as they become adults, marry and take up residence with their wives' groups, though still retaining very strong social bonds with their own group.

The women of each settlement form a compact and strong social unit as they are all members of the same clan, as well as their children. The men, on the other hand, are not united and have only family interests

EXHIBIT 14e

in their place of residence. Their clan interests and obligations are with their mother's group. Any offices or titles the man may have will be passed on to his sister's children. This all tends to put the man in the position of an outsider in his wife's group and keeps his social interests very strong with his own group. Because of this the man feels socially stronger with his own clan and, whenever possible, will impose social obligations on his mother or sisters rather than on his own wife. As an example of this, a man will have a guest housed and fed by his sister or mother, instead of by his wife. In other words, his social position is stronger and more secure with these people of his own clan so that he feels more at liberty to impose upon them. A man's own parents, if visiting him, will not remain overnight in his camp, but will make their own camp some distance away.

The importance of the clan in Seminole life cannot be overemphasized. It is still the dominant social unit that exerts a profound influence on all phases of native life. It dictates the economic life as well as the social. In former times, anyone marrying within his own clan was put to death. The one present day couple that has defied this rule are virtual outcasts from native life. The clan influences the native economic life by forbidding any groupings except where the women all belong to the same clan. Each clan settlement is an economic unit wherein all members share food in common. The group is at all times liable to be imposed upon by clan members from other communities who will come and share in their food. A common practice, for example, is for a son to go to his mother's camp and help himself to products of her garden. As a reciprocal to this, however, he is liable to be called upon to donate labor to his mother's group. At the present time this right of clan members to share in food produce acts as a hinderance to the development of agriculture. A man has little incentive to raise a crop when he knows that as soon as it is ready to be harvested that all the relatives will come and remain until it is all gone. The result is that the Seminoles practice very little agriculture except for a few isolated groups.

Politically the Seminoles are now divided into three groups. The Muskogee or Cow Creeks form one unit. The Mikasuki are now divided into two bands, the Big Cypress and the Miami. The Mikasuki division is a fairly recent one that took place about ten years ago due to the increasing population and the size of the area occupied by them. The Mikasuki-Muskogee division is a fundamental one, based on difference of origin and language as well as territory. Each group holds its own annual Corn Dance and has its own Council of Headmen. There is only a small amount of intermarriage between these divisions. The recentness of the division of the Mikasuki is reflected in their feeling towards each other, which is much closer than that between them and the Muskogee.

The three annual Corn Dances are the only regular meetings where all the members of each of these divisions assemble. Though the Corn Dance is theoretically a religious affair, it also acts as a strong social force that dramatically brings out the positions of the divisions and the clans. Each individual officially "belongs" to one of the three Corn Dances. The Corn Dance that the individual is a member of, shows which division he belongs to. Though he may attend any or all of the Dances, there is only one to which he "belongs". The Medicine Men, and others who are the important functionaries at the Corn Dance, are also the political leaders of their division. The Clans play an important part in the ceremonial activities of the Dance.

The head Medicine Man of each of these divisions is the nearest approach to a chief to be found among the Seminoles. Through him one can learn who the other important people are who form the "Council". This Council can exert a considerable amount of power, though very important matters require a general meeting where everyone has a voice. The political division of the Mikasuki is not complete, as the headmen of both groups still confer together on matters that effect both branches.

Whether or not the Mikasukis and Muskogees would be willing to have a common political organization would depend largely on how the matter was presented to them. It would be much simpler to have two organizations, though a single one is perhaps preferable to the Indian Bureau. The local division would be the most important political unit in the actual administration of their affairs. Under it would be the individual settlements. At the present time each of these divisions (Cow Creek, Miami, Big Cypress) handle their own internal affairs entirely independently of the others. Each community usually has a recognized headman.

The individuals with political prestige have acquired their standing merely by recognition from the group. Some have acquired it through inheritance, but even this is dependent upon social recognition of their worth. In a sense they practice an informal type of "election".

The effective organization of the Seminoles should be a relatively simple matter. They are used to having meetings and recognizing the power of councils and headmen. The biggest stumbling block will probably be getting them to agree to organize under government sponsorship and to recognize the rights of the Indian Bureau in their affairs. They still take great pride in the fact that they are technically still at war with the United States and have never signed a peace treaty. Their independence is something that they are very proud of. They are extremely suspicious of the Indian Bureau and do not believe that it cares about their interests. The deportation of a majority of their people to Oklahoma is still a sore spot with them. Many of them still fear that government efforts to get them on reservations and to organize

them, are done with the idea of getting the Indians in a position where they can all be herded together and kept under the Indian Bureau's thumb and, possibly, be sent to Oklahoma. It is of paramount importance that propositions broached to these Indians be done diplomatically and that they be explained in full, letting the Indians know the manners of the Indian Bureau and the advantages to the Seminoles. It is also necessary to have patience with them and to give them time to discuss all the facts among themselves, after which they would undoubtedly want more information from the Indian Bureau and time for further discussion among themselves. A number of efforts of the Indian Bureau have failed in the past because the Indians were not given sufficient time to consider them, or because they did not fully understand them.

The Seminoles should be organized with the three divisions, Cow Creek, Miami, and Big Cypress, as the fundamental units. Each of these could have a council to govern its internal affairs and, also, perhaps, to serve as members of a general Seminole Tribal Council. The villages or camps would not be satisfactory political units as their personnel is constantly changing, as well as their locations being more or less impermanent and often seasonal.

EDUCATION

The educational programs for the Seminoles have failed for a number of reasons. It will be necessary to fully understand these reasons in order to formulate a satisfactory working plan that will ultimately lead to educating these Indians. In addition to the school problems it will be well to consider adult education, arts and crafts, and health programs.

The location of the school at Dania has been the biggest stumbling block to getting the Seminoles to send their children to school. There are two primary reasons for this, geographical and social. The Agency at Dania is far removed from most of the Seminole settlements so that the children would either have to be put in a boarding school or the parents would have to move there. The Indians do not want either of these alternatives. They neither want to give up their children, or live at Dania which is far removed from their sources of livelihood. Their other objection to sending their children to school at Dania is based upon the social environment that exists there. The Indian population at Dania, and the nearby Miami exhibition villages, has a high percentage of outcasts and undesirables. Nearly all of the cases involving social and moral problems and venereal disease have arisen in these Miami camps or at Dania. The children at Dania are very ill mannered, in strong contrast to the other Seminole children. The Indians associate this condition with the school and Dania, and therefore do not wish their children to attend school and become obnoxious and bad mannered.

EXHIBIT 14h

The solution to these problems would be to establish day schools where the Seminole settlements are. By so doing, the children could remain with their parents and be brought up in a socially more healthful environment. The best location for these schools would depend upon whatever economic programs might be put in force among the Seminoles. At the present time such locations as Brighton, Immokalee, Everglades and somewhere along the eastern part of the Tamiami Trail seem highly desirable. As the Seminoles live in scattered communities, a bus system would be necessary to bring the children to and from school. The Miccosukki have recently been gravitating more and more to settlements along the Tamiami Trail. Parents who might be living in too remote a location to be reached by a bus system could probably be induced to leave their children during the school year with relatives living near a school or its bus system. It is quite common with them for children to remain with relatives on more or less extended visits.

The language problem is a very obvious one. They speak two different native languages. Practically none of the children, outside of the few that have attended school, speak any English. Since only a negligible number have ever gone to school, an age problem is immediately apparent. Beginning students would be in all age groups.

An educational program would be tremendously helped if the Indian Bureau would first sell the idea to the headmen and enlist their aid and active support.

There is a need for an adult educational program aside from academic education. Their country offers unlimited possibilities for agricultural development. At the present time they practice some primitive subsistence agriculture, but it would be necessary for them to change their techniques and crops in order to raise commerical produce that would find a ready market. They could also raise unlimited quantities of fruit if they were only educated along this line. Cattle raising was formerly an important industry among them, though now an abandoned pursuit.

Arts and crafts could be improved and sponsored among them. A certain amount of education along this line has already been accomplished by Deaconess Beddell at Everglades.

Health education would help them considerably. The outstanding health problems at present are the bad condition of their teeth and poor diet of the infants and young children. A cleanliness campaign would also be very beneficial, and would reduce some of the disease problems. Venereal diseases would be almost eliminated if the Miami exhibition camps could be abolished. Medical aid is welcomed by the Seminoles, including the Medicine Men. They have quite a prejudice against the Miami Hospital due to a few unfortunate incidents, and

also due to the fact that the patients feel very lonesome there, with no one to whom they can talk. In general, however, there is no serious health problem among the Seminoles. In the last fifty years they have increased from around two hundred individuals to approximately six hundred.

ECONOMICS

The present day Seminole economic life is based primarily upon hunting, fishing and gathering wild food products. Agriculture is of virtually no importance. They derive a cash income from the sale of furs and hides, dolls and baskets, and as members of exhibition camps. They are occasionally employed as laborers or guides. This primitive economic life forces them to scatter out in small communities as a large settlement soon exhausts the nearby supply of wild game and plants. The recent growth and development of exhibition camps along the Tamiami Trail is now bringing these people into fewer and larger communities that depend upon the sale of curios to tourists for cash, and upon the automobile to procure subsistence food for them.

The time has arrived when the Seminoles must alter their economic life. The development of roads throughout southern Florida and the increasing Indian and white population, have all been factors that have drastically reduced the supply of wild life. Deer, bears and turkeys are no longer important sources of food, as they are only occasionally obtained. Alligators are now quite scarce and the fur bearing animals are not nearly as plentiful as formerly. The development of canals and drainage operations have seriously depleted the wild life supply. The staple foods today are gar fish, which are abundant in the canals, turtles and aquatic birds. At least half of their food supply is purchased from stores. It becomes very apparent that these Indians must change their economic life. This leads us directly to the problem of land.

The Seminoles definitely need more land, not only for the present, but to provide for an increased population in the future. Their population has trebled in the last fifty years and there is every reason to expect this trend to continue. They need land for agriculture and for hunting grounds. In the section of Florida where they live, most of the land is unsuited for agriculture, either because it is swamp or because the limestone comes to the surface. Thus, a large section of land may only have a small amount suitable for agriculture. The waste land, however, would have its value on account of the wild life. The need of the Seminoles is for large consolidated blocks of land for their exclusive use. The reservation lands are now hunted upon by whites and negroes as well as by Indians. The majority of the Seminoles do not live on reservation land, but are trespassers on private or

state lands. There are two main reasons for this. One is the old phobia that the government may do them harm if it gets them all together on reservation land. The other reason is economic. Without agriculture or cattle raising the reservation lands can only support a few of their people on a primitive hunting and gathering basis. The reservation east of Immokalee is shunned during the wet season because at that time it is virtually impossible to get to it or away from it except by walking.

The agricultural practices of the Seminoles are extremely primitive. Corn, pumpkins, squash, cow peas and bananas are the main crops. The normal practices are to plant on burned over hammock land or in a little garden cultivated by a hoe. Their crops are purely for domestic consumption and do not begin to supply their needs. Though the opportunity is present, they do not do any commercial farming. Their agriculture is without benefit of fertilizers or sprays against insects. They are very fond of fruits, but do virtually nothing to satisfy this want. They have a few Guava trees, mostly planted by others, and some wild orange trees.

Historically, agriculture was very important with the Seminoles. As the encroaching white world kept driving them farther and farther south, and away from the better agricultural lands and into the swamps, the Indians began abandoning agriculture. What they need now is a revival of this old practice. Two things are necessary to accomplish this. The first is to supply sufficient land for their present and future use. The second is to promote and sponsor a return to agriculture and to provide an agricultural agent to educate and aid them in this. There is no reason why they could not raise all the plant foods they need for domestic consumption and also derive a considerable revenue from the sale of vegetables and fruits. Commercial crops of that section of Florida are tomatoes, bell peppers, egg plants, beans, watermelons, corn and pumpkins. Most of these crops are not raised by the Seminoles at present. In order for them to raise cash crops they would have to be educated to raising these marketable products and also to improve their agricultural techniques so that the products would be of good quality and thereby find a ready market. The use of sprays is essential in this region in order to produce truck farm products of good quality and good appearance.

Oranges, grapefruit, mangoes, guavas and papayas can all be successfully cultivated here and would all be very valuable to the Indians both for domestic use and as cash crops. The Seminoles would have to be taught such essential horticultural practices as grafting, pruning, spraying and fertilizing in order for them to get desirable results in this industry.

Cattle raising, in the old days, was of major importance with the Seminoles. Due to continual trouble with the whites, the Indians

themselves decided to entirely abandon this industry in order to avoid trouble. They have been without cattle for a number of years now. A revival of this industry would be highly desirable, though it would require more land than is now set aside for the Indians. The Seminoles have a few hogs partly around the camps and partly running wild in the woods. They are mostly razor backs with little commercial value. Each settlement usually has a few chickens around it.

Any project designed to develop agriculture or stock raising among the Seminoles must give due consideration to the place of the clan in their life. It is impossible to mix the clans. Each economic unit must be composed exclusively of members of one clan. In a like manner, the Cow Creeks and Mikasukis will not cooperate in an economic enterprise. For practical purposes, each of the present day clan settlements form a natural economic unit. The easiest way to start an agricultural settlement would be to induce one person to try it and have him pick his own associates which he would do in perfect conformation to native custom. The community so formed would be partially communal in their economic life.

The importance of hunting and fishing has been declining steadily, and this trend will undoubtedly continue. As it is, gar fish are the only things upon which they can place any reasonable dependence. These are mostly speared in the canals. Turtles are fairly important during the dry season when it is fairly easy to get them.

The advantages of an Everglades National Park to the Indians would depend to a great extent upon the policies of the Park Department. The National Parks normally do not permit hunting and trapping. They would probably have no objections to the Indians fishing for gar and hunting turtles. Friction would probably arise, though, from the Indians hunting forbidden game. The Park Service would probably allow them to run cattle, raise hogs and practice agriculture. The presence of Indian Villages in the proposed park would undoubtedly be favored as a tourist attraction. It does not seem likely that the Indians would receive a great deal of employment from the park service. What they would get would little more than replace their present employment as hunting guides. The advantages and disadvantages of an Everglades National Park to the Seminoles will depend largely upon the Park Services' policies. It is more or less futile to consider this matter without knowing the policies of the Park Service and what they would allow the Indians to do and how much employment they could and would give.

The arts and crafts of the Seminoles have been increasing in importance. Their main market is the Tourists. These goods are wholesaled to stores or sold in their own exhibition village. The greatest demand is for dolls which are made of Palmetto fibre or carved out of wood and dressed in Seminole costumes. Miniature and models of canoes,

EXHIBIT 14-L

bows and arrows, etc., and beadwork are of minor importance. A little silversmithing is done, but only for their own use. Deaconess Beddell, of the Glades Cross Episcopal Mission at Everglades, has been doing a considerable amount of educational work along this line. She has been striving to get the Indians to improve the quality of their work as well as finding markets for it. One of the problems she has encountered has been the competition from cheap imitation Seminole artifacts. She has tried to combat this by sponsoring the use of a trademark on genuine Seminole artifacts attesting to their native manufacture. Up to the present time there has been nothing done to develop silversmithing among them. What needs to be done with their arts and crafts is to improve them and help the Seminoles expand their market.

The Miami exhibition camps are the great sore spots in the Seminole picture. The camps especially desire families with children. The Indians are given their food and a few dollars a week per family. They have nothing to do except to be looked at by the Tourists. Most of the cash they receive goes for liquor so that most of the nights are spent drinking. It is from these camps that most of the moral problems and venereal disease cases arise. They certainly offer a very unhealthy environment for the children to be brought up in. Two or three years of this loafing life with big city attractions makes the adults loath to take up a normal economic life again. The Seminoles are still too primitive to be in constant contact with a resort city like Miami without it doing them immeasurable harm. Part of the reason they go in these camps is on account of the increasing difficulty for them to make a living elsewhere. The camp owners use all manners of persuasion and threats to keep the Indians in the camps and prevent them from returning home. It is often necessary for them to sneak out of the camps in the middle of the night if they wish to leave.

EXHIBIT 14m

9

THE SUNDAY TIMES-UNION, JACKSONVILLE, FLORIDA, SUNDAY, FEBRUARY 23, 1936.

Roll Call Here

Photos by Grover Henley.

Miss King, vice chairman of and Horace C. Arey.

[illegible] Mrs. V. C. Carswell, ex[illegible] chairman Waite Adams, field representative of the was invited to assist in [illegible]ville campaign. She is a

[illegible]cksonville Beach, for the

[illegible]nd Mrs. P. H. DuPont re[illegible]rday to their home in Val[illegible]following a visit with Mrs. [illegible] mother, Mrs. S. W. Smith, [illegible]nville Beach.

[illegible]. G. Stallard has purchased [illegible]. Hughes house on the cor[illegible]ishking Avenue and South [illegible]ress. She is having some [illegible] made and remodeling [illegible]ory to moving in.

[illegible]ack Fladger of Jacksonville [illegible]s spending the week end [illegible]r husband in Tampa.

[illegible]se Drummond has gone to [illegible], Ga., due to the illness of [illegible]her there.

[illegible]nd Mrs. Jack Jones and [illegible] Jane have moved into the [illegible]nd Apartments on Willard [illegible] Jacksonville Beach.

[illegible]. F. Fuqua and daughters, [illegible]reve and Pearl, of Atlanta [illegible]ding some time at Jack[illegible] Beach, located at the [illegible]ons on Stephens Avenue.

[illegible]nd Mrs. C. D. Smith of [illegible], Ga., have returned to [illegible]me after a visit at Jack[illegible] Beach with relatives.

[illegible] Raymond J. Gomes of Jack-

Governor and Other High State Officials Journey Into 'Glades for Pow Wow

Chief Executive Greeted as First Since Jackson to Visit Indians; Meet Is Termed Success.

EVERGLADES, Feb. 22, (AP)—With the billowing smoke of signal fires heralding the coming of the "great man from Tallahassee", Gov. Dave Sholtz today journeyed deep into the heart of the Everglades for a pow wow with the Seminole Indians.

The Governor brought them a message of peace and helpfulness. The Seminoles responded in grateful acknowledgment, praising him as the first Governor of Florida since Andrew Jackson to pay them the honor of a visit. Their head men recalled that General Jackson came with torch and sword as a warrior for while Governor Sholtz appeared as a friend at the head of a caravan laden with supplies sent by Barron Collier, whose lands the Seminoles occupy.

Want to Be Left Alone.

The pow wow was a complete success. Governor Sholtz announced after it was over.

"The first plank in their platform", he said "is that they want to be let alone. I told them I wished everybody needing State aid would be that easy on us."

The pow wow was held on an island of pine deep in the swamp which the Indians call Big Cypress. Governor Sholtz was met at the canal which runs along the Tamiami Trail, separating it from the swamp.

Borne Upon Litter.

Head men of the tribe spoke a welcome. He was then escorted to a ceremonial litter made of cypress poles which Seminole braves lifted to their broad shoulders, when he was seated.

Ahead of him similarly conveyed, rode Doctor Tiger, acting chief of the tribe participating in today's party.

The cavalcade moved off into the Everglades followed by three members of the Governor's cabinet, Justice Glenn Terrell of the State Supreme Court, Chairman D. Graham Copeland and a long line of local officials and visitors.

Arriving at the camp which young men of the tribe had prepared the Governor and his cabinet members were escorted to an opening cleared in the pines, where further ceremonies of greeting took place.

Descendant of Warrior Speaks.

Corsey Osceola, a direct descendant of the great Seminole warrior of other days, Chief Osceola, was the chief spokesman. Just as his ancestor fought the white man in a standoff in his time, so Corsey Osceola today held his own in exchanging amity with the eloquent Governor.

Jaycees Plan To Take Hand In Campaign

Florida Organization Will Keep Close Watch on Candidates' Expenses.

TAMPA, Feb. 22, (AP)—More than 100 members of the Junior Chamber of Commerce from all parts of Florida voted unanimously at their mid-Winter conference here, today, to check closely on Florida candidates' political expenses, "to prevent creation of slush funds and bloc payments of poll taxes."

They acted after John W. McKay of Tampa, chairman of the election investigation committee of the local Junior Chamber, told of its program in "rooting out evils of Tampa politics."

The resolution to work for clean Florida politics was the principal business of the opening session of a two day conference.

The State organization adopted another resolution asking the Florida Legislature to create a State Advertising and Publicity Department to be financed with the "odd cent break" at race tracks, on pari mutuel betting, which now goes to the State.

W. O. Wallace, Miami, speaking for the resolution, explained the "break" consisted of the odd pennies, below 10, left in the wagering pools, after the money had been shared among the winning betters. There are usually from one to nine pennies over, after a pool has been divided, he said. The aggregate total at all Florida tracks last year totalled $180,000 he declared.

Asher Frank, State safety director, presented a certificate of merit to the Florida Junior Chamber from the Governor's Safety Committee for meritorious service in attempting to reduce accidents. He pointed out that it was the first award of its kind ever made.

Stanley Niehaus, Jacksonville, proposed a resolution urging a change in the State gas tax law to make it a consumers' tax instead of a tax on manufacturers, so it would be deductible on income tax returns.

Roy Brenton, Daytona Beach, State Treasurer, urged a campaign for the sale of "Florida—All Year" stamps to advertise the State and to build a fund for an advertising campaign next Fall.

J. M. Milligan, Orlando, State president, presided at the conference which represented 22 Junior Chambers throughout Florida.

Johnson Arm Hurls

Garden Clubs

Women of the Federated Circles shown above planting trees in Bo observance of Arbor Day and also George Washington's birthday Mo trees were planted in the park in Mrs. Linwood Jeffreys, Federation the program committee includes

Washington's time compared to today's 372. The New Yorker s Johnson this telegram:

"Congratulations Walter. Step er in Washington on your trip ho and let's celebrate. I sincerely be that my dollar is the dollar that did the trick."

Indiana Man Is Held in Probe of Fatal Accid

NAPLES, Feb. 22, (AP)—Chief of lice Cale Jones said tonight that mer Waltz of South Bend, Ind., being held pending investigation an automobile accident in which negress was killed.

Waltz's car sideswiped a tr driven by R. L. Southerland, produce dealer of Waurbuta, on Tamiami Trail, Jones said. negroes were riding in the tru which careened from the road submerged in a drainage canal.

All escaped except the wom Rosalee Johnson of Fort Myers, drowned. Waltz was apprehend in Fort Myers and held there, Jo said.

ROBERT L. CARUTHERS

LEESBURG, Feb. 22.—Fune services were held at Oak Gr Church, for Robert L. Caruth cattleman and farmer of the W wood section, who died at his hom Wednesday evening. The Rev. C. Boatright officiated. Mr. Caruthers is survived by three sons, Ogelet Caruthers, John Caruthers, and E. Caruthers, and by one daugh Miss Annie Caruthers, all of W wood.

PIE CREDITED FOR LONGEVI PASADENA, Calif. (CP)—Mrs.

EXHIBIT 15a

...TIMES-UNION, J...SONVILLE, FLORIDA, SUNDA... FEBRUARY 25, 1934.

...Beach, for the

...Mrs. F. M. DuPont re-...yrday to their home in Val-...following a visit with Mrs. ...'s mother, Mrs. S. W. Smith, ...sonville Beach.

...F. G. Stallard has purchased ...d. Hughes house on the cor-...Sunking Avenue and South ...treet. She is having some ... made and remodeling ...tory to moving in.

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...nd Mrs. C. D. Smith of ..., Ga., have returned to ...me after a visit at Jack-...Beach with relatives.

...Raymond J. Gomes of Jack-...will conduct services at the ...nglish Church today.

...I guess coming recently to ...ville Beach for an indefi-...are: Mrs. Joseph A. Smith ... Bobby of Fertin, Ill.; Mr. ...h. Jones Barrows and son ... of Fort Pierce, Fla. They ...ated at the Wisteria on ...Avenue.

...nd Mrs. F. Avery of Jack-...have moved into the Doliy ...tle on North Pine Street, ...ville Beach, for the year.

...ben A. Mayer and daugh-...red Ann are confined to ...me on Griffin Avenue, ...ville Beach, with influenza, ...will regret to learn.

...d Mrs. Louis C. Wrenn of ...ille have purchased the ... cottage on South Second ...Jacksonville Beach. They ...a yesterday.

...nd Mrs. J. W. Greenawalt ...ne Beach are entertaining ...chill supper tonight. Their ...ill include: Mr. and Mrs. ...ns, Mr. and Mrs. Bryce ...of Jacksonville and Mr. ... B. Hooper.

...d Mrs. H. E. Sutherland ...ther Miss Janet have come ...m Jacksonville to make ...h their permanent home. ... in their newly completed ...t house on Willard Ave-...

...uth West Smith and little ... Carolyn of Douglas Ga., ...of Mrs. D. W. Smith on ... Avenue, Jacksonville ...

... and Mrs. Gene Zapp have as ...

...would be that easy on us."

The pow wow was held on an island 2' pine deep, in the swamp which Indians call Big Cypress. Governor Sholtz was met at the canal which runs along the Tamiami Trail, separating it from the swamp.

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Corey proudly pointed to a big sign painted by a kinsman, Mac Osceola, as an example of the knowledge of his people in the arts and crafts. The sign neatly lettered, read "Welcome Governor Sholtz. He's our Dave, too."

After the introductions some 30 of the young men and women of the tribe performed one of the dances of their Sun Dance festival. Then the head men, they do not call themselves chiefs, moved with the Governor, Secretary of State R. A. Gray, Attorney General Landis, Nathan Mayo, Commissioner of Agriculture, and Justice Terrell, to a palmetto thatched council wigwam, for the pow wow.

Newspapermen Barred.

Newspaper men and all other whites were barred, though later Stanley Hanson, known as a White Medicine Man of the Seminoles and C. B. White, a Miami lawyer, who represents some of the tribes as counsel, were called in as witnesses of the pact which the Seminole leaders and the State Administration, verbally agreed.

"They want to be left alone," said Governor Sholtz after the pow wow. "They are afraid they will again be moved from the villages which they occupy deep in the Everglades. They say they fear the white men will keep on moving them until they are in the water. That was the expression they used.

"I told them they could depend on the State Administration to defend their rights and do what we can for them. They are a sturdy self reliant people. They did not ask for relief or aid of any kind, just to be left alone."

The governor and his party came here from Fort Myers, accompanied by a motorcycle patrol escort which really impressed the Seminoles. They are themselves motor-...enthusiasts and ...Department to be financed with the "odd cent break" at race tracks, on part mutuel betting, which ...ew goes to the State.

W. O. Wallace, Miami, speaking for the resolution, explained the "break" consisted of the odd pennies below 10, left in the wagering pools, after the money had been shared among the winning betters. There are usually from one to nine pennies over, after a pool has been divided, he said. The aggregate total at all Florida tracks last year totalled $360,000 he declared.

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Johnson Arm Hurls Dollar Across River

Continued from Page 1

graved a special new dollar with the tidings that it had sailed across the river on Washington's birthday under propulsion of the mighty Walter himself. This engraving violated the law against mutilation of coins, but the civic leaders insisted that Walter throw it, so that history could be recorded properly.

The obliging Johnson took off his coat again and sent the engraved dollar across. Thereafter he admitted confidentially that there had been some slight skullduggery in connection with the proceedings.

While everybody else this morning was watching officials plant cherry trees, in case any future imitators of Washington might want to chop them, Walter was on the river bank. There in private he sent seven dollars sailing across and pronounced the feat an easy one.

This burst of confidence prompted still another confession on the part of Ben Pitts, the civic booster who organized the whole show. He admitted that the river was only 272 feet wide, instead of 373 as previously advertised.

"We thought the folks around the country would be more interested if we told 'em the river was good and wide," Pitts said. "But a lot of folks came here today and a lot more read about Fredericksburg, the prettiest little city in the South. That's what we wanted. We got what we wanted. Now I guess we can tell the truth."

Storm Pinned.

WASHINGTON, Feb. 25. (AP)—

...er in Washington on your trip home and let's celebrate. I sincerely hope that my dollar is the dollar that did the trick."

Indiana Man Is Held in Probe of Fatal Accident

NAPLES, Feb. 25. (AP)—Chief of Police Cale Jones said tonight that Elmer Waltz of South Bend, Ind., was being held pending investigation of an automobile accident in which a negress was killed.

Waltz's car sideswiped a truck driven by R. L. Southerland, produce dealer of Waucheula, on the Tamiami Trail, Jones said. Six negroes were riding in the truck which careened from the road and submerged in a drainage canal.

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ROBERT L. CARUTHERS

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PIE CREDITED FOR LONGEVITY

PASADENA, Calif., (UP)—Mrs. Asa Louisa Seymour Cronk, the city's only centenarian sexagenarian, [illegible] longevity to sleep and pumpkin pie. She was born at Tug Hill, West Martinsburg, N. Y., January 27, 1834.

High Springs

HIGH SPRINGS, Feb. 25.—(SPL)—Quitman McDougal entertained the members of her bridge club, at her home, Wednesday afternoon, with three tables in play. Spring flowers decorated the living room, and at the close of the games, Mrs. A. M. Hill, more received the prize for high score. Miss Hilmer Whitlock was a guest.

Miss Anna Louise Smith was hostess to the members of the Woof Evening Bridge Club and additional guests, at her home, Wednesday evening. The living room was decorated for the occasion, with potted plants and vases of narcissi. At the conclusion of five progressions of contract, it was found that Mrs. Paul Smith held high score for the club, while Mrs. A. M. Hilmer held high among the guests. Both were recipients of prizes. Guests, other than club members, were: Mrs. E. Moore, Mrs. Ed Bird, Mrs. Hunt and Miss Hilmer Whitlock.

Circles Meet.

The Dorcas Circle of the Methodist Church met with Mrs T. P. Andrews, Tuesday afternoon, with the circle leader, Mrs. D. A. Thomas, presiding. Business was discussed and plans made for a busy year, with all members enthusiastic. A jolly half hour was spent during which two contests were pronounced, Mrs. E. C. Hall reporting the prize. Eleven members were present.

Mrs. S. M. Starns and Mrs. A. M. Singletary were hostesses to members of their circle of the Methodist Church, at their home, Tuesday afternoon, in the absence of the circle leader, Mrs. Charles Herndon. Mrs. S. M. Starns [illegible] leader, presided. Mrs. Herndon's resignation as circle leader was read and Mrs. H. L. Donnally was elected in her place, with Mrs. Small as assistant. Mrs. S. M. Starns led the devotional service.

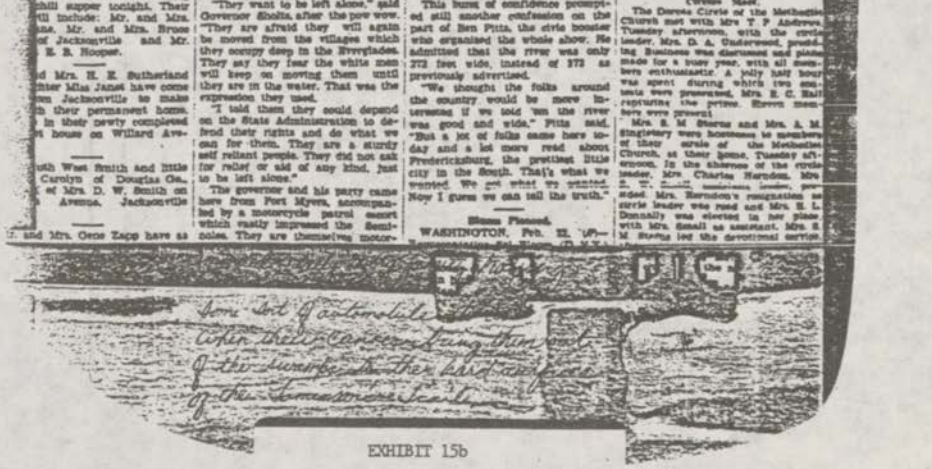


EXHIBIT 15b

Marker to Commemorate Indian Message: 'Get Lost'

Just leave us alone. Go peddle your papers. Forget it.

Or, as the Seminoles would say, "pohoan checkish."

That's exactly what the Seminoles did say to the white man 40 years ago and to commemorate the occasion the Collier County Historical Society and the state are about to place an historical marker on a pine hammock along Tamiani Trail where the Indians told state and local officials to get lost.

The new green plaque will be located one mile west of Monroe Station, on the south side of the Trail just across from where a similar plaque was stolen about 10 years ago.

"This new marker will be better protected," said George Huntoon, president of the historical society. "We were worried about devastators knocking it down with their four-wheel vehicles or shooting at it."

The unusual meeting that occurred with about 275 Seminoles 40 years ago was called by David Sholtz, Florida's New Deal governor.

"The Seminoles were asked, 'What could the white man do to help them,' " said Huntoon. "There was a lot of talking between themselves before the answer came back — 'pohoan checkish.' "

"In other words, 'Get lost, leave us alone.' "

"At that time the Seminoles were still officially at war with the U.S. Government, and would only work on public projects that were funded by the county or the state," said Huntoon.

Huntoon hopes to have the plaque honoring Seminole resistance in place by early next year, informing passing motorists of one of the shortest negotiating sessions on record.

— FRANK DAVIES / Miami Herald Bureau

Marker Recalls Meeting With Seminoles

...original one was stolen 10 years ago

EXHIBIT 15c

S-93 (C O P Y)

Washington, D. C.

February 28, 1936

17836

~~17288~~

His Excellency
Governor of Florida
The Capitol
Tallahassee, Florida

Dear Governor Dave:

This refers to a newspaper report of your visit with the Seminoles, accompanied by members of your cabinet and several notable citizens. The Seminoles, guided by Dr. Tiger and Cory Osceola as spokesman, certainly gave you and party a royal welcome. This event will go far toward establishing a better understanding among all concerned. We all want to be friends and help each other.

Do our Seminole brothers understand that with the Everglades National Park established, a big territory next to the Park is being planned for them wherein they will be "left alone", and within which they will have exclusive hunting rights? Also, that if they wish to work there will be plenty of it for them as guides in the Park, as well as the opportunity to sell to Park tourists the articles made by them? All the game that goes to the North from the Park will go into the Seminole's territory and will be his to hunt. He will "be left alone" to do as he pleases, and that is what he wants and is entitled to. As it is now, everybody hunts everywhere and the Seminole has no place that he can call his own and where other people stay out.

No other Governor has had as good a chance to help the Seminole as you have. The Everglades National Park and the Seminole interests are side by side.

Many thanks for your recent letter with its friendly assurances.

Sincerely yours,

Ernest F. Coe
Executive Chairman
Everglades National Park Commission

EXHIBIT 15d

STATE OF FLORIDA
EXECUTIVE DEPARTMENT
TALLAHASSEE

February
26th
1936.

25698

Honorable Harold L. Ickes,
Secretary of the Interior,
Washington, D. C.

PERSONAL.

My dear Mr. Ickes:

Last Saturday on Washington's birthday, I visited representatives of the three Seminole Indian tribes in the heart of the Everglades. The meeting had been prearranged for me by the officials of the counties in which these Indians live.

There were approximately two hundred fifty of them there, including all of the real leaders. After the formalities had been complied with and the Press and motion picture business all completed, the place was cleared and the leaders of the tribes, the members of my Cabinet and myself conferred.

I wish to offer you a summary of the conference, believing that it will be helpful to your Commissioner of Indian Affairs.

1st. So far as the State of Florida is concerned, the Seminoles wish to be "left alone" - that is, they wish to be permitted to range anywheres over the present Everglades territory without being confined to a reservation.

2nd. They wish the Everglades National Park limits to be so set up as to not interfere with their present territorial run.

3rd. They do not wish us to furnish any schools, believing in their own system of education.

EXHIBIT 16a

4th. The Seminoles want an Indian Agent, but one who understands their problems and one whom they could trust.

There was an underlying feeling amongst these people that they had not been given much consideration, as the one or two representatives heretofore sent to them knew little, if anything, about them that was helpful. It was most interesting also to be advised, and I think you ought to know, that the inference was clearly given that the meeting with the Seminoles at Palm Beach was a "staged affair" without your knowledge and the true desires of the Seminoles never made known through their real leaders.

This letter could be made very lengthy, but there is no necessity for that. The entire Cabinet of the State of Florida joins me in recommending to you and urging the appointment of Mr. Stanley Hanson of Fort Myers as Indian Agent. He is one of the few white men who understands their language and can speak it. His family and parents before him have always been highly respected and trusted by the Seminoles. I have personally had Mr. Hanson thoroughly checked and we are all convinced that an Agent should be appointed and to get the best results, Mr. Hanson should be at least given temporary appointment as Indian Agent, although I am personally convinced his appointment should be made permanent.

We were all very much impressed with these people and feel they are entitled to some real consideration. We volunteer our services in a cooperative spirit and urge early consideration.

With assurances of highest respect and esteem,

Very sincerely yours,

DS-g

EXHIBIT 16b

MAR 20 1936

Hon. David Sholtz,
Governor, State of Florida,
Tallahassee, Florida.

My dear Governor Sholtz:

I am very glad to have your letter of February 28. Your visit to the Seminoles within their own Everglades must have been very encouraging to them.

I note several points in your letter, and I comment briefly upon each of them.

1st. I would, of course, want to see the Seminoles allowed to range over the widest possible area. However, it was my impression from a visit to the Everglades, and it is my information, that drainage has diminished them and will further diminish them, and that the absence of game control has resulted in a great depletion of game upon which the Seminoles depend. It would seem to me that in addition to whatever outside range privileges the Seminoles might have, it would be desirable, if possible, for them to have the exclusive use of a considerable area, and I would wish to see the game within that area protected from white sportsmen and commercial hunters and trappers. In addition, the Seminoles need tracts which they can farm. Their ancient tradition was in part a farming tradition.

2nd. As I stated to the Seminoles when I was in Florida, it is my hope that the Everglades National Park plan may be worked out in such a manner as to give to the Seminoles privileges within the park.

3rd. I am satisfied that it would be unwise to force a school upon the Seminoles. It has not been my policy to do this. At the same time, those who want schooling should be given the opportunity, I believe.

EXHIBIT 17a

4th. I do not doubt that the meeting held at West Palm Beach was, as you remark, a "staged affair". It is equally true, however, that large numbers of Seminoles were present; and the petition which they delivered to me impressed me as being a dignified and well thought-out plea for those things which the Seminoles desire. I regretted the effort that was made, after that meeting, to discredit the Indians' petition. I do not know whether my information is correct, to the effect that Mr. Hanson, whom you mention, was a leading factor in that effort.

It certainly is my purpose to furnish the Seminoles with a competent superintendent. The present superintendent, recently appointed, Mr. Francis J. Scott, has had a fairly wide and successful experience with Indians. If he proves not to be adequate for the needs of the Seminoles, I shall replace him. The law requires that Indian Service superintendencies be filled from the civil service register.

I repeat that I am very glad indeed to have your letter. The Seminoles represent a valuable element in the life of Florida and indeed in the whole Southeast. With cooperation between you and the Federal agencies, a better situation should become possible.

Sincerely yours,

Harold L. Ickes

Secretary of the Interior.

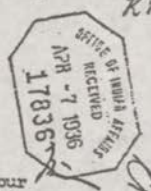
EXHIBIT 17b

62519-35

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
FIELD SERVICE

60353-31-313
Seminole
KM

Seminole Agency
Dania, Florida
April 4, 1936.



Commissioner of Indian Affairs
Washington, D. C.

My dear Mr. Commissioner:

Comm L-a.

It is presumed that the files of your office will show it is proposed to establish what is to be known as the Everglades National Park in the southern portion of Florida. It is also presumed that your files will show why some of the persons interested in the establishment of this park believe that its establishment will bring about great benefits to the Seminole Indians of Florida. It is possible that the establishment of such park would cause some benefits to accrue to these Indians, but for your information, I wish to respectfully bring to your attention some decided disadvantages to the Seminole Indians that would result from its establishment.

Changed to Trans 12-21-36

After its establishment, a large area of the hunting grounds now available to these Indians would be absolutely closed to them for hunting purposes, which would mean that their hunting grounds would be materially reduced if not almost entirely eliminated.

Its establishment would also mean that all of the Indians now living on or near that portion of the Tamiami Trail which will be included within the park area as now proposed, will be required to abandon their camps, settlements and gardens, and be forced back into the forbidding, deep everglades. The present plans indicate that noone will be permitted to maintain a home within the boundaries of the park and that noone will be permitted to hunt within the park area. As I see it this would cause great hardship on those Indians who have already established homes or camps within the park area, and who are now permitted to hunt without much restriction in that area which will be included in the new park.

EXHIBIT 18a

Commissioner:

I am looking at this from the Indian viewpoint, and know that the Indians will protest most bitterly when they discover that it will be necessary for them to give up a large part of the hunting grounds now used by them, and to give up camp sites and garden patches that might be located within the restricted area. Under the plan now being worked out the park is to take over the 99,200 acres of land in Monroe County set aside for the Indians by the State, many years ago, and to set aside an equal or larger area for the same purpose on the north boundary of the new park area.

The theoretical supposition is that the overflow of game from the restricted park area will in some mysterious manner go to the area set aside for the Indians, there to be slaughtered by the Indians exclusively. In my opinion, this is a pipe dream of those who are not familiar with the developments that would really take place, or have considered it necessary to evolve a fanciful idea that would have an appeal to those who might be interested in the Indians. To begin with, anyone familiar with wild life knows that the flow of wild life is not from a restricted area to an unrestricted area, but quite the reverse, and even though there should be a flow of game from the restricted park area to the area within which, in theory, the Indian had the exclusive hunting privilege, who would police the borders of this unrestricted area to see that none of the hundreds of tourist and local hunters would not invade the hunting grounds of the Indians.

It has also been contended that the Indians might look forward to a happy and prosperous future after the establishment of the park because of the great revenue he would derive from tourists for guiding them through the remote areas of the park. It is not possible for me to see how the Indians would be available to the tourists as guides if they were pushed far back off the trail into the deep swamps that have not been penetrated by roads. Then, too, the tourists that might visit the park, would do so during the tourist season which usually lasts about four or five months of the year. With the Indians pushed back off the trail where they would be inaccessible to tourists and with a large part of their hunting grounds taken away from them,

Commissioner:

I cannot see how the development of the park will work out to any advantage to the Indian, but rather to his decided disadvantage.

As you know the Seminole of Florida has been pushed about from place to place for the past century and if he is to be pushed again into a forbidding wilderness with his hunting grounds greatly reduced, I only have to say that their predicament is going to be most serious. These are my present views on the subject and are being presented to you for what they may be worth.

Very respectfully,

F. J. SCOTT,
Superintendent.

PJS ff

EXHIBIT 18c

C O P Y

STATE OF FLORIDA
EXECUTIVE DEPARTMENT
TALLAHASSEE

DAVID SHOLTZ
GOVERNOR

April
14th
19 36

Honorable Ernest Coe,
Everglades National Park Commission,
Court House Building,
Miami, Florida.

My dear Ernest:

You will recall that some time in February the cabinet and myself held a conference with the Seminole Indians, after which I wrote Secretary Ickes. This morning I have had a conference with Mr. Scott, who is the Seminole Agent in charge for the Department of Interior.

Naturally, I am very anxious to see the fullest possible cooperation between the Everglades Park Commission and the Department of Interior, and every concession possible should be given to the Seminoles in the territory. As a matter of fact, in my judgment, it would add great color if they remained in the confines of the park area and, of course, were permitted also to do the hunting necessary for existence in the territory. I believe they would be willing to limit this north of the trail as to the hunting and living, but I am sure that a common sense arrangement can be worked out which will satisfy the Indian Department and at the same time show a cooperative spirit on the part of the State and your Commission.

I have no doubt you will have a further conference with Mr. Scott at an early date. Mr. Scott has been assured the full cooperation of the State Authorities in bringing about a reasonable and sensible solution to this particular problem.

With all good wishes,

Very sincerely yours,

Dave Sholtz

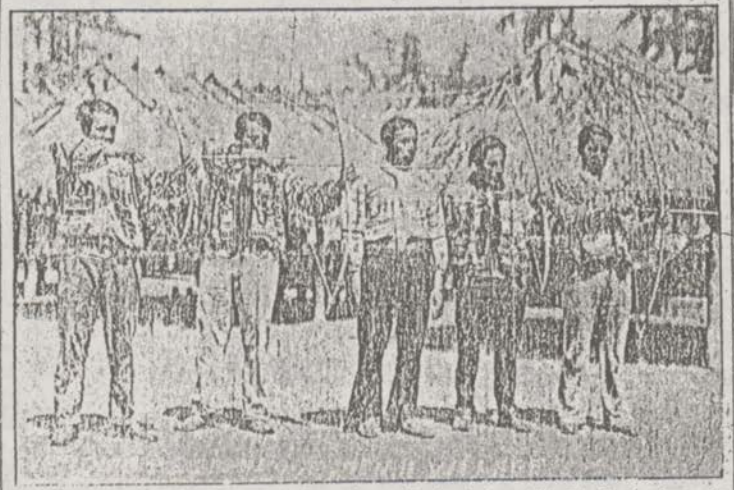
DS-g

EXHIBIT 19

FORT MYERS NEWS - PRE

ear. FORT MYERS, FLA., SUNDAY MORNING, APRIL 11, 1937

Seminoles Prepare to Fight Eviction From Glades Park



Big Chief Josie Billy, center, critically watches and instructs four of his Big Cypress braves in target practice with the bow and arrow. With the Seminoles threatening to fight rather than move out of the Everglades to make way for a national park, archery practice among the braves takes on a new significance.

Rumblings of revolt came out of the Everglades last night from Seminole tribesmen who declared they would again take up arms against the United States government if forced out of their last happy hunting ground—the proposed new Everglades national park.

The park is to be a sanctuary for wildlife and because the Seminoles are exempt from fish and game laws they are to be ejected from their homes in the Big Cypress swamp country. For them the government has provided reservations of 100,800 acres in Broward and 30,000 acres more north of Lake Okeechobee.

But the Seminoles do not intend to move. Driven into the swamp country a hundred years ago in the last of the bloody wars with the whites, they have learned to love the Everglades. Once more they are willing to renew the [illegible] their homes and lands.

Plea From Chief

Chief Josie Billy, ranking leader whose word is almost law to the 350 Seminoles of the swamps, joined a plea for his people with the threat of uprising.

"You know how white men drove Seminoles all the way from Georgia into the swamps," said the swarthy, middle-aged chief. "Now they want to drive us out. We don't want to fight but we don't want to move and we fight before we go."

Stoical Jimmy Billy, a youthful member of the Seminole council, said shortly "we say nothing but if white man try to move us we fight." He quoted Ingram Billy, second to Josie Billy in authority but unversed in the white man's tongue, as saying "we fight before we move." This is the decision of the council, Jimmy Billy said, with the full approval of the tribe.

Peace Pact Farce

Alarmed by repeated rumors that they were to be kicked out of the swamps, the council called a special executive session. From this pow-wow they emerged with a six-point pronouncement of policy. Of warlike significance was the fact that they went out of their way to brand as a farce the peace pact formulated a year ago at West Palm Beach between Secretary of the Interior Harold Ickes and several Seminoles.

The Seminoles take especial pride in the fact that they never swore allegiance nor signed a peace treaty with Uncle Sam and consider themselves still unconquered although most of them were killed or deported to Okla-

(Continued on Page Two)

EXHIBIT 20a

202

has served for 30 years as Episcopal missionary to the Indians—24 years in the West and [illegible] years in the swamps. With headquarters at Everglades City, she spends her time trekking from one camp to another to minister to both the spiritual and physical needs of the Seminoles.

Souvenir Industry

It was the deaconness who helped the Seminoles to establish a meager income from the making and selling of souvenir dolls, costumes and carvings. She places their products where they can be sold and turns over the entire proceeds to the Indians. Under her tuteluge the Seminoles have vastly improved in their ability at turning out the souvenirs.

Nobody expects the Seminoles to move and it is equally improbable that the government would send soldiers into the Everglades to herd them onto reservations at bayonet point. But if Uncle Sam should accept the challenge he might find the subjection of the pitiful remnant of a once proud tribe no easy matter.

The Everglades park area comprises an empire of some 2,000 square miles, much of it sunken swamps of giant cypress. There are hundreds of miles of interlocking waterways, much of them unnavigable for craft larger than the dugout canoes used by the Seminoles. Hummocks and islands in these swamps are tangles of undergrowth, saw palmetto, creepers and cabbage palm beneath the thickly growing cypresses.

Warfare Machines Lost

In this tropic jungle land the hefty machinery of modern warfare would find the going difficult indeed. Bombing plane pilots would need sharp eyes to discover the dusky warriors lurking beneath the canopied foliage of the crafty foe, familiar with every foot of the vast tract.

Deer, turkey and fish would provide the Indians with plenty of the same fare to which they have always been accustomed. The Seminole is still adept in the use of the bow and arrow—in fact relies on them for much of his hunting—and would not be deterred by lack of guns and ammunition.

Their hunting bows are six-foot staves and their yard-long arrows are tipped with wicked barbs of hammered metal or carved bone—a silent and deadly weapon in the hands of a husky brave striking from ambush. The Seminoles could be expected to fight in traditional Indian style—a flurry of shots and arrows from ambuscade and then a retreat to a new vantage point with scant chance of open battle. The more than 100 warriors which the swamp Seminoles could muster might exact a considerable toll before they were wiped out.

One horror of Indian warfare

SEMINOLES GET READY TO FIGHT WITH FEDERALS

[Continued from Page One]

bonus reservations in the wars of the 1830's. The government quit fighting first after the loss of some 2,000 soldiers and with the Seminoles driven into the impenetrable Everglades.

The council condemned the West Palm Beach pact as "no good", and added the notation that none of the real Seminole leaders would have anything to do with it or attend the ceremonies. Their next declaration was that they would not willingly go on reservations. Furthermore they intend to keep their trading camps along the Tamiami Trail and demanded the right to market the souvenirs which they make. Another demand was the right to maintain a camp near some town where they can get the services of a doctor. They are willing to serve as guides in the new park as proposed in the project.

Park Director Informed

Members of the council, called together by signal fires and Indian runners, are Chief Josie Billy, Ingram Billy, Jimmy Billy, Cory Osceola, Cufney Tiger, Billy Motlng and William McKinley. Their stand was relayed to Ernest F. Coe, director of the Everglades National Park association, at his office in Miami.

Although taking no part or sides in the controversy, Deaconness Harriet M. Bedell of Everglades

EXHIBIT 20b

y 10, 1938.

Mr. J. C. Finney,
Attorney at Law,
Mills Building,
Washington, D. C.

Dear Judge Finney:

By reference from the Office of Indian Affairs, I have received for further reply, your letter of March 22, concerning the future status of the Seminole Indians in the Everglades National Park Project of southern Florida.

Commissioner Collier's reply of May 4 expressed the hope that the Indians may remain in the park area after establishment and be able to obtain employment as guides. On May 5, 1936, we advised the Office of Indian Affairs that:

> "We have no intention of moving the Indians bodily from the area which they now find profitable; we are not ready to say that their hunting privileges will be abrogated; and we do not feel that the employment they might receive in connection with park development and administration would be ... insignificant ..."

Since that time no reason has developed for changing our position regarding the Seminoles. They know the waterways of the Everglades better perhaps than any other people, and some of them could probably be placed as boat guides, or in other capacities, after establishment of the park. With the additional travel to the region that establishment of the park would undoubtedly bring, the native arts of the Seminoles might be developed to a point of considerable economic importance.

As indicated in Commissioner Collier's letter of May 4, the Indians never made any substantial use of the old state reserve south of the Tamiami Trail, which is the only part of their former reservation included in the park project. It is our belief that the proposed park offers a favorable outlook for the Seminoles along economic lines. Our future plans will be closely coordinated

EXHIBIT 21a

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

with the policies of the Office of Indian Affairs in order that they may be formulated with due consideration for the interest of the Indians.

Sincerely yours,

(SGD) A. E. DEMARAY
A. E. Demaray,
Acting Director.

cc: Commissioner Collier

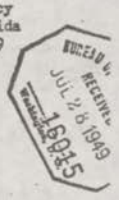
EXHIBIT 21b

25-417 0 - 78 - 14

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

Land Division-Claims
2329-49

FIELD SERVICE Seminole Indian Agency
Fort Myers, Florida
July 26, 1949



Commissioner of Indian Affairs
New Interior Building
Washington 25, D. C.

Dear Sir:

This will refer to your letter of March 23, concerning the execution of an attorney contract with the Seminole Indians of Florida and by John O. Jackson of Jacksonville, Florida, for the prosecution of Tribal claims against the United States.

I am today transmitting herewith four (4) copies of the executed contract, signed by 12 members of the Seminoles, all duly elected representatives of the three reservations, Brighton, Big Cypress and Dania.

Brighton Reservation is represented by Frank Shore, Jack Smith and John Henry Gopher, present Trustees. Big Cypress Reservation is represented by Morgan Smith, Junior Cypress and Jimmy Cypress, present Trustees. Dania Reservation is represented by Sammy Tommie, Ben Tommie and Bill Osceola, who act as a Business Committee. Seminole Tribe Trustees who signed their names are Josie Billie, John Cypress and Little Charlie Micco.

Some question may arise as to the right the Big Cypress Trustees have to represent the Southern Seminoles (Miccosukees) who reside along the Tamiami Trail and in Miami, and who number approximately 150. I understand that none of the Trail Indians attended the meetings, however, the opinion of the Seminoles who signed the contract indicated that they felt they were representing more than seventy-five percent (75) of the Seminole population. The reason I mention this point is due to the fact that the Trail Indians have kept to themselves and have not wanted to move to any of the three reservations or to participate in any of the Government activities, although they do accept our health services and general advice on state and county matters. Several of these families residing along the Trail look to Mr. O. B. White, attorney, of Miami, Florida, for legal advice on some of their personal matters, and it is just possible this group might wish to contest the contract.

I have been informed by good authority that the qualifications and general reputation of Mr. John O. Jackson and Mr. Roger J. Waybright is generally good. I have made inquiries about the men locally, and the attached letter from Circuit Judge, Claude Ogilbie, Jacksonville, Florida, will furnish additional information.

At the time of the initial meeting of the Indians with Mr. John O. Jackson in Okeechobee, Florida, on February 5, 1949, I was in Texas in the

EXHIBIT 22a

interests of the Seminole Cattle Enterprises and I requested that William D. Boehmer, Teacher, represent me at the meeting. Copy of his letter on the meeting of February 5, is attached. No minutes of the meeting were taken as provided for in Section 15.7, Part 15, Title 25 C. F. R.

I trust that this letter and report on the proposed contract between the Seminole Indians of Florida and John O. Jackson and Roger J. Waybright, Attorneys of Jacksonville, Florida, furnishes the necessary information in a matter of this type.

In behalf of the tribal trustees and upon their approval, I recommend that the attached contract be approved.

Sincerely yours,

Kenneth A. Mammon
Superintendent

KAM/em

Attachments:
1. Four copies Resolution signed by Tribal Officers
2. Four copies of Contract signed by Tribal Officers and attorneys with certifications.
3. Two photostatic copies of John O. Jackson's appointment by the Seminoles as Good-will Ambassador to members of the Florida legislature.
4. Copy of letter from Mr. Boehmer
5. Letter from Circuit Judge Mr. Ogilbie.

EXHIBIT 22b

Seminole Indian Agency
Fort Myers, Florida

I, Kenneth A. Marmon, Superintendent of the Seminole Agency, Fort Myers, Florida, do hereby certify that I have personally investi- the manner in which the proposed Contract between the Seminole Indians of Florida and John O. Jackson and Roger J. Waybright of the firm of Waybright & Waybright of Jacksonville, Florida, has been accomplished. It is my opinion that the documents have been properly executed and in the best interests of the Seminoles of Florida in the prosecution of their claims against the United States of America for filing before the Indian Claim Commission. I further certify that to the best of my knowledge the majority of 773 Seminoles were given notice of a general council meeting for the purpose of entering into a Contract as provided by law. It is further certified that the twelve (12) Seminole Indians who have signed their names to the proposed Contract are recorded on the Seminole Agency census rolls as being members of the Seminoles of Florida, and that all are duly elected members of Trustees on the Brighton Reservation, the Big Cypress Reservation and of the Dania Reservation, Florida.

In testimony whereof, I hereunto subscribe my name as Superintendent of the Seminole Indian Agency, Fort Myers, Florida.

(Sgd) _____
Kenneth A. Marmon, Superintendent

WITNESS:

(Sgd) _____
L. A. Williams, Chief Clerk

Bur. Ind. Affairs Copy
Affid 1/6/50

JAJ
1/7/50

EXHIBIT 22c

Excerpts from

TRIBAL ORGANIZATION RECORDS
Commissioner of Indian Affairs

Kenneth Harmon's letter of February 8, 1950, to Commissioner of Indian Affairs, reading as follows:

"In reply to your letter of February 2nd, 1950, we are submitting office records of Tribal Officers as of January 1, 1950.

It will be noted that we now operate through TRUSTEES elected by members of the two large reservations. The Brighton Reservation comprised of Cow Creeks is represented by three trustees as indicated on attached sheet also the Big Cypress Reservation Seminoles comprised of Miccosukies. The Seminole Tribe Trustees as indicated under remarks on attached sheet are elected as follows: One trustee each by Brighton and Big Cypress Reservations Trustees and the third member appointed by the Superintendent of the Agency. The Seminole Tribe Trustees serve a term of two years * * *

This office does not come in contact too much with the Tamiami Trail Organization. However, when problems occur or when meetings are necessary to discuss problems with this group, the following members are recognized by this office as comprising the Tamiami Trail Council group: Cory Osceola, Wm. McKinley Osceola, John Osceola, Ingram Billie, Frank Charles and Jimmie Billie."

The foregoing letter is signed by Kenneth Harmon.

EXHIBIT 23

COPY

O. B. WHITE
Attorney at Law
46 N. W. First Street
Miami 32, Florida

August 1, 1950

Mr. John O. Jackson
Smith Building
Jacksonville, Florida
and Messrs. Waybright and Waybright
Law Exchange Building
Jacksonville, Florida

Gentlemen:

For the past twenty years I have represented the Seminole Indians in Palm Beach, Broward, Dade, Monroe and Collier Counties, and recently learned that the Indians at Brighton, Florida, entered into a purported contract with your firm on October 15, 1949.

The certificate of the Indian Agent, which I have examined, is not factually correct as great secrecy seems to have been indulged in between the signatories to your contract, as well as on the part of the Indian Agent, and failure to notify the non-reservation Indians as to the pow-wow held at Brighton on the dates mentioned in your contract, and, of course, the group that I represent is dissatisfied due to the fact that they had attempted for three years to get the Brighton Indians into a general meeting for the purpose of prosecuting Seminole Indian claims.

Recently, however, when the information finally reached the nonreservation Indians, they held a pow-wow (or conference, we would term it) at Turner's River four weeks ago, and even at that time several Indians from the Brighton reservation and also from the Mocolee attended, and there was a complete silence, and in fact, active concealment of the fact that the Brighton Indians had entered into a contract with your firm to prosecute Seminole Indian claims.

Due to my age, condition of health, etc., I have counselled and advised the Indians whom I have heretofore represented, that we should first inform ourselves as to the progress that you have made since October 15, 1949, as to the nature of claims which you propose to present and the extent of the valuations of the claims and basis therefor.

In view of the foregoing, the nonreservation Indians have in the last two weeks agreed with the Brighton Indians that they would hold a pow-wow at Okeechobee City commencing at 9:00 A. M. on the 12th day of August, 1950, for the purpose of reviewing the matter and conferring with you gentlemen, and also to discuss at that time thepertinent matters relating to Seminole Indian claims in the State of Florida, and it is respectfully requested on behalf of both the Brighton Indians and non-reservation Indians whom I represent, that you gentlemen meet the representatives of all the groups at Okeechobee City at the time above stated.

EXHIBIT 24a

If agreeable to you I will be glad to meet you at the Southland Hotel, Okeechobee City, on Friday, August 11th, at noon, and would like to discuss with you the progress made and to be prepared to correctly advise the nonreservation Indians and allay, if possible, doubts and misgivings that are existent in the minds of Indians in the Counties above enumerated as to the reasons, if any, why the reservation Indians did not cause the group which I represent to be advised about the meetings referred to in your contract.

I wish to make it perfectly clear that personally I am not interested in doing anything or having any cross-fire that would prejudice the rights of the Indians, or that would bring about disunity among them, and in particular in the prosecution of their claims. However, I believe that a clarification as herein suggested would be in order and that a better case could be presented if it were presented as one set of claims rather than being duplicated, or perhaps there will be a great variance between the nature of claims presented unless there is unity in the presentation of the claims.

If you desire to attend this conference, I believe it will be greatly beneficial to yourself as well as to the interests of the Smminoles of Florida, and I have been especially requested to notify you and to request your attendance both on the part of the nonreservation Indians and the Brighton Reservation, and you will note that the pow-wow is to be held at the home of Willie King at Okeechobee City instead of in the territory in which I have heretofore represented the Seminole Indians.

Please be assured of my desire to serve the interests of the Indians as against all other matters and things, and I trust that we can be given such assurance on the part of your good offices as will alleviate any doubt on the part of the nonreservation Indians.

Trusting that you will let me have your immediate reply in the foregoing matters, I beg to remain

Very truly yours,

O. B. WHITE
Attorney

Dictated but not read by Mr. White, and forwarded under his authority by his associate.

O. B.WHITE

By J. Malcolm Johnson /s/
J. MALCOLM JOHNSON

EXHIBIT 24b

August 3, 1950

Mr. O. B. White
Attorney at Law
46 Northwest First Street
Miami 32, Florida

Dear Mr. White:

We have the letter of August 1st addressed to Mr. John O. Jackson and ourselves, signed by Mr. J. Malcolm Johnson for you.

For your information, the statements in your letter do not accurately reflect the facts. We are sure that you are misinformed, for we know you would not be misled if you were in possession of the true facts.

Through their duly elected Trustees, the Seminole Indians of Florida negotiated with us from October of 1948 with a view to entering into a contract to present their claims to the Indian Claims Commission.

A contract was entered into on February 5, 1949, and a new contract was entered into on October 15, 1949. As you will note from the certificate of the Superintendent of the Seminole Agency, the Trustees who acted for the Indians in executing these contracts were the duly elected Trustees not only of the Indians on the Brighton Reservation, but also of those on the Big Cypress and Dania Reservations. Both of these contracts were executed in the County Courthouse at Okeechobee, before the County Judge. The Indian Agent was present. I personally know that some of the Trustees came from Dania and Big Cypress, for I visited them there on February 5, 1949.

There was no secrecy whatsoever in connection with these proceedings. If any Indians were uninformed, they must be well out of touch with the tribe. Every effort was made to inform every Seminole who could be reached, and I am satisfied that substantially all of them who were in touch with the tribe were informed.

Our contract is with the tribe. We do not act for part of the tribe, but for all of the tribe.

We are quite sure that, if the duly elected Trustees of the Seminoles wish to have a conference with us at this time, they will so advise us. We are not in position to attend a conference on August 12th at Okeechobee, even if our clients wished us to do so, for we are too occupied in active representation of them.

Since our contract with the tribe was approved by the Commissioner of Indian Affairs, we have been engaged in amassing the tremendous amount of documentary evidence needed to support our client's claim. Our petition is now in process of being printed, and should be filed this month. In brief, it is a claim for some $50,000,000.00 compensation for lands improperly taken from the Seminole Tribe by the United States Government.

EXHIBIT 25a

Since the claim is for the tribe as a whole, any few uninformed Indians who are members of the tribe will participate as fully in any recovery as any other members of the tribe, we would assume.

It may take some years to achieve satisfactory results, of course - - possibly three to five years. It has taken us a year just to get the evidence together.

It is our belief that the best interests of the Seminoles will be served by proceeding along the same lines we have followed heretofore.

We appreciate your interest in this matter.

With best regards, we are

Sincerely yours,

WAYBRIGHT & WAYBRIGHT

Roger J. Waybright

RJW:HCA

CC: Mr. John O. Jackson
Attorney at Law
Smith Building
Jacksonville 2, Fla.

Mr. Guy Martin
Attorney at Law
1015 Ring Building
1200 Eighteenth St.
Washington 6, D. C.

EXHIBIT 25b

Land Division
Claims
16015-49

L. Cls

Seminole Indian Agency
Dania, Florida
August 15, 1950

Messrs. J. O. Jackson and R. J. Waybright
Attorneys at Law
202 Saith Building
Jacksonville 2, Florida

Dear Sirs:

This is a follow up of our telephone conversation of yesterday afternoon in connection with the attorneys' contract between the Seminole Indians of the State of Florida and you and Mr. Waybright of the Firm of Waybright and Waybright.

You will recall I told you that Cory Osceola, one of the leaders among the Seminoles who reside along the trail, had been asked to contact me with the idea of having me help to stop further action by you and the Claims Commission where the suit was filed on or about August 14, 1950. You will also recall I told you that the Indians along the Trail had told Cory to contact me in their behalf and do what I could to protest any further action by you until they were more familiar with the contract, and were given the right to sign with the other Seminole leaders from the three reservations - Brighton, Big Cypress and Dania. Since you gentlemen represent the Indians in this suit before the Court of Claims, I felt that you would be the only ones to contact regarding this protest and I so advised you. You told me over the telephone that the Seminoles, as your clients, would have six weeks in which to add additional information or take any action they so desired before the Claims Commission would prevent any further hearing on your part or the part of the Indians, or words to that effect. You indicated to me that you would be willing, with Mr. Waybright, to come to south Florida and meet with the Indians from the Trail to explain the contract to them, and at that time assist them in preparing a resolution in order that they might add their names to the contract if they so desired or to take whatever action they felt they should after their conference with you and Mr. Waybright.

Since this rather unsatisfactory thing has occurred, I wish to quote from my letter to you, dated May 25, 1949, as follows:

"This is to acknowledge receipt of your letter dated May 10, in reference to the Seminole Attorneys' Contract.

I have given this contract careful consideration and study and in view of the fact that there are certain additional requirements which I do not believe were complied with, I am returning the resolutions signed by the twelve Seminole Indians representing

Page 2.

the Brighton Reservation in Glades County, Big Cypress Reservation in Hendry County and the Dania Reservation in Broward County. As you will recall when we had our discussion here in this office, I particularly emphasized the fact that many of our leading Seminoles reside along the trail and suggested that you at least contact William McKinley and Cory Osceola in order to explain the proposed plan of having the Seminoles of Florida enter into a contract with you to represent them in prosecuting any claims they may have or believe they have against the United States. I do not see any of their names appearing on this resolution or contract.

I fear that when this contract is finally approved by the Commissioner of Indian Affairs and when the Indians along the trail learn about it they may protest that they had not been consulted and might cause the rest of the group some trouble and perhaps embarrassment to you as well as this office. If you will recall, I told you that usually this group residing along the trail consult Mr. O. B. White, Attorney in Miami."

Since this question has come up on the part of the Seminoles residing along the Trail who took part in our meeting at Okeechobee on Saturday, August 12, I wish that you would make every effort to clarify for the Indians along the Trail the questions they brought up at this meeting in regard to the contract.

As you know, they plan to have a meeting at William Osceola's camp on Sunday, August 20. Since I talked with you over the telephone yesterday, I have been advised that they still plan to hold this meeting, however, I will not know definitely about it until tomorrow or the next day as there appears to be some question developing among the group at the present time about the called meeting on August 20.

Sincerely yours,

Kenneth A. Hamson
Superintendent

KAH/eom
cc: Indian Office, Washington, D.C.
Cory Osceola, Ochopee, Florida

EXHIBIT 26b

COPY

O. B. WHITE
Attorney at Law
46 N. W. First Street
Miami 32, Florida

August 17, 1950

Mr. John O. Jackson
Attorney at Law
Smith Building
Jacksonville 2, Florida

Dear Mr. Jackson:

I have been directed to call to your attention a Pow Wow at which a meeting of the tribal council will be held on Sunday, August 20, 1950, at 9:00 A. M. This is at William McKinley Osceola'sCamp, 26-1/2 miles West of the City of Miami on Tamiami Trail.

For your information, I have also been directed by the committeemen for the council to prepare a resolution, which I think will have some effect on your purported contract with the Trustees of the Agricultural and Cattle Association at Brighton.

I believe it would be to your interest, or perhaps yours and Waybright's, for you to be present, as it is the intention of the Council to disclaim any liability or responsibility for your contract dated October 15, 1949, with the Cattle Trustees, and if you wish to resist the action in any manner, this would be your opportunity.

Mr. Johnson, my associate, either at his home (phone No. 30370) or at the office (phone 24010), will be available for telephone communication, and ff the hurricane doesn't hit either you or us, we will all be at this Tribal Council meeting.

This letter is written in conformance of our understanding had at Okeechobee City on the 12th of August.

With kindest personal regards, I remain

Very truly yours,

/s/ O. B. White

O. B. WHITE

cc: Messrs. Waybright &
Waybright.

EXHIBIT 27

Received Aug. 31 '50
To Dwight, Land-Claims
(See has not been) EWM

LAW OFFICES OF
WAYBRIGHT & WAYBRIGHT
SUITE 508 LAW EXCHANGE BUILDING
EAST FORSYTH AND MARKET STS.
JACKSONVILLE 2, FLORIDA

EDGAR W. WAYBRIGHT, SR.
ROGER J. WAYBRIGHT

TELEPHONE 3-7555

August 28, 1950

Mr. H. Rex Lee, Acting Commissioner
Bureau of Indian Affairs
United States Department of the Interior
Washington 25, D.C.

Dear Sir:

Re: Land Division
Claims
15543-50

The Seminole Indians of the State of Florida vs. The United States of America.

In the Fall of 1948 some of the Seminole Indians in Florida who knew Mr. John O. Jackson in connection with other matters asked him to look into their rights under the Indian Claims Commission Act, of which they had had some news.

After Mr. Jackson and I had looked into the matter, and Mr. Jackson had advised his Indian acquaintances of our views, they discussed it among themselves for some months, our information being that it was discussed quite widely among all the groups of Seminoles in Florida. They informed Mr. Jackson that they wished us to represent them, and, after ascertaining the procedure necessary to conclude a contract with them, and being informed by Mr. Kenneth A. Marmon, Superintendent of the Seminole Indian Agency, of the names of the Trustees authorized to execute such a contract for the Seminoles, we met with these Trustees at the Okeechobee County Courthouse at Okeechobee, Florida, on February 5, 1949, and, after the contract was read and interpreted to the Trustees in the presence of the County Judge, we entered into a written contract with them on that date.

Mr. Marmon forwarded this contract to your office on July 26, 1949. To meet certain points raised by your office, a new contract was prepared, a copy of which was sent to Mr. Marmon on October 4, 1949, and a meeting was called for October 15, 1949, in the Okeechobee County Courthouse, at which, after the contract had been read and interpreted to the Trustees

EXHIBIT 28a

in Mr. Marmon's presence and the presence of the County Judge, the new contract was executed. Subsequently, on January 6, 1950, this contract was approved by your office.

After considerable investigation to locate the evidence required to support the claim, the Petition was filed before the Indian Claims Commission on August 14, 1950.

It is our understanding that, before either of these contracts were executed, and also between the times the two contracts were executed, the matter was thoroughly and widely discussed among all of the Seminole Indians of Florida, not only among the majority living on the Big Cypress, Brighton, and Dania reservations, but also among those small groups living elsewhere.

We understand that for many years past there has been no functioning tribal council for the Seminole Indians of Florida, and no chiefs or head-men as such.

Mr. Marmon advised Mr. Jackson in the Fall of 1948, and repeated the statement to Mr. O. B. White, in our presence and the presence of some of the Seminoles at a meeting on August 20, 1950, that nine of the twelve Indians who signed our contract were the Trustees elected by the Indians living on the three reservations (three being elected by each reservation's residents), and the other three Trustees consisted of two elected by the Indians and one appointed by Mr. Marmon as Trustees for the whole tribe; that Mr. Marmon customarily recognized and dealt with these Trustees in connection with all tribal business matters. Mr. Marmon also stated that a majority of the Seminoles lived on the three reservations, only a minority in scattered groups along the Tamiami Trail and elsewhere.

Before the contract was executed on October 15, 1949, Mr. Marmon himself stopped by the Tamiami Trail camp of Cory Osceola, one of the apparent unofficial leaders of those Indians living along the Tamiami Trail, and notified one of Cory Osceola's two sons of the proposed October 15th meeting, so that there was official notification from Mr. Marmon to the non-reservation minority, as well as otherwise.

To us it seems absolutely incredible that any Seminole Indian in Florida could have been unaware of the proceedings in relation to our contract of October 15, 1949, in view of the fact that discussion of it had been going on for a year previously, all of the elected Trustees signed the contracts, there was continual migration between the three reservations and the scattered camps, and news customarily spreads among the 700-odd Seminole Indians of Florida like wild-fire.

At the October 15, 1949, meeting, Mr. Marmon questioned the Trustees closely about whether they felt that the non-reservation Indians had been notified, and the Trustees told Mr. Marmon that they were satisfied that substantially all of the Indians knew and approved of the execution of the contract, and that the Trustees present adequately represented and spoke for all of the Seminole Indians of Florida.

EXHIBIT 28b

Therefore, we were considerably surprised when, while our Petition was in the process of being printed in Washington, we received from a Mr. O. B. White, a Miami attorney previously unknown to us, the letter dated August 1, 1950, a copy of which is enclosed. We replied to him on August 3, 1950, a copy of our letter being enclosed.

Work preparatory to filing our Petition on August 14th prevented my going to Okeechobee on August 12th for the meeting called by Mr. White, but Mr. Jackson was able to go.

It appeared that Mr. White, who apparently handles some divorce and negligence cases in Miami, had never represented the Seminole Indians of Florida as a whole, and in fact (according to what was said by the Indians present at Okeechobee on August 12th) was unknown to any Seminoles except a few of the English-speaking ones who lived in scattered camps along the Tamiami Trail near Miami, squatting here and there on land not owned by them and selling curios to tourists; that Mr. White had occasionally represented some few of these non-reservation Indians in various minor personal matters such as those arising out of automobile collisions, and had sometimes attended the "Green Corn Dances" held by some of the non-reservation Indians but boy-cotted by the reservation Indians since their embrace of the Baptist religion.

Mr. White attempted to convince the Indians gathered at Okeechobee that the Trustees who had executed our contract were merely "cattle and agricultural trustees" and did not represent what he chose to term the "Seminole Indian Nation" (ignoring Oklahoma), and that a majority of the Seminoles of Florida lived off of the three reservations. Mr. White offered his services as attorney, but met with rather violent denunciation from the Indians present who had not accompanied him from Miami. He had not yet been able to acquaint himself fully with the substance of the Petition we were to file two days later, of course, and chose to advise the Indians that, since we were filing a claim for $50,000,000.00, and the Government would off-set about $80,000,000.00 spent on benefits for the Seminoles, no recovery would be made by the Seminoles (he had not taken into consideration approximately $300,000,000.00 in interest claimed, in addition to the inaccuracy, for several reasons, of his statement about the $80,000,000.00 off-set).

During the course of the meeting, Mr. White took Mr. Jackson aside and suggested that "there is enough money for all of us in this", and made other statements of like import, from which we inferred that his objective was to obtain part of the attorneys' fee for himself. Mr. Jackson promptly informed him, of course, that he knew of no way in which Mr. White could make any contribution to the success of our claim, and that he saw no advantage to either our clients or ourselves in associating Mr. White with us, since we had been working diligently for over a year to amass the evidence needed and had obtained it, had spent considerable time and money in doing so, were in the process of filing the Petition, and considered ourselves fully qualified and authorized to represent our clients.

EXHIBIT 28c

Having failed in his first attempt to interject himself into our case, when the Associated Press released to the August 15th newspapers a Washington dispatch relating to the filing of our Petition before the Indian Claims Commission, Mr. White released to the Miami Herald, the following day, a statement to the effect that he was attorney for all non-reservation Indians in Florida; that he had been preparing claims for the "Seminole Indian Nation" for five years (notwithstanding the Indian Claims Commission Act was only four years old) and would file same within 45 days; that only 175 to 250 Indians live on the reservations and 800 live elsewhere in the state; that at the Okeechobee "pow-wow" (Mr. White loves to use such supposedly Seminole Indian words, but the Indians themselves do not) on August 12th Mr. Marmon "admitted he would not have certified the contract had he known the facts." (Parenthetically, at the August 20th meeting Mr. Marmon told Mr. White in the presence of the Indians and ourselves that a majority of the Indians lived on the reservations, and that he had made no such statement about not certifying our contract, but that it was his opinion then and now that the contract was properly executed by those authorized to do so by a majority of the Indians. The impression was gained during Mr. White's prolonged cross-questioning of Mr. Marmon, in stentorian tones and police-court theatrical manner, that Mr. White was attempting to discredit Mr. Marmon before the Indians. Mr. White even incorrectly stated that portions of the Indian Claims Commission Act had been "repealed", and reproached Mr. Marmon publicly for not knowing of it.)

At the time Mr. White released this August 16th statement to the press, even he did not claim anywhere else that any Indian group - - minority or otherwise - - had attempted to retain him to file any claim, yet the statement released by him to the Miami Herald clearly stated that he would file such claims within 45 days. The conclusion is irresistible that the Tamiami Trail Indians were expected to be shown this apparently authentic newspaper story by one of their English-speaking members who was apparently acting as spokesman for Mr. White, and that Mr. Jackson and I were expected to be galvanized into bringing Mr. White into our case.

On August 17, 1950, Mr. White sent us the letter a copy of which is enclosed, which we would have ignored except that Mr. Marmon also wrote us, asking us to attend the meeting at William McKinley Osceola's camp on the Tamiami Trail near Miami on August 20th, to explain the contract and Petition to the scattered non-reservation Indians, who had apparently been propagandized into fearing that they would not share in any award made to the tribe.

Before the meeting, Cory Osceola told Mr. Marmon the meeting would not be held, but later William McKinley Osceola told Mr. Marmon it would be held, so, cancelling engagements in Tallahassee and New Orleans, Mr. Jackson and I journeyed to Miami and, guided there at our request by Mr. Marmon, attended the August 20th meeting of a few of the non-reservation Indians, held at the rear of one of the curio shop camps along the Tamiami Trail. Several of the Trustees who had executed our contract were also present, but Cory Osceola did not show up until about three hours later, after some other Indians went to bring him.

EXHIBIT 28d

So far as we could determine, there was no discussion among the Indians themselves as to any arrangement with Mr. White. A discussion which lasted for several hours centered around the contention of a few of the older Indians that no claim should ever be filed against the government because then the government might cut off the health and other benefits they were receiving. After several hours of this sort of conferring among themselves, and Cory Osceola having meanwhile arrived, we were asked to explain the contract and Petition, which I did at some length through an interpreter they selected, and gave out to those who wished them the dozen or so copies of the printed Petition which I had brought with me.

At the request of those assembled, I also gave a brief resume of the procedure which would be followed in prosecuting the claim, and of my qualifications as a lawyer to handle the claim throughout, reciting that I hold A. B. and L. L. B. degrees, am admitted to practice before such Federal courts and departments as the Court of Customs and Patent Appeals, Interstate Commerce Commission, Treasury Department, Tax Court, Court of Appeals, and Supreme Court of the United States, so that I was qualified and experienced to represent the Seminole Indians of Florida throughout the course of this litigation, including proceedings before the Indian Claims Commission, Court of Claims, and Supreme Court, and that I am a member of the 18-person Board of Governors of the integrated Florida Bar.

At the conclusion of my explanation, Mr. White invited himself to indulge in a long and impassioned discourse, through the same interpreter, stating that, while he did not have the qualifications himself to represent the Indians and personally handle their claims before the Indian Claims Commission and subsequently, he could associate a Washington lawyer with such qualifications; that if the "tribal council" wanted him to do so his services were available to them; that he had no quarrel with the claims as incorporated in the Petition we had filed, but that if he was retained as attorney he would not go to the books for evidence but would sit down with the old men of the tribe, who knew more from memory about what their claims were than the books (their memory of events which took place in 1823, I assumed); that he had hoped we would be able to "get together" in one suit, but that my attitude toward him was "haughty and arrogant" (I never spoke to him except to greet him at the beginning, and never referred to him, having no reason to recognize him as having any legitimate part in the meeting).

The meeting then broke up, but while Mr. White was getting in his car and I in mine a few feet away, Mike Osceola, a young English-speaking Indian whose father is William McKinley Osceola and whose uncle is Cory Osceola, and who appeared to be acting as Mr. White's spokesman among the Indians, came over to my car, and, in the presence of Mr. Marmon, Mr. Marmon's Chief Clerk, Mr. Jackson and myself, stated that all of this dissension could be cleared up easily and everyone could get together, that there was "enough money in it for everyone," that if we obtained an attorneys' fee of 10% of $350,000,000.00 the income taxes would take most of it, so that we would actually lose nothing by associating Mr. White in the case with us, which would clear up everything. We made no comment, of course.

EXHIBIT 28e

The meeting was definitely concluded at the time we left, and Mr. White and the Indians left at the same time. No action whatsoever was taken at the meeting other than as stated above. We left the camp between 4:00 P. M. and 5:00 P. M., and got back to Miami about an hour later. A Miami Herald photographer, apparently advised by Mr. White of the meeting, had come for a while but left before I spoke, after being refused the Indians' permission to take pictures but having taken some surreptitiously. Yet at about 6:00 P. M. a Miami Herald reporter told me on the telephone that Mr. White had given his newspaper a statement to the effect that the "tribal council" had met, authorized him to draw a contract with him as attorney, and disclaimed our contract. I referred the reporter to Mr. Marmon, and the Herald, while still quoting Mr. White's statement, also printed Mr. Marmon's corrections. Mr. White's statements had no basis in fact, of course. There is no tribal council, there was no meeting of any purported tribal council but merely of a few scattered non-reservation Indians rounded up by Mike Osceola, and no resolution was adopted whatsoever; we simply explained the contract and Petition and Mr. White announced himself available for employment if anyone wished to hire him, which no one seemed to want to do.

Mr. White also stated to the Herald that there would be another meeting in two weeks to study the contract drawn up by Mr. White and, if it was approved, the Petition filed by us would be disclaimed. It was a very lurid story, complete with candid-camera pictures of Mr. White conferring with Mike Osceola, etc.

We assume, therefore, that Mr. White will have Mike Osceola get some of the non-reservation Indians together somewhere, this coming week-end (or at some other time, for Mr. White is well aware that we cannot attend meetings in South Florida every two weeks, with every small group he can assemble), organize them into a rump self-styled "tribal council", and pass some sort of resolution designed to give some status to Mr. White. We assume that this purported resolution, or contract, will then be forwarded to you. We believe you would wish to be in possession of the foregoing facts, and to verify them with Mr. Marmon, before considering any such communication you may receive from Mr. White.

We believe that we have an excellent claim against the government on behalf of our clients, the Seminole Indians of the State of Florida. We believe we are qualified to handle it properly for our clients. We confidently expect to obtain a sizable sum of money for them.

At the time we entered into the contract we believed, and we now believe, that we entered into a contract with the entire tribe through its duly elected Trustees, and that our contract would not have been approved by Mr. Marmon and by your office if that had not been so. In reliance upon that contract, we have expended our best efforts and our funds in behalf of our clients, and will continue to do so.

We find this petty squabble with reference to Mr. White undignified and fruitless. If we accept his contentions, startling and incredible as they are, that a minority of the tribe, living hither and yon about the state, were somehow not aware of our contract and Petition, we are still left with the proposition that beyond a doubt the Trustees who entered into the contract with us represented a majority of the tribe:

EXHIBIT 28f

that even Mr. White has no quarrel with our Petition; that we are, after work of over a year, in position to prosecute the claims of the tribe with what we anticipate will be success; and that Mr. White, if perchance he should be successful in attaining some status in this matter (which he will not obtain by reason of our associating him in the case), and should be able to secure the services of a Washington attorney able to paraphrase our Petition, would still be faced with a year or so of investigation to uncover the necessary supporting evidence, which would run perilously close to the deadline for filing suit under the Act.

We saw no evidence at either the August 12th meeting or the August 20th meeting that any Indian except Mike Osceola wished Mr. White to represent the Indians, and Mike Osceola seemed more interested in the benefit to accrue to Mr. White than in actually having Mr. White perform any services. We do not believe that, at any meeting at which Mr. Jackson or myself could be present, there would be any action taken by any group of Seminole Indians looking toward the employment of Mr. White, because there doesn't seem to be any such sentiment in existence.

But, since it is obviously impossible for us to journey to South Florida every two weeks, even if we are advised of the time and place of proposed meetings of various small groups, there is no method by which we can prevent Mr. White, or any other lawyer who may have or may strike up an acquaintance with an Indian, from inducing some of them to meet with him in a so-called "tribal council", and, by means of undisclosed inducements, obtain some Indian signatures to a contract employing him and disclaiming our contract.

It is extremely unfortunate for the best interests of the Seminole Indians of Florida that fabricated stories of this sort are released to newspapers, for they will undoubtedly form the basis of a contention on the part of the government attorneys, before the Indian Claims Commission, that the Seminole Indians of Florida are not a unified and identifiable tribe qualified as such to sue for money due to the tribe.

There can, of course, be only one suit by the tribe for money due the tribe; each small segment of the tribe cannot sue for a share. Mr. White's actions cannot possibly result in any benefit to the tribe or any part of it, but can only result in hurt to the tribe's best interests.

We regret exceedingly the necessity for writing such a long letter, but we know of no other way in which you may have the full facts in your possession.

We are taking the liberty of sending a copy of this letter to Mr. Marmon, so that he may verify the accuracy of what we have written to you.

Sincerely yours,

Roger J. Wayblight

Roger J. Waybright

EXHIBIT 28g

CC: Mr. Kenneth A. Marmon, Superintendent
Seminole Indian Agency
P. O. Box 157
Dania, Florida

Mr. Guy Martin
Attorney at Law
1015 Ring Building
1200 Eighteenth Street
Washington 6, D. C.

Mr. John O. Jackson
Attorney at Law
Smith Building
Jacksonville 2, Fla.

EXHIBIT 28h

L. J. THORP
Sheriff Collier County
EVERGLADES, FLORIDA

September 27, 1950

Hon. Spessard L. Holland
Bartow, Florida

Dear Senator:

A few days ago there was a delegation of Seminole Indians came to see me about a law suit regarding land taken away from the Indians, said suit being instigated by Rodgers, Waybright and John O. Jackson of Jacksonville, Florida.

First, I should like to state that the leading Indians of the Seminole Tribe are very much perturbed regarding the suit. As I have known and have had more or less constant contact with this tribe of Indians for the past thirty years they place a lot of confidence in me. Therefore, I am writing you to give them the necessary information: Just to whom to submit their objection to this suit.

Spokesman for the Tribe is Cory Osceola, nephew of Chief Osceola, who tells me the first they knew of this suit being instigated against the Government was through another tribe of Indians who live out from Lake Okeechobee, near Brighton. Their spokesman was an Indian by the name of Willie King. Cory Osceola's information is that Waybright and Jackson came down from Jacksonville to this tribe at Brighton, contacted Willie King, told King what their intentions were and promised him that each one of the Indians would realize a large sum of money. King then took them out to the Brighton Reservation and talked to a good many Indians of that tribe about his intentions as to the suit and promised they would receive a large share of money from the Government.

Waybright and Jackson then went to Fort Myers to see Mr. Kenneth Marmon, who is the Indian Agent for the State of Florida. They told Mr. Marmon their plan of the suit and asked Mr. Marmon to use his influence in persuading all of the Indians as a whole to consent to the law suit against the Government. This Mr. Marmon refused, and stated to Waybright and Jackson that he absolutely would have nothing to do with it.

EXHIBIT 29a

Hon. Spessard L. Holland - #2

Some days later Cory Osceola, together with the Council of the Seminole Tribe, went to Okeechobee and met Waybright and Jackson. This was on August 12th, as they had heard that Waybright and Jackson would be there on that date. They asked the above attorneys just what it was all about and just what Indians had given them the authority to bring suit. The best they could understand and what they have figured out is that Waybright and Jackson conceived the idea of getting a lot of easy money and that the only Indians they could find that are for the suit is a few Indians known as the "Cow Creek" Indian; and the older Indians of this tribe are not in favor of it.

The Seminole Indians of Collier County do not desire and will not participate in the proposed suit; and wish to make this fact known to the powers that be. Cory Osceola tells me there are around 220 Indians of the Seminole Tribe living in Collier County; that they are well satisfied and wish to be let alone. These Indians are very superstitious and seem to believe there is some underhanded motive for this suit. The majority of the Indians here are working on farms, in sawmills, with the State Road Department, in garages, and other forms of work which they are qualified to do. They feel that if a suit is brought in their name the Government (as they do not realize the people of the U.S.A. are the Government) will take some action as to removing them to some other territory.

As I have stated before, I should appreciate your letting me know just who has the power and the interest of the Indians to take care of this suit for them. I am also enclosing the signatures of the Seminole Indian Council as an endorsement of this letter to you and will appreciate your advice concerning this matter at your earliest convenience, as the Seminoles feel this is of grave importance to them.

Very respectfully yours,

[Sgd] L. J. Thorp
L. J. Thorp

LJT/b

EXHIBIT 29b

L. J. Thorp
Sheriff Collier County
EVERGLADES, FLORIDA

September 27, 1950

We, representing the Seminole Tribe of Collier County, have read the attached letter and endorse same with our signatures below:

Jimmie Tiger	Cory Osceola
Willie Jims	John Osceola
John Poole	Chestnut Bielie
Jack Clay	Charlie Bielie
John Bielie	Henry Cypress
Jimmie Bielie	Ingram Bielie
Frank Charlie	Sam Willie

Subscribed and sworn to before me at
Everglades, Florida
this 28th day of September A. D., 1950
[Sgd.] Lucy McLeod
Notary Public, State of Florida at large
My commission expires Dec. 7, 1953.
Bonded by American Surety Co. of N. Y.

EXHIBIT 29c

Land Division
Claims
18985-50

Dwight Stevens Ferguson Lee

Hon. Spessard L. Holland

OCT 30 1950

United States Senate

My dear Senator Holland:

Reference is made to your letter of September 28 enclosing a letter from Mr. Ed Scott, Everglades, Florida, concerning claims of the Florida Indians.

A group representing the Seminole Indians of Florida have employed John C. Jackson, Smith Building, Jacksonville, Florida, and Roger J. Waybright, 305 Law Exchange Building, Jacksonville, Florida to prosecute their tribal claims against the United States before the Indian Claims Commission. We do not know what claims will be prosecuted by the attorneys or whether a recovery will be adjudicated for the tribe. If any Tribal Indians do not desire to participate in any award to the Seminole Indians of Florida they will not have to accept any per capita payment or other benefits derived from a favorable judgment.

The Superintendent of the Seminole Agency advised that the contract was negotiated after a meeting was held by the Indians of the three Reservations, Brighton, Big Cypress and Dania. The persons executing the contract were authorized to do so at this meeting. The Indians living on Tamiami trail did not participate in the meeting but these were advised that such a meeting had been called for the purpose of negotiating an attorney contract. The trail Indians do not reside on any of the three reservations.

Your enclosure is returned.

Sincerely yours,

D. S. Myer

Commissioner

Enclosure

Copy to: Supt., Seminole Agency

JEDwight:jcm 10 17; 10 25 50

Carbon for Indian Office

EXHIBIT 30

MORTON H. SILVER
ATTORNEY AT LAW

Ft. Lauderdale Fla., Office
Charles H. Monast, Associate
Lawyer's Building

1112 Biscayne Building
19 West Flagler Street
Miami 32, Florida

Telephone 82-8515

Telephone 2-2162

October 1, 1953

REGISTERED MAIL **** RETURN RECEIPT REQUESTED

Attorney General of the
United States of America
Washington, D. C.

Attention: Mr. J. Edward Williams

Dear Sir:

I have been asked by the General Council of the Seminole Indians to write to you and convey the following information in reference to two petitions filed before the Indian Claims Commission, numbered 73 and 73A.

The General Council has stated that the aforesaid petitions have not been authorized by them or for them.

The General Council has stated that it is not their desire or intention, now or in the future, to accept any money from the United States Government.

Please advise.

Respectfully,

/s/ Morton H. Silver
Morton H. Silver

MHS:ess

EXHIBIT 31a

October 1, 1953

Morton H. Silver, Esq.
1112 Biscayne Building
Miami 32, Florida

Dear Mr. Silver:

We, the General Council of the Seminole Indians of the State of Florida, understand that two petitions have been filed before the Indian Claims Commission supposedly on behalf of the Seminole Indians of the State of Florida.

Since it is not our desire or intention to accept any money from the United States of America, now or in the future, we have agreed that this thought should be conveyed to the proper United States Government officials.

Furthermore, we wish to have the fact made known that such petitions have never been authorized by this Council.

We will also acknowledge that we have been advised by you as to the inadvisability of this course of action, but we have made our decision.

Witness:

Very truly yours,

_____

Ingraham Billie,
Head Medicine Man

_____

STATE OF FLORIDA)
COUNTY OF DADE) SS.

Personally appeared before me, a Notary Public of the State of Florida, at Large, on this _____ day of October 1953, BUFFALO TIGER, who being by me first duly sworn deposed as follows:

1. That he is the official interpreter for the General Council of the Seminole Indians of the State of Florida; and

2. That he has read and translated the above and foregoing letter to the said General Council to the best of his ability; and

3. That the above and foregoing letter correctly states the views and decision of the said General Council.

_____
BUFFALO TIGER

Sworn to and subscribed before me on the date first above mentioned.

_____
Notary Public

My Commission expires: [redacted]

EXHIBIT 31b

RKM-MHC
90-2-20-290
90-2-20-654

November 6, 1953

Morton H. Silver, Esquire
1112 Biscayne Building
19 West Flagler Street
Miami 32, Florida

Dear Mr. Silver:

Re: Seminole Indians of Florida,
Dockets Nos. 73 and 73A.

Your letter dated October 1, 1953, together with the notarized statement of Head Medicine Man, Ingraham Billie, which accompanied it, have informed this Department that the General Council of the Seminoles has declared that the two petitions filed before the Indian Claims Commission, Dockets Nos. 73 and 73A have never been authorized and that the Seminoles have no intention, presently or prospectively, to accept any money from the United States.

A representative of this Department has examined the records of the Indian Bureau. These disclose that 12 Seminoles signed the attorney's contract dated October 15, 1949. It bears the certificate of the Okeechobee County Court Judge pursuant to R.S. section 2103 and is accompanied by a statement of the Superintendent of the Seminole Agency to the effect that the 12 signators are duly elected trustees of the Brighton, Big Cypress and Dania reservations, and that they signed the contract following a meeting specially called for that purpose.

The contract was approved on January 6, 1950, and is recorded in Miscellaneous Records, Volume 17 at page 12 in the office of the Indian Bureau.

The records also contain inquiries respecting the contract from Senator Holland of Florida, L. J. Thorp, Sheriff of Collier County, and from this Department. In his

EXHIBIT 32a

90-2-20-290
90-2-20-654

letter to Senator Ballard, dated October 30, 1950, the Commissioner of Indian Affairs said in part:

> * * * If any Tribal Indians do not desire to participate in any award to the Seminole Indians of Florida they will not have to accept any per capita payment or other benefits derived from a favorable judgment.
>
> The Superintendent of the Seminole Agency advised that the contract was negotiated after a meeting was held by the Indians of the three Reservations, Brighton, Big Cypress and Dania. The persons executing the contract were authorized to do so at this meeting. The Indians living on Tamiami trail did not participate in the meeting but these were advised that such a meeting had been called for the purpose of negotiating an attorney contract. The trail Indians do not reside on any of the three reservations.

In view of the final determination made by the Commissioner of Indian Affairs, this Department has no alternative but to defend the pending actions.

Sincerely,

Perry W. Morton
Assistant Attorney General

EXHIBIT 32b

Division of Program
-53

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON 25, D. C.

INDIAN

63-1931

NOV 18 1953

My dear Mr. Oliver:

Receipt is acknowledged of your letters of October 13 and November 2, 1953, concerning the activities of the Seminole Agency at Dania, Florida, and stating your views regarding Seminole tribal government.

The activities to which you refer were in connection with the trusteeship responsibilities of this Department, and such activities will be discontinued whenever a satisfactory plan can be worked out for their termination. The meetings at Dania on October 9 and 10, 1953, were held under our instructions to get the viewpoints of all groups and individuals interested in proposed legislation under House Concurrent Resolution 108, a copy of which is attached. You will note that this resolution requires the Secretary of the Interior to recommend to Congress on or before January 1, 1954, legislation to terminate Federal supervision over all Indian tribes and the individual members thereof in the State of Florida. It is the expressed policy of Congress and of this Department to terminate Federal supervision over Indian tribes and individuals as soon as it is feasible to do so.

It is true that three drafts of constitutions have been submitted to this office for review: One proposed organization under the act of June 18, 1934 (48 Stat. 984), known as the Indian Reorganization Act, and the other two proposed organization without regard to the provisions of the Indian Reorganization Act. Further consideration of these constitutions would seem premature until it is known what legislative action may be taken pursuant to House Concurrent Resolution 108. If Federal supervision of the tribal affairs should be terminated, there would be no apparent necessity to review these constitutions further.

The Seminole Indians of Florida employed Mr. John O. Jackson and Mr. Roger J. Waybright of Jacksonville, Florida, as their attorneys to prosecute their claims against the United States, pursuant to section 15 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049, 1053; 25 U.S.C.A., sec. 70n).

EXHIBIT 33a

An attorney proposing to represent the Seminole Tribe of Florida, if his fees are to be paid from tribal funds, is required under section 2103 of the United States Revised Statutes (sec. 81, Title 25, U.S.C,) to execute a contract with the tribe which is subject to the approval of the Secretary of the Interior. Our records do not disclose that an attorney contract between you and the Seminole Indians has been so approved. It is, therefore, assumed that the General Council of Seminole Indians speaks for only a part of the tribe and not for the entire Seminole Tribe, as the name might indicate.

We have been aware for some time of the two lingual groups and of the lack of unity in tribal organizations, but the relationship of the General Council of Seminole Indians to the tribe is not clear. We greatly appreciate receiving the views of the group and shall give them careful consideration.

Sincerely yours,

(SGD) ORME LEWIS

Assistant Secretary of the Interior

Mr. Morton H. Silver
19 West Flagler Street
Miami 32, Florida

Enclosure

EXHIBIT 33b

TRIBAL RELATIONS

COPY

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs
Seminole Agency,
Dania, Florida
December 6, 1951

Hon. George Smathers
United States Senate
Washington, D. C.

My dear Senator Smathers:

We have your letter of December 3, 1951, concerning Attorney Morton L. Silver's question of this Agency not recognizing the General Council of Seminole Indians (Miccosukkis), who are apparently claiming to be a separate tribe or band in Florida.

To begin with, it has always been the policy of this office to treat all Seminoles in Florida as an equal, regardless of whether they lived on either of the three federal reservations or on off-reservation areas, such as the Tamiami Trail. This group has been rabidly opposed to any change in their way of life. They feel they are getting along alright and have left the impression that they want to be left alone. On September 19, I personally stopped and talked with Ingram Billie and his son Jimmie at their camp to tell them of the postponement of the proposed Seminole tribal meeting the latter part of September. At that time I told them that we would like to have them attend the meeting when it was held at Dania early in October. I had witnesses along on this trip. It was not possible for me to return to tell them about the October meeting on the 9th and 10th, but Buffalo Tiger was advised by a memorandum, copy of which is attached.

It is true there are two distinct bands -- Cow Creeks and Miccosukkis, numbering approximately 670 individuals. The two bands for all practical purposes have always been referred to as the Seminole Tribe. The Seminoles of Florida do not have a recognized tribal organization, but each of the two bands have what they call a Green Corn Dance Council. Each of these councils continue to carry on their Seminole tribal customs such as their Green Corn Dances, etc. This Agency has never interfered with their dances or tribal customs, or when it came to setting up certain rules or standards for their people providing these rules did not conflict with Bureau policy or county and state laws. Some effort has been made to have the tribe organize under a simple constitution and by-laws for the purpose of setting up a Business Committee or Board of Directors to represent the Seminole Tribe in all of their tribal affairs, but because of friction between the bands for various reasons little headway has been made. Mr. Silver's group numbering not to exceed 250 individuals can not profess to represent and speak for the Seminoles of Florida. All of the Seminoles living on the Big Cypress Reservation are Miccosukkis and more than half of those living on the Dania Reserva-

EXHIBIT 34a

tion are Miccosukais. These and many others of the Miccosukai Band residing on off-reservation areas are actively participating in the Bureau's program including, extension, education, health, roads, etc., and they are interested in the general improvement and advancement of their people while the group being advised by Mr. Silver are opposed to education of their children and progress of their tribal members.

The rights and attention of this group have always been respected. I have been very willing and patient with them, knowing that would be the only sure way of gaining their confidence and trust. We have had good feeling and trust among the Trail Indians, in fact all of them. They started coming to our office here in Dania, until Mr. Silver injected himself into the picutre about a year ago. It is my candid opinion that Mr. Silver has misled them on tribal and Bureau affairs, and this has confused the group until now there is split between those residing along the Tamiami Trail and those living on the federal reservations. The balance of the 620 odd Seminoles are opposed to what Mr. Silver and his group are attempting to promote.

There is attached for your information a memorandum issued by this Agency dated September 30, 1953, addressed to all Seminole Indians. This memorandum, as you can see, invited all Seminoles to a tribal meeting at this Agency on October 9 and 10, to hear discussed the House Concurrent Resolution 108, and the proposed bill for submission to Congress by January 1, 1954. Members of the Silver group were present for the two-day meetings. Two of the appointed committee members, Jimmie Billie and Willie Jim, asked that their names be taken off the Seminole Tribal Committee. The Committee acting for the Seminole Tribe deleted their names. Mr. Silver was present at the last meeting on October 10. When given an opportunity to speak by the Committee members, he tried to infer that he represented the General Council of the Seminole Indians of the State of Florida. He was asked by the Committee to show proof of this. He could not produce papers to show that he was the legal counsel for the General Council of the Seminole Indians. At present the Seminole Indians of Florida have employed Mr. John O. Jackson and Mr. Roger J. Waybright of Jacksonville, Florida, as their attorneys to prosecute their claims against the United States, pursuant to section 15 of the Indian Claims Commission Act of August 13, 1946. Mr. Silver is not employed by the Seminole Indians and he perhaps collects fees from the Trail group in various ways. I regret to say that Mr. Silver is not informed on Indian matters or Bureau policies, and the sooner he curtails his activities with this group the better it will be for the Seminole Indians.

Attached for your further information is a copy of a Report prepared by the Seminole Committee on Resolution 108 and the proposed bill to terminate Federal supervision. Also find attached copy of my annual report, ending June 30, 1953.

We appreciate your interest in the welfare of the Seminole Indians and do not hesitate to call on me for any additional information.

Sincerely yours,

H. A. Marmon,
Superintendent

cc: Commissioner, Washington
Area Director, Miskogee, Okla.

EXHIBIT 34b

MORTON H. SILVER
Attorney at Law

1113 BISCAYNE BUILDING
19 WEST FLAGLER STREET
MIAMI 36, FLORIDA
TELEPHONE 82-8515

FT. LAUDERDALE, FLA., OFFICE
CHARLES H. MONAST, ASSOCIATE
LAWYER'S BUILDING
TELEPHONE 2-2182

December 21, 1953

Commissioner of Indian Claims
Federal Trade Building
Pennsylvania Ave. at 6th Street, N. W.
Washington 25, D. C.

AIR MAIL

Dear Sir: Re: Mikasuki Seminoles of the State of Florida

In answer to your letter of October 14, 1953 in reference to Claim No. 73 and 73A, I should like to inform you that the General Council for the Mikasuki Seminoles of the State of Florida are going to take formal action in regard to their interest in the aforesaid Claim.

Would you be good enough to provide me with the necessary information and applications which would enable me to practice before your Commission and also any rules and regulations you may have for practice before your Commission.

I also note under Title 25, Paragraph 70 1(b) of the Cumulative Supplement of the United States Code Annotated relating to Indians that the Commission shall establish an investigation division to investigate all claims referred to it by the Commission for the purpose of discovering the facts relating thereto. I also note that this Division must make a complete and thorough search for all evidence affecting each claim. Inasmuch as I have heretofore notified your Commission that the aforesaid claims No. 73 and 73A have not been authorized by the Mikasuki Tribe of Seminoles, by and through its General Council, I feel it is the responsibility of your Commission to investigate these facts, and if we do not receive a satisfactory reply before January 1st, 1954 regarding our demand, in view of the information that has come to us that pressure is being exerted to wind up this claim in the early part of January, we shall take every necessary step to enjoin the continuation of these claims and to bring it to the public attention.

For your information, the Contract retaining the attorneys prosecuting the aforesaid claims and supposedly the petitioners in the aforesaid claims are none other than twelve cattle trustees from the Reservations whose sole function is to manage the Government-sponsored cattle program, being utilized by a few Muskogee or Cow Creek Indians living on the Reservation, but who are not now and have never been leaders, spokesmen, or in any way representatives of the Mikasuki Tribe of Seminoles. This we can prove. For your further information, we have been advised that these cattle trustees' positions will be abolished by the Secretary of the Interior on January 1, 1954. There being no further need for

EXHIBIT 35a

such trustees, it should be obvious that they had no authority to initiate the aforesaid claim and to make any contracts on behalf of both tribes of Seminoles in the State of Florida. We even have our doubts that these trustees were authorized to speak for the Cow Creeks on the Reservation.

In Paragraph 81 of Title 25 of the United States Code Annotated it is stated that "no agreement shall be made by any person with any tribe of Indians.... for the payment..... of any money or other thing of value..... in consideration of services for said Indians relative to their lands, or to any claims growing out of..... treaties with the United States..... or in any way connected with or due from the United States, unless such contract be executed and approved as follows:

"*** Third. It shall contain the names of all parties in interest, their residence and occupation; and if made with a tribe, by their tribal authorities, the scope of authority and the reason for exercising that authority, shall be given specifically.....

"All contracts or agreements made in violation of this section shall be null and void, and all money or other thing of value paid, etc. may be recovered by suit, etc."

Since my clients have indicated to me their unwillingness to travel to your fair City of Washington (because of their Indian beliefs) it will be necessary to have the investigation made here, and probably by deposition, if you have such a procedure.

I am forwarding a copy of this letter to the Honorable George Smathers because he has indicated some interest in this matter.

Because we feel that the time is short we must hear from you by January 1, 1954.

Thank you very much.

Respectfully yours,

Morton D. Silver
Attorney for the General Council
of the Mikasuki Seminoles of Florida

MDS:ess

EXHIBIT 35b

INDIAN CLAIMS COMMISSION
Federal Trade Building
Washington 25, D. C.

December 28, 1953

Morton H. Silver, Esq.
19 West Flagler Street
Miami 32, Florida

Dear Sir:

This will acknowledge receipt of your letter of the 21st instant regarding the objections of the Mikasuki Seminoles of the State of Florida to the claim of the Seminole Indians of the State of Florida, Docket Nos. 73 and 73-A.

Since the claims were filed by attorneys under an approved contract, the Commission considers that under the Indian Claims Commission Act it is obliged to proceed with their hearing and determination. But of course this will not bar the Mikasuki Seminoles from formally submitting objections to the prosecution of the claims as indicated in my letter of October 14. In this connection I might state that the attorneys are pressing for an early hearing on the pending claims, so perhaps you should present your objections with as little delay as possible.

With reference to the second paragraph of your letter, the following is quoted from the Commission's Rules of Procedure:

> "Sec. 34. Claims filed by attorney. Claims may be filed on behalf of a claimant by an attorney or firm of attorneys retained for that purpose under the provisions of section 15 of the act creating the Commission. Where a claimant has retained more than one attorney or more than one firm of attorneys, only one of said attorneys shall be designated individually as the attorney of record. All pleadings, notices, or other papers required by these rules or by orders of the Commission to be serviced upon a claimant, shall be sent to such attorney of record at the address designated by him, and service upon him shall be deemed to be service upon the claimant.
>
> "Sec. 35. Attorneys to register. An attorney of record, on appearing in a case, shall register with the clerk of the Commission his name and post-office address or the designation as such and his post-office address may be shown at the end of the petition."

There is enclosed a copy of the form used for registration of attorneys.

Very truly yours,

JAL:ko

James A. Langston
Clerk

EXHIBIT 36

MORTON H. SILVER
Attorney at Law

1112 BISCAYNE BUILDING
19 WEST FLAGLER STREET
MIAMI 32, FLORIDA
TELEPHONE 82-6515

FT. LAUDERDALE, FLA., OFFICE
CHARLES H. HONAST, ASSOCIATE
LAWYER'S BUILDING
TELEPHONE 2-2182

April 5, 1954

Commissioner of Indian Claims
Federal Trade Building
Pennsylvania Ave. at 6th Street, N. W.
Washington 25, D. C.

Re: Mikasuki Seminole Nation

Dear Sir:

This will advise you that on March 1, 1954 a special delegation of the General Council (the governing body of the Mikasuki Seminole Nation) delivered to the President of the United States, at the Capitol in Washington, D. C., a message, a copy of which I am enclosing for your information.

The General Council still takes the same position that Claim No. 73 and 73-A pending before your Commission is not authorized by them and that if the U. S. Government awards any monies as a result of these bills, such payment will be futile as far as they are concerned.

Very truly yours,

Morton H. Silver

MHS:ess
Encl.

EXHIBIT 37

THE WHITE HOUSE
WASHINGTON

16 August 1954

My dear Mr. Billie:

This will acknowledge receipt of your letter of June 26, 1954, requesting the President to send a special representative to meet with you.

It is not possible for the President to assign this responsibility to a person who is not connected with the Government. He has, however, asked Mr. Glenn L. Emmons, Commissioner, Bureau of Indian Affairs, to meet with you this fall. Mr. Emmons will advise you at a later date regarding the time when it will be possible for him to meet with you and I am sure that he will be very helpful in resolving some of the questions you have raised.

Sincerely yours,

B M Shanley

Bernard M. Shanley
Special Counsel to the President

Mr. Ingraham Billie
Mikasuki Seminole Tribe

Through: Mr. Kenneth A. Marmon
Superintendent, Seminole Agency
Bureau of Indian Affairs
P. O. Box 157
Dania, Florida

EXHIBIT 38

J-1

In Reply Refer To:

Claims
11178-54

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
Washington 25, D. C.

Aug. 23, 1954

Morton H. Silver, Esq.
1112 Biscayne Building
19 West Flagler Street
Miami 32, Florida

Dear Mr. Silver:

This refers to your letter of July 26, requesting information concerning the parties involved in Docket Nos. 73 and 73-A, pending before the Indian Claims Commission.

The names of the Indians who executed the contract on behalf of the Seminole Indians of the State of Florida with John O. Jackson and Roger J. Waybright are Frank Shore, Jack Smith, John Henry Gopher, Morgan Smith, John Cypress, Junior Cypress, Jimmie Cypress, Little Charlie Micco, Joise Billie, Sammy Tommie, Ben Tommie and Bill Osceola.

These Indians executed a contract as representatives of the Seminole Indians of the State of Florida. Section 10 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049) provides that any claim within the provisions of that Act may be presented to the Commission by any member of an Indian tribe, band, or other identifiable group of Indians as representative of all its members, unless a tribal organization exists, recognized by the Secretary of the Interior, in which event such organization shall be accorded the exclusive privilege of representing such Indians, unless fraud, collusion, or laches on the part of such organization are shown to the satisfaction of the Commission. Since no tribal organization exists of the Seminoles of Florida, individual Indians may execute a contract on behalf of the Seminole Indians of Florida.

Sincerely yours,

(Sgd.) N. Barton Greenwood

Acting Commissioner

Exhibit A

EXHIBIT 39

Before The

INDIAN CLAIMS COMMISSION

THE SEMINOLE INDIANS OF THE STATE OF FLORIDA, Petitioner,	*	
vs.	*	No. 73 and 73-A
THE UNITED STATES OF AMERICA, Respondent	*	

SPECIAL APPEARANCE AND MOTION TO QUASH

COME NOW Ingraham Billie, Jimmie Billie, Willy Jim, Frank Osceola, Tom, Buster, Jimmy Henry, John Poole, Oscar Hoe, Frank Charlie, Jack Clay, Tiger Tiger, Frank Jimmy, John Fewell, Joe Doctor, & Sam Jones Micco, individually and for the General Council of the Miccosukee Seminole Nation (Florida) (variously spelled "Miekasukie", "Mikosukee", etc., etc.), appearing herein specially and solely for the purpose of making this motion to quash this cause, and expressly basing this motion upon the aforesaid special appearance, and without submitting themselves, either individually or for the said General Council, to the jurisdiction of the Indian Claims Commission nor entering nor attempting to enter a general appearance but filing this motion only for the purpose of contesting the jurisdiction of this Commission in this cause, and move to quash this cause, saying:

1. That the so called "Seminole Nation in Florida" or "The Seminole Indians of the State of Florida" or "The Seminole Indian Tribe of Florida" or "The Seminole Tribe of Florida" is in truth and fact composed of two separate, distinct, discrete and identifiable tribes of Indians, the one being "Miccosukee" or "Seminole" actually, and the other being "Muscogee" or "Cow Creek", the two tribes speaking two different languages, having two different governments, and two different cultures and customs.

2. That by virtue of various factors known as a matter of common historical knowledge and due to the fraud, covin, collusion and coercion of the United States of America recognition of the above common and well known fact of

EXHIBIT 40a

two separate and identifiable tribes has been denied and all the native Indians resident in Florida have been dubbed "Seminole" for the purpose, the Movants here believe and aver, of (a) placing the United States of America in the position of denying there is a "recognized tribal organization" and (b) enabling the United States of America to pursue a policy of depriving said Indians of their rights.

3. That Ingraham Billie, Jimmie Billie, Willy Jim, Frank Osceola, Tom Buster, Jimmy Henry, John Poole, Oscar Hoe, Frank Charlie, Jack Clay, Tiger Tiger, Frank Jimmy, John Fewell, Joe Doctor, & Sam Jones Micco, are individual members of the Miccosukee Seminole Nation in Florida, resident therein, and are also members of the General Council of the Miccosukee Seminole Nation (Florida) authorized by the said General Council to file this Special Appearance and Motion to Quash on its behalf.

4. That the said General Council of the Miccosukee Seminole Nation (Florida) is now and has been for over one hundred years the official tribal organization of the Miccosukee Seminole Nation in the State of Florida governing the said Nation, but has not been recognized as such by the United States of America or by the Secretary of the Interior due to the fraud hereinabove mentioned and due to various fraudulent "treaties" or "agreements" instigated by the United States of America.

5. That the General Council of the Miccosukee Seminole Nation (Florida) has not at any time authorized the institution of the claim now pending before this Commission.

6. That the Petition in this claim states in Paragraph 1:

> "1. Petitioner is The Seminole Indians of the State of Florida, also known as The Seminole Indian Tribe of Florida and The Seminole Tribe of Florida, a tribe of Indians resident in Florida, having a tribal organization recognized by the Secretary of the Interior. The said tribal organization has been authorized to bring this action on behalf of the said tribe."

7. That in truth and in fact there is no "tribal organization recognized by the Secretary of the Interior" as is alleged, for proof of which there is hereto attached as Exhibit A a true copy of Letter dated August 23, 1954 from the United States Department of the Interior so stating; and in truth and in fact the Indians who presumably executed the Contract under which this claim is being prosecuted are Cow Creeks or non-members of the Miccosukee Seminole Nation

(Florida) who have never had and do not now have any authority to file such claim on behalf of the "Seminole Indians of Florida".

8. That the Miccosukee Seminole Nation (Florida) has never authorized this claim, cannot be bound by this proceeding, and has rights to lands in Florida that they are not willing to exchange for money, nor surrender.

9. That the Attorneys filing the Petition herein, namely Roger J. Waybright, Esq., and John O. Jackson, Esq., and Edgar W. Waybright, Sr., Esq., and Guy Martin, Esq., do not now represent and have not at any time represented and do not now have the authority and have not at any time had the authority to represent the Miccosukee Seminole Nation (Florida) and have no authority to prosecute the present Petition, as now pending; the Movants here not intending, however, to deny or to affirm the extent of said Attorneys' authority to represent the twelve "Cow Creeks" or non-members of the Miccosukee Seminole Nation in Florida, referred to in Exhibit A.

10. That this Petition therefore should be quashed for want of jurisdiction.

11. That these Movants are financially unable to attend hearings in Washington, D. C. or to send their undersigned Attorneys to such place.

WHEREFORE the Movants move the entry of an Order quashing this cause and that the hearing of this Motion be had in the City of Miami, Florida, or at such other place or places within a short distance thereof as may be suitable for the Movants to attend. (Signed By Their Marks (X) and thumbprints except Jimmie Billie who signed full name)

X Frank Charlie

X Jack Clay

X Tiger Tiger

X Frank Jimmy

X John Fewell

X Joe Doctor

X Sam Jones Micco

Ingrahm Billie

Jimmie Billie

X Willy Jim

FRANK OSCEOLA

X Tom Buster

X Jimmy Henry

X John Poole

OSCEOLA HOE

EXHIBIT 40c

Individually and for and on behalf of the General Council of the Miccosukee Seminole Nation (Florida)

MORTON H. SILVER and LEO M. ALPERT
Attorneys for Movants
1112 Biscayne Building
Miami 32, Florida

By: Morton H. Silver

Translated, interpreted and witnessed by the Official Spokesman, BUFFALO TIGER, on the 12 day of September 1954.

Buffalo Tiger
BUFFALO TIGER

Jimmie Billie

DESIGNATION UNDER RULE 35

We, the undersigned Attorneys for the Movants, register our names and addresses with the Clerk as:

MORTON H. SILVER
1112 Biscayne Building
Miami 32, Florida

Morton H. Silver

and

LEO M. ALPERT
1112 Biscayne Building
Miami 32, Florida

Leo M. Alpert

EXHIBIT 40d

I HEREBY CERTIFY that copies of the above and foregoing Special Appearance and Motion to Quash were mailed on this 16th day of September 1954 to the following:

1. ROGER J. MAYBRIGHT, ESQ.
   305 Law Exchange Building
   Jacksonville, Florida

2. J. EDWARD WILLIAMS, ESQ.; or the
   Attorney General
   U. S. Department of Justice
   Washington 25, D. C.

Morton H. Silver
MORTON H. SILVER

EXHIBIT 40e

Before The

INDIAN CLAIMS COMMISSION

THE SEMINOLE INDIANS OF THE STATE OF FLORIDA,

Petitioner,

vs.

THE UNITED STATES OF AMERICA,

Respondent.

No. 73 and 73-A

REPLY TO ALLEGED "SPECIAL APPEARANCE AND MOTION TO QUASH"

Motion to strike

Now come the Seminole Indians of the State of Florida, by their attorney, Roger J. Waybright, with regard to an alleged "special appearance and motion to quash" filed with the Commission by Morton H. Silver and Leo M. Alpert, as alleged attorneys for Ingraham Billie, Jimmie Billie, Willy Jim, Frank Osceola, Tom Buster, Jimmy Henry, John Poole, Oscar Hoe, Frank Charlie, Jack Clay, Tiger Tiger, Frank Jimmy, John Fewell, Joe Doctor, and Sam Jones Micco, individually and for the General Council of the Miccosukee Seminole Nation (Florida).

(1) The persons named in said "special appearance and motion to quash" are not parties to the above entitled action, are not subject to the jurisdiction of the Commission, and therefore may not file any motion

EXHIBIT 41a

in the proceeding.

(2) The undersigned attorneys, Roger J. Waybright and John O. Jackson, and their associates Edgar W. Waybright, Sr. and Guy Martin, are the sole attorneys of record for The Seminole Indians of the State of Florida and their contract with such Indians was approved by the Department of Interior on January 6, 1950.

(3) Morton H. Silver and Leo M. Alpert have no contract with any Indians which has been approved by the Department of the Interior.

(4) The claim previously filed by the undersigned attorneys on behalf of The Seminole Indians of the State of Florida, No. 73 and 73-A, was duly and properly filed in accordance with the Rules of the Indian Claims Commission and the laws of the United States.

(5) Therefore, the Seminole Indians of the State of Florida respectfully pray that the Commission overrule or declare of no effect the alleged "special appearance and motion to quash" and that said document be ordered stricken from the record in the above claim; and for such other relief as the Commission may deem proper.

ROGER J. WAYBRIGHT
305 Law Exchange Building
Jacksonville, Florida

Attorney for Petitioner

By Guy Martin
Guy Martin

EXHIBIT 41b

I hereby certify that on the 3rd day of November, 1954, one copy of the above and foregoing REPLY TO ALLEGED "SPECIAL APPEARANCE AND MOTION TO QUASH" was mailed to the attorneys for the movants, Morton H. Silver and Leo M. Alpert, 1112 Biscayne Building, Miami 32, Florida, and to the Attorney General of the United States, Department of Justice, Washington 25, D. C., attention Maurice L. Cooperman, Esquire.

ROGER J. WAYBRIGHT

By Guy Martin
Guy Martin

EXHIBIT 41c

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

In reply refer to:
SEMINOLE CLAIMS

Seminole Agency
Dania, Florida
November 18, 1954

Mr. Roger J. Waybright
Waybright & Waybright
East Forsyth and Market Streets
Jacksonville 2, Florida

Re: The Seminole Indians of the Stateof Florida vs. The United States of America

Dear Mr. Waybright:

I regret the delay in replying and acknowledging the receipt of your letters dated September 20 and 30, 1954, and November 5, 1954, for the reason that I have been away on a special assignment for 60 days.

The Seminole tribal members are being advised of the recent tactics of Mr. Morton Silver in filing a motion with the Indian Claims Commission on behalf of 15 Seminole Indians and the "General Council of the Miccosukee Seminole Nation." It is unfortunate that Mr. Silver has seen fit to get this minority group of Seminoles to file this motion for Special Appearance and Motion to Quash.

You know, of course, neither I nor the great majority of the Seminoles are in sympathy with this action, or the actions of Mr. Silver in recent months.

The eleven Seminole men who executed the contract with your firm are representatives of the three federal reservations - - six are Miccosukai and five are Cow Creeks.

Thank you for keeping us advised.

Sincerely yours,

/s/ K. A. Marmon
K. A. MARMON,
Superintendent

cc: Paul L. Fickinger
Area Director
Muskogee, Okla.

EXHIBIT 42

INDIAN CLAIMS COMMISSION
Federal Trade Building
Washington 25, D. C.

December 2, 1954

Morton H. Silver, Esq.,
1112 Biscayne Building,
Miami 32, Florida.

Dear Mr. Silver:

There were handed to me today the following papers on behalf of the General Council of the Miccosukee Seminole Nation, Movants, with reference to the claims of the Seminole Indians of the State of Florida vs. The United States of America, Dockets Nos. 73 and 73-A:

Notice of Deposition
Praecipe for witness subpoena
Witness subpoena

Notice to take depositions is not under our rules required to be filed with the Commission. It seems also I cannot issue a subpoena except at the request of a party to the action in which a proposed deposition is to be filed. The people whom you represent do not seem to be parties to these proceedings. If you think that I have the authority to issue subpoena in circumstances such as yours, I would be glad to consider whatever you may submit in that regard.

For the reasons above stated, I am returning the papers to the gentleman who brought them to the office.

Yours very truly,

James A. Langston,
Clerk.

Enclosures

JAL:bk

EXHIBIT 43

IN REPLY REFER TO:
Information

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON 25, D. C.

Airmail

DEC 7 - 1954

Mr. Morton H. Silver
Attorney at Law
1112 Biscayne Building
19 West Flagler Street
Miami 32, Florida

My dear Mr. Silver:

Many thanks for your cordial letter of December 4. I am planning to go out to Jimmie Tiger's village by government car on the morning of Sunday, December 19, and should arrive around 11 o'clock. I shall, of course, be happy to meet the delegation which you mention.

I join you in the hope that our meeting may help to bring about a better understanding between the Miccosukee Seminole people and the Government of the United States.

Sincerely yours,

Commissioner

EXHIBIT 44

REPORT ON THE FLORIDA SEMINOLES
December, 1954

This is a report on a series of consultations held in south Florida from December 16 through December 20, 1954 by Commissioner of Indian Affairs Glenn L. Emmons with the Indians of that State (commonly known as Seminoles) and with a number of non-Indian individuals interested in their welfare. Commissioner Emmons was accompanied to Florida by the Bureau's Information Officer, Morrill M. Tozier, who took extensive notes on the consultations and is the writer of this report.

Early Background

The first indication of a problem among the Indians of Florida which might require attention at the national level came in October, 1953, when a letter addressed to the Secretary of the Interior was received from Morton H. Silver, a Miami attorney, purporting to speak on behalf of a group which he designated as "the General Council of the Seminole Indians of the State of Florida." In the letter Mr. Silver protested against the activities of the Bureau's Seminole Agency at Dania and requested an immediate investigation.

In a reply dated November 16, 1953, Assistant Secretary Lewis (1) called attention to the Congressional mandate in House Concurrent Resolution No. 108 requiring the Secretary to submit to Congress by January 1, 1954 his recommendations for terminal legislation covering the Indians of Florida, (2) explained the law concerning legal representation of Indian tribal groups, and (3) pointed out that the relationship of the "General Council" to the tribe was "not clear."

The relationship was, in fact, not at all clear at that time and the prevailing view in the Washington Office of the Bureau was that the so-called "General Council" was probably a numerically insignificant rump group of malcontents. One reason for this was because the term "general council", in Indian Bureau usage, usually refers to the entire adult membership of a particular tribal group (in contradistinction to the tribal council which is ordinarily composed of elected or selected delegates) and the Florida group in question, by Mr. Silver's own description, clearly did not fit this definition. The tendency, therefore, was to suspect that the claims of the "General Council" group were spurious and quite possibly inflated through the demagogic efforts of an unscrupulous attorney. These suspicions prevailed with varying degrees of intensity until the Commissioner actually arrived in Florida around the middle of December.

After the Lewis reply of November 16, 1953, nothing further was heard from Mr. Silver or the "General Council" group until the following March when a number of Florida Indians came to Washington for the purpose of testifying on S. 2747 and H.R. 7321, companion bills which would terminate Federal supervision over the property and affairs of the Seminoles of Florida within two years after the date of enactment -- bills prepared by the Bureau of Indian Affairs and submitted to Congress in compliance with the 108 mandate. Among those who testified on March 1 were Morton Silver and Buffalo Tiger, the latter a young Indian who served as spokesman for the "General Council" group. In the course of the two-day hearing it became plain that there were sharp differences of opinion among the Florida Seminoles not only on the terminal legislation but on a number of other fundamental questions of tribal organizations and future relationships with the Federal Government. The exact pattern of factionalism and the comparative numerical strength of the

various sub-groups, however, were not at all clear.

The Buckskin Declaration

During his testimony on March 1 Mr. Silver stated that at 9 o'clock that morning two members of the "General Council" group (George Osceola and Jimmy Billie) delivered "a message from their tribal council to the representative of the President of the United States, Captain Chesney, on the steps of the Capitol Building." The message delivered was a petition on buckskin decorated with egret feathers which is now supposedly in the White House Archives and which became known as the Buckskin Declaration. It was addressed to President Eisenhower and started off with a brief historical account of relations between the Florida Indians and the United States since 1821. Next it referred to the claim against the United States filed with the Indian Claims Commission on behalf of the Florida Seminoles, pointed out that a financial settlement was being sought under this claim to compensate the Indians for unjust land dealings with the United States in the past, and stated that the group was not interested in money. Without quite saying so, the petition strongly implied that the claim had been filed without the knowledge or approval of the "General Council" group and that it was adverse to what they considered their best interests. The next section of the petition emphasized (1) the cultural differences between Indians and white man and (2) the desire of this particular group to continue living in their traditional pattern. Finally, the petition called upon President Eisenhower to send a personal representative "not connected with any branch" of the Government to Florida for the purpose of meeting with the "General Council" group and reaching a satisfactory agreement "on the preservation of the lands to which we (i.e. the "General Council" group) are entitled under all past treaties, under the law of nations, and under justice." The petition was dated February 26, 1954, was signed with a mark by ten Indians, and was witnessed and interpreted by Buffalo Tiger.

White House Correspondence

Receipt of the petition was briefly acknowledged on March 4, by Gerald D. Morgan, Administrative Assistant to the President, in a letter addressed to Ingraham Billie (the topmost of the ten signers) through Morton Silver's office in Miami. Simultaneously a copy of the petition was sent by Mr. Morgan to Commissioner Emmons with a request that a draft of a suggested reply be prepared by the Bureau. Because the actual import of the petition was not at all clear on its face, the drafting of a reply took some time. A draft, however, was transmitted to Mr. Morgan by Secretary McKay on April 6. For reasons which are not known to the Bureau, it was not sent out immediately but was held at the White House for over two months.

Meanwhile on May 3 a telegram addressed to the President by Buffalo Tiger (signing himself as "spokesman for General Council Mikasukie Seminole Nation Everglades") was received at the White House from Miami. This telegram, in somewhat primitive English, reminded the President that no answer had been received to the Buckskin Declaration and added that the group could not wait longer since "oil companies people close by our camps dynamite kill our game and fish . . ." Unfortunately this wire was referred to Bureau staff members completely unfamiliar with the

earlier background and so considerable time was wasted in correspondence with the Seminole Agency in an effort to make some sense out of what appeared to be an incoherent mess. Eventually the train was put back on the rails and a letter was sent out over the Commissioner's signature on June 21 to Buffalo Tiger advising him that if the group wished to continue living in their camps along the Tamiami Trail, they should consult with the land owners, and that they should take up their wildlife problem with the State Fish and Game Commission.

Shortly thereafter the Bureau received by referral from the White House a long letter addressed to the President by Morton Silver on June 4. Mr. Silver started this letter somewhat briskly by calling attention to the fact that the "General Council" had not yet received a reply either to the Buckskin Declaration of March 1 nor to the Buffalo Tiger telegram of May 3. (The Commissioner's reply to the telegram, of course, had not been received or even written at the time Mr. Silver was writing on June 4.) After this introduction, the body of the June 4 letter was seemingly an attempt to spell out in more comprehensive terms and fuller detail the basic message of the Buckskin Declaration. On its face it was more of an impassioned plea for justice than a tightly reasoned, coolly stated argument and practically impossible to evaluate without extensive and time-consuming research into past relations between the Florida Seminoles and the United States. Three points of salient importance were brought out: (1) that the Seminole people of Florida have been the victims of injustice and bad faith on the part of the United States Government dating back to the early years of the 19th century, (2) that the security of these people in using their traditional homelands has been disturbed in recent years by mounting encroachments on the part of white people and governmental agencies, and (3) that if no satisfaction could be obtained from the U. S. Government, then they would submit their case to "the appropriate tribunals of national and international jurisdiction."

On June 16, shortly after White House receipt of the June 4 letter, Bernard Shanley, Special Counsel to the President, signed the letter to Ingraham Billie which had been submitted as a draft by Secretary McKay on April 6. The reply (1) took note of the Buckskin Declaration, (2) expressed the President's sympathy for the Indians' desire to preserve their lands and to be free of governmental interference, (3) called attention to the fact that Congress was taking an active interest in Seminole affairs in connection with the termination bills, (4) pointed out that the Indians had been given full opportunity to express their views at the hearings held on this legislation, and (5) concluded that, in view of the current situation, it did not seem necessary or appropriate for the President to take the "independent action" suggested in the Buckskin Declaration.

On July 9 Mr. Shanley signed another letter drafted by the Bureau, this one addressed to Morton Silver in response to his June 4 letter. It was a brief reply which merely called attention to the fact that a response to the Buckskin Declaration had been forwarded to Ingraham Billie on June 16 and summarizing the essence of that response.

EXHIBIT 45c

Six days later, on July 15, Mr. Shanley transmitted to Commissioner Emmons a highly vituperative letter addressed to the President from Miami on June 26. Typewritten on Morton Silver's letterhead and written in "educated English", it was signed with an X by Ingraham Billie and witnessed by Buffalo Tiger. After briefly reviewing the background of the case, it acknowledged receipt of the June 16 letter signed by Mr. Shanley and dismissed that document with the remark that "a more ignorant and offensive statement could scarcely be made." Then it proceeded to elaborate and make explicit a thesis which had been only dimly hinted in earlier communications from Morton Silver and the "General Council" group -- namely, that the Mickasukie Seminole Nation of Florida is an independent and unconquered nation, technically still at war with the United States, that its people are not and do not consider themselves to be citizens of the United States, and that they have no desire to embrace "the ways of life of the white men." The letter also expressed indignation to the President because the "General Council" had been forced to deal with subordinates, called for "plain talk", and indulged in some by stating: "This is not a matter for Congress but for the Executive Branch . . . because the problem is not . . . one of the Seminole Nation (Florida) desiring to be independent of governmental supervision but is one that deals with the matter of treaties and treaty rights and the consequences flowing from both." In referring the letter to Commissioner Emmons, Mr. Shanley asked that a reply be drafted and added in a handwritten postscript: "If he is entitled to it!"

After careful consideration a proposed brief reply to Ingraham Billie was drafted and submitted to the White House where it was signed by Mr. Shanley on August 16. It indicated that while the President could not send to Florida a representative unconnected with the Government, he was asking Commissioner Emmons to meet with the "General Council" group "this fall." In a memorandum sending this draft reply to Secretary McKay for transmission to the White House, Commissioner Emmons pointed out that the incoming letter signed by Ingraham Billie (but presumably written by Morton Silver) was "most disrespectful to the President and his office, and would not in itself be worthy of a reply." The proposed reply and course of action, however, were recommended "since the interests of the Mikasuki Seminole are involved."

New Tension in Florida

While this letter was being processed, additional trouble broke out in Florida. On August 5 (Thursday) George Osceola, one of the two Indians who presented the Buckskin Declaration to Captain Chesney on the Capitol steps, died in a hospital at Clewiston, roughly halfway between the Brighton and Big Cypress Reservations. (See attached map.) After checking with the dead man's two sons, one at Brighton and the other at Big Cypress, Superintendent Marmon had the body removed to a funeral home in Clewiston and proceeded over the week-end to make arrangements for burial in the cemetery adjoining the Agency grounds

EXHIBIT 45d

at Dania. On Monday morning after arrival of the body at Dania Agency, Morton Silver suddenly appeared at the Agency with three "off-reservation" Indians and told the officer who was temporarily in charge in Mr. Marmon's absence that arrangements had been made for burial in the Everglades with full tribal ceremony. The acting superintendent, not knowing of the decision made by the two sons for burial at the Agency, agreed that the body would be given over to Mr. Silver and the "off-reservation" Indians if they obtained a permit for removal and transportation. The following morning Mr. Silver, accompanied by the same three Indians and half a dozen or more reporters, newspaper photographers, and television cameramen, and armed with the necessary permit, appeared at the Agency to claim the body. This time, however, Superintendent Marmon was on hand and a bitter altercation soon developed between the two men in full view of the assembled press and television people. Mr. Silver finally retired from the scene (without the body) but only after Superintendent Marmon had summoned a deputy sheriff from nearby Fort Lauderdale and threatened to have Mr. Silver forcibly ejected. Shortly thereafter the deputy gave out a statement to the press that he had been called for the purpose of preventing a riot. The whole incident, not surprisingly, was given full play for several days in southern Florida in the press, on television, and over the radio. The only surprising feature, perhaps, was that it did not rise to the level of national attention.

A few days after this public altercation Mr. Silver called the Bureau's Washington office from Miami and complained to Acting Commissioner Greenwood about Mr. Marmon's activities. His principal grievance was that stories were being circulated that he (Silver) was a Communist. Without quite saying so, he left the implication that Mr. Marmon might have had a hand in the fomentation of these rumors. Greenwood indicated that he would assign the Acting Director of the Muskogee (Okla.) Area Office (which superivses the Florida Agency) to make a quick spot check on the ground. Following the check the Acting Director submitted a full report on the "burial incident", expressed the opinion that both parties had been "guilty of some rather unrestrained and unwise remarks", and recommended that Mr. Marmon be transferred to another assignment. Mr. Marmon was subsequently detailed for temporary duty in northeastern Oklahoma but returned to the Dania Agency with Commissioner Emmons' approval several weeks before the latter's arrival in Florida on December 15.

Immediate Background of the Commissioner's Trip

Coming back now to the main thread of correspondence between the "General Council" group of Seminoles and the White House, the next item was a letter of August 24 to the President signed by Morton Silver and countersigned by Ingraham Billie with an X. Acknowledging receipt of the August 16 letter from Mr. Shanley, this reply indicated that the Shanley letter was made the subject of a "General Council" meeting on August 22 and that "much dissatisfaction was voiced" because the President had designated as his representative a man connected with a department of government which these Indians "do not trust." The

EXHIBIT 45e

principal fear expressed by the Indians, according to Mr. Silver, was that Commissioner Emmons would insist on meeting with the "General Council" at the Dania Agency, "which has been the scene of many embarrassing and insulting incidents, the last of which occurred in the very recent past." This fear, he added, would be "greatly allayed" if the meeting could be held at Jimmie Tiger's Village on the Tamiami Trail about 30 miles due west of Miami. In a reply of October 28, drafted in the Bureau and addressed to Ingraham Billie, Mr. Shanley merely assured Billie once more that Commissioner Emmons planned to meet with the group and would advise them prior to his arrival. Nothing was said about the location of the meeting and the thought was added that Mr. Emmons expected to "meet with other individuals and groups at several points on the reservation." A copy of this letter was sent to Morton Silver.

On November 5 Mr. Silver addressed a reply to the President which, while still somewhat querulous, reflected a considerably more temperate tone than his earlier correspondence. His principal complaint this time was that Superintendent Marmon in delivering the October 28 Shanley letter to Ingraham Billie had suggested that "all the Indians in Florida" meet with the Commissioner at Jimmie Tiger's Village. Whether Mr. Marmon actually made such a suggestion has not been ascertained and now seems largely irrelevant in view of subsequent developments. Mr. Silver's comments on the suggestion, however, are decidedly pertinent for the light they throw on the underlying situation. "There are," he wrote, "different Indian tribes in Florida with different and varying problems." The meeting to be held should be "between your (i.e. President Eisenhower's) representative and the representatives of the Miccosukee [the spelling of this word varies widely in Mr. Silver's letters and in other places] Seminole Nation in Florida, not a confusion of tribes and problems that would lead to nothing." However, after having unburdened himself of this virtual ultimatum to the Chief Executive of the United States, Mr. Silver added that the "General Council earnestly desires to end the differences between their people and the white people of the United States" and stated that, despite their disappointment with the President's action in naming an Indian Bureau official as his emissary, the Council members were "willing to treat" the offer as a "sincere gesture."

This letter was referred to Commissioner Emmons by the White House with an accompanying note asking him either to prepare a reply for Mr. Shanley's signature or handle the matter directly. The Commissioner chose the latter option and replied to Mr. Silver on November 29. In that letter Mr. Emmons (1) indicated his plans for meeting with various Indian groups in Florida from December 16 to 20 inclusive, (2) nailed down the fact that he was planning to meet only with "the Ingraham Billie group" at the Jimmie Tiger camp, (3) emphasized his deep personal interest in the welfare of all Indian people and his desire in this particular instance to "contribute toward a better and more positive relationship between these Indians and the Government of

EXHIBIT 45f

the United States", and (4) asked Mr. Silver to set a specific time for the meeting at Jimmie Tiger's Village. In a comparatively amicable reply dated December 4, Mr. Silver indicated that the "General Council" would like to have the meeting on Sunday, December 19. This suggestion was promptly accepted by the Commissioner and other meetings were then arranged by Superintendent Marmon around this centrally important date.

Scope of the Consultations

Starting on the morning of December 16 and winding up on the evening of the 20th, Commissioner Emmons in five full days met with six separate Indian groups in Florida at six different localities. Half of these meetings were held at the three Florida reservations: (1) the Dania Reservation (side of the Agency headquarters), comprising about 480 acres, roughly 25 miles north of Miami, (2) the Big Cypress Reservation and adjoining "State" Indian reservation, with a combined area of about 150,000 acres, located in the south-central part of the State approximately 45 miles due south of Lake Okeechobee, and (3) the Brighton Reservation of about 37,000 acres situated near the northwestern shore of Lake Okeechobee about 50 miles north of Big Cypress. The other three Indian meetings were held at various points along the Tamiami Trail, a major highway running across the State and through the Everglades almost due west of Miami. (See map for details.)

In between these Indian meetings the Commissioner also consulted and conferred with a large number of Florida citizens who are interested in the welfare of the Seminoles including a few who appear to be extremely well informed on their culture and their history.

From these many conversations there gradually emerged, for the first time, a reasonably coherent and comprehensible picture of the present situation among the Seminoles of Florida -- a picture in many ways almost fantastically different from the badly distorted image which the Commissioner and the writer of this report took down to Florida with them.

Some Seminole History

The first point to be emphasized is that the present Indians of Florida are the descendants of a group (and quite possibly the only Indian group) which successfully defied the authority of the United States. In a treaty consummated at Payne's Landing in 1832 the Seminoles agreed to give up all the lands they then occupied in the Territory of Florida and to remove within three years to an area west of the Mississippi River in what is now the State of Oklahoma. A substantial number of the Indians (probably a majority) complied with this agreement and their descendants today constitute the Seminoles of Oklahoma. However, another faction of the tribe under the leadership of Osceola repudiated the Payne's Landing agreement claiming that they had not been a party to it and that it was negotiated through bribery and misrepresentation. In fact, Osceola is supposed to have driven a knife through the treaty, at one parley, in a dramatic gesture of contempt.

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Througnout the latter 1830's and the 1[illegible]0's the United States Army made numerous attempts to round up the recalcitrant Florida Indians for deportation west of the Mississippi. These efforts are referred to in the history books as the Second and Third "Seminole Wars" although there is serious question whether a state of war actually existed in the full legal sense since it was never declared by Congress and only Congress can declare war under the Federal Constitution. Regardless of the legal niceties, however, the fact remains that there was warfare between the Army and the Florida Indians intermittently for over a decade. During this period the Army apparently indulged in such tactics as capturing Osceola after he had advanced under a flag of truce and seizing another band of Seminoles brought in for a parley by well-intentioned Cherokees who were attempting to serve as intermediaries. Meanwhile Seminole hatred of the white man and all his works undoubtedly became steadily more fierce and uncompromising. Because of the swampy nature of the Everglades terrain and the Seminoles' intimate familiarity with it, the Army's task of rounding up these people for deportation proved to be extremely frustrating and costly ($40,000,000 spent and upwards of 1,500 soldiers killed, according to Army estimates at the time) and was never completely effective. By the early 1850's, with about 150 Seminoles still in Florida and more than 11,000 deported west, the Army decided to abandon the whole undertaking and no further efforts were made to reassemble the Florida Indians with their now-distant kinsmen west of the Mississippi. This, briefly, is the factual basis for the widespread popular legend that the Seminoles of Florida are still "technically at war with the United States."

Because of this unique background, the Florida Seminoles, unlike most western tribes, have no long history of relationships with the Bureau of Indian Affairs dating back to the middle years of the 19th century. In fact, the relationship is of surprisingly recent vintage. Although the first reservations (Brighton and Big Cypress) were established in the late 1890's,it was not until the late 1930's that a Bureau program of any real significance among the Florida Indians was finally initiated. At that time a livestock enterprise was started on the Brighton Reservation with a small herd of cattle from drought-stricken areas of the West and the first Indian Bureau schools in Florida were built and staffed on the reservations.

Although these schools were opened bravely and with high hopes (to judge from a WPA report of 1940), it is only in even more recent years (seemingly since World War II) that education has begun to take a really solid hold among the Seminoles of Florida. At the hearings on the Seminole termination bill in early March of 1954 the statement was made that "at least 85 percent" of these Indians are illiterate. From evidence gained during the Commissioner's Florida trip, this seems like a conservative estimate. At all six of Mr. Emmons' Indian meetings translation of his remarks into the Indian language was essential and there were few questions or comments presented from the audience in English. Audience reactions to humorous

EXHIBIT 45h

remarks, which were extremely thin during the Commissioner's English delivery, usually became gratifyingly noticeable during the Indian language "playback." While the number of Florida Seminoles who can speak and understand English with fair adequacy is doubtless a bit higher than the number who can read and write, there are probably not more than 35 or 40 percent of the people altogether who have any means of direct communication (beyond a few elementary monosyllables) with their non-Indian neighbors. This is a fact of fundamental importance in understanding the present situation of the Seminoles and the nature of their problems.

Against this backdrop of widespread illiteracy and formidable language barriers, the divisions among the Seminoles and the recent pattern of activity come into much sharper focus. Even though the Commissioner held six Indian meetings, it now seems clear that there are two major groupings of primary significance: (1) the Reservation Indians and (2) those who live on small islands known as "hammocks" in the Everglades or in camps along the Tamiami Trail.

The Reservation People

At all three of the Commissioner's reservation meetings, despite some variations of emphasis, a single basic point of view was reflected. Broadly speaking, the reservation people are oriented away from the ancestral tribal ways, hopefully facing the dominant culture and economy which they find around them, and eager to play an active part in it or at least reach a satisfactory adjustment with it in the near future. Specifically, they want (1) prompt settlement of their $50,000,000 land claim now on file with the Indian Claims Commission, (2) education for their children in public schools rather than in segregated Indian Bureau classrooms, (3) improvement of their land resources to increase productivity, (4) adult education to provide an adequate command of English and at least the rediments of the three R's, (5) "modern homes" (apparently simple frame houses) in place of the typical thatch-roofed, wall-less Seminole "chickees". (6) a tribal organization based on the principle of majority rule, (7) an additional 25 years of assistance and trust protection from the Indian Bureau, and (8) administrative transfer of the Dania Agency from the Area Office at Muskogee (Okla.) to direct supervision by the Central Office in Washington, D. C.

Mike Osceola

The off-reservation picture is considerably more complex but can be simplified somewhat by coming immediately to a consideration of the highly atypical Mike Osceola group. Mike is about 35 years old, married to a non-Indian, and (in comparison with other Florida Seminoles) a conspicuous financial success. He holds a job as a mechanic with North American Airlines at the Miami Airport, runs several head of cattle on the Brighton Reservation, and operates a newly opened "Seminole Village" as a tourist attraction just a few miles west of Miami on the

Tamiami Trail. Living at this village are Mike himself; his father, William McKinley Osceola (apparently one of the more prominent Trail tribesmen 15 or 20 years ago); and three or four other family groups seemingly related to Mike by some degree of blood.

According to Mike's own story (as told at the termination hearings in Washington last March and at the Commissioner's meeting in Mike's village in December), he grew up in the Everglades like many other members of the Tribe but decided at an early age to gain an education in spite of the disapproval of the tribal elders. As he tells it, this "disapproval" was quite intense and at times actually involved threats of physical violence. Nevertheless, he persisted and apparently finished two or three years of high school -- quite probably the highest level of schooling ever reached by a Seminole of Florida. At the Congressional hearing last March he was the only Seminole spokesman to testify in favor of terminal legislation and emphasized his belief that the Seminoles would make better progress if they could be brought out from under the protective wing of the Bureau at an early date. At the December meeting with Commissioner Emmons his attitude on termination was somewhat less outspoken and he admitted, in effect, that some members of the Tribe may not yet be ready.

Other informants (some admittedly hostile to Mike and others apparently neutral) added a few touches which were not inconsistent with this self-portrait but tended to round out the picture. According to them, Mike was widely publicized several years ago both as the first Seminole to attend Miami High School and as a capable member of the football squad who played the game barefoot. By the time he left high school he was already being taken up by civic groups and women's clubs in the general Miami area and was treated as an outstanding Seminole and the Tribe's best hope for the future. Some of the less charitable informants emphasized that Mike was "spoiled" by this treatment and that he became arrogant and overbearing in his dealings with other Seminole people. Whether this is true or not, it does seem clear that, in the eyes of the traditionalist Seminoles living in the Everglades, Mike's white-approved behavior in seeking public school education, in thrusting for leadership, and in improving his economic status was almost tantamount to treason. All of these things, anthropologists agree, are foreign to the traditional Seminole culture which stresses cooperativeness, humility, and simple living.

Thus it is easy to see how Mike Osceola's influence among the off-reservation Indians might well be limited, as Morton Silver claims, to the comparatively few people (mainly blood relatives) who are living in his village. Any influence he might have had with the reservation Indians has apparently been largely dissipated by the stand which he took in favor of the termination legislation. In a press release issued by Morton Silver's office in the name of the "General Council" on December 16, there is one paragraph which obviously

EXHIBIT 45j

refers to Mike Osceola although it does not use his name. (He is referred to as an "individualistic" Miccosukee with "ability in English" bearing a name "once honored in our Nation.") The paragraph states that Mike "speaks for himself and his family, a total group of perhaps 20 people at most." From the observations made and conversations held by the Commissioner and this reporter in Florida, there seems no reason to question the accuracy of that statement.

This, of course, is not intended to deprecate Mike Osceola's very substantial accomplishment in rising from a virtually primitive background in the Everglades to his present position as a self-reliant and effectively functioning member of American society. It is meant to suggest, however, that Mike and his followers are not a major factor in the broad pattern of current Seminole affairs and that they can be dealt with separately as a separate problem.

The Cory Osceola Group

In addition to Mike Osceola's faction, Commissioner Emmons met with two other Indian groups at points along the Tamiami Trail. One was the "General Council" which had been making all the protests to the President that were the primary reason for the Commissioner's Florida trip. The other was a small group of perhaps a dozen or 15 adults seemingly under the leadership of two brothers, Cory and John Osceola. Although they are brothers of William McKinley Osceola (and thus uncles of Mike), their point of view is quite different and they apparently have little or nothing to do with Mike or his father at the present time. For purposes of convenience, we refer to this latter group as the Cory Osceola faction since Cory was the more active spokesman at our meeting.

Basically, the "General Council" group and the Cory Osceola faction are aiming at the same objective, operating within the framework of a single culture, and disturbed by precisely identical problems. The cleavage that separates them apparently is nothing more than a personal dispute which came to a head quite recently between Cory Osceola on the one hand and some of the "General Council" leaders, such as Ingraham Billie, on the other. From the facts gathered during the Commissioner's trip, it is impossible even to guess the nature of this dispute or just how deep or serious it may be. To judge merely from Cory Osceola's demeanor, however, it would seem to be almost irreconcilable.

Some Basic Facts About the General Council

Commissioner Emmons held two meetings with representatives of the "General Council" group -- one a "public" meeting on Sunday, December 19, at Jimmie Tiger's Village on the Trail about 35 miles west of Miami, which was covered by a dozen or more newspaper and

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magazine reporters and photographers, and the other a private session on Monday, the 20th, at Morton Silver's office in downtown Miami. As a result of these meetings, the Commissioner and this reporter finally gained a reasonably clear picture of what is currently bothering these particular Indians -- why, in other words, they are protesting as they are -- and what they want and expect from the United States Government. Before going into these matters, however, it seems essential to provide some background information on the "General Council" group, gleaned from various sources, so that their protests and their demands can be viewed in true perspective.

First there is the question of the "legitimacy" of the Council and its actual status in the broader pattern of Seminole affairs. This subject is covered quite thoroughly in a recent Smithsonian Institution publication, "The Medicine Bundles of the Florida Seminoles and the Green Corn Dance", by Louis Capron, a Florida anthropologist, and was amplified to some extent by Mr. Capron in conversation with the Commissioner and this reporter. Without going into all the intricate anthropological details, the matter can be summarized here quite briefly. The most important point to be emphasized is that the "General Council" is not, as we occasionally suspected before visiting Florida, an organization recently thrown together by some Indian extremists or an ad hoc group pulled together by Morton Silver for purposes of his own. Actually it goes back for many generations and was, until comparatively recent years, the only forum available to the Florida Indians for discussion of problems affecting the whole tribal group.

The picture of this traditional tribal organization presented by Mr. Capron is, as he readily admits, a bit cloudy in spots because some aspects of the matter are deliberately kept secret by the innermost circle and probably always will be. Nevertheless, certain basic facts are reasonably clear. We start off with the medicine bundles which were supposedly handed down to the tribe by the gods and which, according to Mr. Capron, have about the same awe-inspiring significance for the traditionalist Seminoles as the Ark of the Covenant had for the ancient Hebrews. There are three of these bundles and each is in the custody of a medicine man. In fact, it is the medicine man's custodianship of the medicine bundle that gives him his prestige status in the tribal group; once the bundle has passed to the custody of a new man, the former medicine man, if still alive, no longer enjoys his previous position of eminence and also loses the healing powers that are supposedly inherent in the bundle. As we shall explain later, this has actually happened in the recent case of Jose Billie. Each medicine man has an assistant who apparently functions somewhat in the role of an apprentice and is groomed for eventual assumption of the position.

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While the medicine man is seemingly active in one way or another throughout the year, he really comes into his own at the annual Green Corn Dance. This ceremony is traditionally held deep in the Everglades and is open to all tribal members. The actual scheduling of the Dance is not at all clear but the general impression gained by this reporter is that in recent years the Dance has been held more irregularly and with greater frequency than was formerly the case. Nowadays two or three Green Corn Dances in a single year are apparently not at all uncommon. However, the more important point for our purposes here is that the General Council (we can drop the quotation marks now) is an outgrowth of the Green Corn Dance and was, historically, generally convened at the same time and place. In fact, Mike Osceola claims that the Council in the past never met at any other time and place, and that its recent activities involving frequent meetings with Morton Silver and others are beyond its recognized sphere under tribal tradition. Aside from the irony involved in this puristic interpretation of tribal tradition by one of the most acculturated Indians in Florida, the major fact stands out that the real traditionalists have voiced no such objections and have, in fact, been playing an active role in the recent meetings. We suspect that the Council met in the past at Green Corn Dance time primarily for reasons of convenience -- because this was the one time when there was sure to be a widespread tribal turn-out -- and that, actually, there is nothing to prevent its meeting at other times if it chooses to do so.

The function of the three Medicine Men in connection with the Council meetings is somewhat unique. As Mr. Capron explains it, the Medicine Men take the lead in assembling the meeting and usually open up the discussions but do not actually function as chairmen in our full sense of the term. Everyone is free to speak and decisions are reached not by majority vote but, as in some other Indian tribes, by a kind of felt common consent. The closest non-Indian analogy would probably be what the Quakers call "the sense of the meeting." Mr. Capron and other anthropological authorities on the matter emphasize that the concepts of "leadership" and "authority", as we know them, are wholly alien to the Seminole culture and play no part in the pattern of their tribal organization. Thus, while Ingraham Billie is recognized as the Chief Medicine Man among the three, this does not mean that he is able to speak on behalf of the other two or to exercise any control over the performance of their functions. Against this background, the emphasis of the reservation people on having an organization based on the principle of majority rule takes on added significance.

The next question that needs examination is the extent of the General Council's influence among the Seminole people at the present time. In other words, how large a following does the Council

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have among the 900-odd (the best available population estimate) Indians of Florida? Morton Silver has set the figure as high as 600 but Superintendent Marmon considers this much too high and it would seem, in the light of other evidence, to be definitely inflated. Nevertheless, the fact remains that the turn-out at the meeting in Jimmie Tiger's Village was unquestionably the largest that we had at any of the six Indian meetings. As a rough guess, this reporter would place the figure at about 75 adults as compared with less than 20 at the Mike Osceola and Cory Osceola meetings and mot more than 50 at any of the three reservations. So, even though the General Council may not actually represent a majority of the Florida Indians, it almost certainly speaks for or comprises a very substantial minority and one that cannot, as a matter of public policy, be ignored or overlooked. A large part of the current problem arises from the fact that it has been largely ignored or overlooked by the Government until very recent months.

Miccosukee and Muskogee

At this point a few words are needed on the question of Miccosukees and Muskogees. Throughout this whole matter Morton Silver has persistently and emphatically contended that the Miccosukees and Muskogees are wholly distinct and separate peoples, and that the General Council is the appropriate body to speak on behalf of the entire Miccosukee "Nation." The Muskogees are to him, quite obviously, a remote group with which he has no particular concern and he seems at times to have been under the decidedly mistaken impression that all or practically all of the people living on the reservations are Muskogees. The most extreme statement of this position is set forth in the press release (referred to earlier) which he issued on December 16 in the name of the General Council. In the release he asserts (1) that the term "Seminole" was "made up by white men" and applied to all the Indians of Florida in bland ignorance of the ethnological actualities (this in spite of the fact that he refers in this release and elsewhere, time and time again, to the Miccosukee Seminole Nation); (2) that the Muskogee Tribe "is not organized and is not a nation" whereas the Miccosukee Tribe is both; (3) that the General Council "expresses and reflects the wishes, thoughts and feelings of an estimated 90% of the Miccosukee Seminole (sic) Nation in Florida," and (4) that the only Miccosukee element of any consequence dissenting from the General Council's position is the group of not more than 20 affiliated with Mike Osceola, who is not named in the release but referred to as an "individualistic" and English-speaking Miccosukee.

This, in my considered judgment, is an almost fantastic garbling of the facts and a substantial overstatement of the General Council's actual current sphere of influence among the Indians of Florida. In the first place, there is nothing spurious or artificial at all about the term "Seminole"; it has been used by the very best ethnological authorities for generations and is apparently derived

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from a native Indian word meaning something like renegade" or "wild one." It is true, of course, that there are both a Miccosukee Band and a Muskogee Band in the Florida Seminole grouping of Indians and this fact has been recognized by the Bureau of Indian Affairs for a great many years. While the literature suggests that there may have been significant cultural differences between the two bands in the past, these are not today readily apparent, at least to a casual observer. At the Commissioner's reservation meetings the audience at Brighton, where the population is predominantly Muskogee, was virtually indistinguishable in dress and outward behavior from the presumably almost pure Miccosukee audiences at Dania and Big Cypress. The only important difference that could be readily noticed was in language. At the Brighton meeting the two Miccosukee-speaking girls who had served as interpreters for the Dania and Big Cypress meetings were, after a short trial run, replaced by a young man from Brighton and the translation was carried forward in Muskogee. However, the mere fact that the trial run was made would indicate to this reporter that the differences between the two languages are not major (probably comparable to those between Spanish and Portuguese, for example) and that speakers of one language can ordinarily follow at least the general drift of conversations carried on in the other. But Mr. Silver's continuing insistence on dividing the Florida Seminoles along Miccosukee-Muskogee lines is not objectionable simply because of over-emphasis of seemingly trivial cultural dissimilarities. In the opinion of this reporter, a far more serious objection is that it gives us a badly distorted picture of the real and meaningful cleavage which exists among the Indians of Florida today. To be specific, Sam Jones, one of the two Medicine Men playing a key role in the General Council's recent activities, is admittedly a Muskogee; the other, Ingraham Billie, is a Miccosukee. And the third Medicine Man of the Seminoles is John Osceola, who has not taken part in recent Council activities but is affiliated, instead, with the faction led by his brother, Cory.

Moreover, what we might call the "non-Council Miccosukees" (that is, those people of Miccosukee blood who do not approve or support the Council's recent activities and pronouncements) unquestionably constitute a much larger percentage of the total band population than is suggested by the Silver press release. The dissenters include not simply the followers of Mike Osceola mentioned in the release but also the Cory Osceola faction (who are apparently all Miccosukee) and, even more importantly, a very substantial percentage of the predominantly Miccosukee populations at Dania and Big Cypress. Conceivably the General Council may be speaking for something like a bare majority of the total Miccosukee population. But any claim that it represents 90 percent is clearly a gross exaggeration.

At the other extreme is the recent estimate of Roger J. Waybright, one of the two Jacksonville attorneys who have a Bureau-approved contract with the Seminoles of Florida to prosecute their

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claim before the Indian Claims Commission. In a report submitted to the Tribe through Superintendent Marmon on January 20, 1955, Mr. Waybright devotes several pages to what we might call the General Council controversy and refers to this group as "40 or 50 of the heads of families who live along the Tamiami Trail . . . or at most 150 of the 925 members of the tribe." Elsewhere in the report he consistently designates them as the "few" and "the small minority." Mr. Waybright, of course, has no more reason to be impartial in this particular controversy than does Morton Silver and we strongly suspect that his estimate is almost as far off on the side of understatement as Mr. Silver's claims are in the direction of hyperbole. Judging from all available evidence, the true numerical strength of the General Council group (counting children as well as adults) probably lies somewhere around midway between Mr. Waybright's 150 and Mr. Silver's 600.

The Two Main Groupings

Regardless of how significant the cultural and other differences between Miccosukee and Muskogee may have been in the historic past, this reporter believes strongly that the present controversy is not so structured and that Mr. Silver's constant insistence in dividing the Tribe along these lines only leads to confusion and acrimony. The real cleavage in the Tribe today, as we see it, is between (1) a predominantly (but not exclusively) Miccosukee group, living chiefly along the Trail and in the Everglades, whose members deliberately reject the mores of non-Indian society and prefer to continue living along traditional lines in a semi-primitive, hunting-and-fishing economy, and (2) a mixed Miccosukee and Muskogee group composed principally of people living on the three reservations who, in the main, accept the framework of the non-Indian society around them and want to improve their economic and social status within the broad pattern of that society. Hereafter in this report these broad groups will be referred to as the Trail Indians and the Reservation Indians -- terms which are generally indicative although perhaps not entirely precise. In all probability there are some few families living on the reservations who would, given a clear-cut choice, align themselves with the Trail Indians -- and vice versa.

Under this definition of the two broad groupings, the Mike Osceola and Cory Osceola factions might appear at first glance to be left out of consideration. However, it should be remembered that Mike and some of his relatives are running cattle on the Brighton Reservation and, despite Mike's somewhat advanced ideas on termination of Federal responsibilities for Indian affairs in Florida, he is unquestionably much closer in basic sympathies to the Reservation Indians than to those along the Trail. While he is unlikely ever to move onto a reservation, the chances are that he and other off-reservation Indians currently earning an adequate living in the Miami area

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would probably align themselves, at least in a loose way, with the reservation people if called upon to make a choice.

Conversely, Cory Osceola, despite his apparently deep antagonism to Ingraham Billie and other key figures of the General Council, is obviously aiming at the same objectives and is psychologically committed to the same traditional way of life as the members of that group. There is at least a possibility that in time the current breach between the Council and the Cory Osceola faction will be healed and that the two groups will be brought together by their common purposes and mutual predilections. In fact, this process is likely to be nudged along and accelerated if a suitable sanctuary can be provided for the Trail Indians, either in the Everglades National Park or elsewhere, where they would be free to live in the accustomed way without outside interference. If the breach should prove to be deeper and more enduring than we now suspect, it would, of course, always be possible to set aside a separate corner or section of this sanctuary specifically for the Cory Osceola faction. So, even under the worst possible interpretation, the problem represented by the Cory Osceola group does not seem to be at all major or insoluble.

But the main cleavage in the Tribe -- between the traditionalist Trail Indians and the progressive-minded reservation people -- is obviously neither transitory nor trivial. It involves a fundamental difference in outlook, a sharp contrast in aspirations for the future. The two groups are in all probability completely irreconcilable and will have to be administratively dealt with as wholly separate entities. Any program or proposed solution which ignores these facts and attempts to treat the Florida Seminoles as a homogeneous tribe is almost certainly foredoomed to failure.

The Religious Phase of the Conflict

One important factor that has sharpened the conflict between the Trail Indians and the reservation people in recent years, it became clear during the Commissioner's trip, has been the conversion of many reservation families to Christianity and their subsequent abandonment of the ancestral tribal religion and tribal mores. As the story was told to us, Baptist missionaries in particular have been active among the reservation people for several years now and have succeeded in winning over a substantial number of converts. There has also apparently been some activity of this type by Miccosukee-speaking Seminoles and Muskogee-speaking Creeks from Oklahoma who have worked as Christian missionaries on the Florida reservations. In addition, a number of younger reservation men have been sent away to a Baptist seminary in the northern part of the State for a period of training and have returned to their home areas to function as preachers in the native language. One such

young man, Billie Osceola, played a leading part in the discussions held with Commissioner Emmons on the Brighton Reservation.

A significant sidelight on all of this is the complaint which we were told the Trail Indians frequently make that the younger reservation people no longer show them proper respect and have taken to laughing, more or less openly, at their costumes and their behavior. The fury which this doubtless arouses in the Trail traditionalists is, of course, not difficult to imagine.

But the religious phase of this controversy is perhaps most brightly illuminated by the rather dramatic story of Josie Billie, Ingraham Billie's older brother. Josie until a few years ago was not only a Trail traditionalist but actually the recognized chief medicine man of the tribal group. Today he is a practicing Baptist and lives on the Big Cypress Reservation. Just what happened between the two brothers following Josie's conversion to Christianity is not wholly clear. As Robert Mitchell of the Seminole Indian Association of Florida (an organization of white people interested in Seminole affairs) tells it, the impression left is that Ingraham moved in more or less forcibly, took possession of the medicine bundle, and ousted Josie from his former position. Mr. Mitchell also adds that Josie no longer dares to go back among the Trail Indians nowadays and that, if he did so, he quite possibly would be killed. Mr. Capron, however, insists that the transfer of the medicine bundle was wholly voluntary on Josie's part and that he turned it over to Ingraham, as his logical successor, once he realized that he could no longer conscientiously function in his former role. In any case, it is clear that relations between the two brothers today are at the very least strained and that Ingraham is generally recognized by the Trail Indians as the legitimate custodian of the bundle.

Buffalo Tiger

Still further light is thrown on the present status of the Trail Indians and their basic frame of mind by the story of Buffalo Tiger. Buffalo is a presentable young man in his 20's who apparently grew up in the Everglades but somehow or other acquired at least a smattering of education. He is a younger brother of Jimmie Tiger, operator of the village where the open meeting with the General Council was held, and seems to earn his living by acting as an interpreter at the village in dealing with the tourists. As Buffalo himself tells it, he was approached a few years ago by some of the tribal elders and asked to serve as their spokesman and intermediary in dealing with the white people. At the time he indicated little interest in the assignment, the elders left, and he gave the matter no further thought. About a year later, however, the elders came to him again and told him that they had been quietly sizing him up

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for several months, and indicated that he was now more definitely than before the man they wanted. At this point he agreed to take on the assignment.

Now the most significant point about this incident is the way it highlights the deep suspicion and distrust that these General Council Indians obviously feel toward any person, Indian or non-Indian, who is not an inner member of their esoteric group and also their groping for some channel of communication with the white society around them. The picture that takes shape is of a semi-primitive people, cut off by a language barrier and somewhat bewildered by the recent course of events, reaching out in an almost desperate effort to make people understand how they feel and what they want. In this context even some of the more intemperate letters to President Eisenhower can perhaps be viewed with a larger tolerance and a fuller understanding.

The final link in the chain was provided by Morton Silver himself. As he tells it, Buffalo Tiger came to him about two years ago to discuss the possibility of a divorce from his non-Indian wife. During the course of conversation Buffalo mentioned the problems of the Trail Indians, for whom he was then starting to serve as intermediary, and asked Mr. Silver whether he would be willing to help them out on the legal aspects. Mr. Silver confesses that he was at first badly confused about the exact nature of their problems but after several trips to the Everglades and consultations with the General Council he finally became convinced that their complaints were well founded and agreed to lend a hand. He was not asked directly whether he has ever received any compensation for these services and the information was not volunteered. However, in view of the pronounced poverty of most Trail Indians, it seems a safe assumption that he has probably not received enough compensation to cover his expenses in working on the matter.

First Meeting with the General Council

This leads us up to the meeting in Jimmie Tiger's Village on Sunday, December 16. At this meeting one major point emerged from the comments made by the Indian spokesmen which has not been adequately covered previously in this report. It is that these Indians, ordinarily referred to in Indian Bureau reports and elsewhere as "squatters living along the Tamiami Trail", are in their own view nothing of the kind. As they see it, they and their ancestors before them for many generations have occupied and used these Everglades lands and any claims of ownership made by white people or governmental agencies are wholly unjust and even irrelevant. The point was made perhaps most vividly by Medicine Man Sam Jones when he said, as interpreted by Buffalo Tiger: "The land I stand on is my body. I want you to help me keep it."

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Just who holds legal title to the swampy lands where these Indians live, hunt and fish, is not wholly clear. One member of the group, Jimmie Tiger, has his village just inside the boundary of the Everglades National Park and continues to operate there with the informal approval of the present park superintendent. The others live chiefly on small islands (known locally as "hammocks"), which are dotted throughout the watery landscape of the Everglades and apparently most of the lands they occupy and use (outside the National Park) are a patchwork mixture of State lands and private holdings. Seemingly the owners of these tracts have never taken action to oust the Seminole occupants and have, until quite recently, shown little or no interest in using the lands themselves or leasing them to others. Within the past year or two, however, there have been definite signs of development in the Everglades -- fencing of certain areas by livestock operators, dynamiting by oil explorers, and actual oil drilling. In fact, there were two oil derricks within about a hundred yards of the meeting in Jimmie Tiger's Village -- and this may well be one reason why this particular spot was chosen -- one within eyeshot inside the National Park and the other just north of the Trail. Even before the meeting complaints were received from Morton Silver and his associates in the recently established United Seminole Affairs organization that the dynamiting for oil had killed large numbers of fish in the Everglades and thus destroyed an important part of the Indians' food supply.

At the meeting it became additionally clear that all these recent developments have had a strong impact on the Trail Indians who feel that, for the first time in their memory, they are being hemmed in and that the whole physical foundation for their way of life is gravely threatened. Undoubtedly these developments were the prime factor triggering off the series of protests that began with the Buckskin Declaration.

The impression gained by the Commissioner and this reporter was that so far there have been no really significant oil findings in the Everglades and that future prospects can be described as "only fair." Barring an important strike, the probability is that before long oil prospectors will pull out and shift their attentions elsewhere. But there is always the chance of a major oil discovery, which would profoundly alter the picture almost overnight. And, in any case, there is the practically mushroom commercial growth now taking place in south Florida which could easily engulf the Trail Indians and their hunting-and-fishing economy in a very few years unless preventive steps are taken.

After the Indians had voiced these anxieties and their strong conviction that the land rightfully belongs to them, the main burden of the presentation at the Jimmie Tiger meeting was taken over by Morton Silver and his partner, Leo Alpert, who at this point came into the picture publicly for the first time.

Mr. Silver started off by sketching in the immediate background events of the past year or two (points which have already been sufficiently covered in this report) and then moved into the more remote past to lay an historical foundation for the land claims which the General Council is advancing. Without going into all of the many and complex chronological details, it

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will suffice here to say that the claim is seemingly based on two principal points. One is the assertion that the Trail Indians of today are the descendants of Seminoles who never assented to the Payne's Landing Treaty of 1832 (under which the main body of the Tribe agreed to remove itself to Oklahoma) and that consequently the Treaty is of no force or effect so far as this group is concerned. The other point revolves around what Mr. Silver calls "the Macomb Treaty" of 1839. When asked by this reporter whether the "Macomb Treaty" was ever ratified by the Senate, Mr. Silver readily admitted that it was not and added, "That's one of the troubles." Under the circumstances it was not possible to pursue this point further at the time. Some subsequent (rather hasty) research has uncovered no mention of this particular document or even the name Macomb either in the standard reference work on Indian treaties (Kappler) or in the Smithsonian's two-volume encyclopedia, "The Handbook of American Indians." However, from another source (the Jackson-Waybright petition on behalf of the Florida Seminoles before the Indian Claims Commission) it seems clear that what Mr. Silver is talking about is a statement signed by Major General Alexander Macomb and apparently issued as part of his General Orders No. 6 at Fort King, Florida, on May 18, 1839. In the statement there is no reference to a "treaty" as such but General Macomb asserts that he has "this day, terminated the War with the Seminole Indians, by an agreement entered into with Chitto-tuste-nugge, principal Chief to the Seminoles" and that the Seminoles and Mickasukies (sic) agreed "to retire into a district of country in Florida" which is then rather elaborately defined in terms of 1839 geography.

Without extensive additional research, it is, of course, impossible to say how much weight should be given to this rather peculiar and seemingly obscure document and whether it should be regarded as a "treaty" even under the most liberal definition of the term. In due course the question will probably be answered by the Indian Claims Commission. Suffice it to say here that Mr. Silver obviously regards the Macomb iocument as a solemn obligation of the United States and believes that it entitles the Mickosukee Seminole Nation (whatever that may be) to a huge acreage in southwestern Florida.

At the Jimmie Tiger meeting Mr. Silver emphasized that the Indians do not necessarily insist on having "title" to the land (in our sense of the term, which they do not understand) but that they do want a guarantee of use rights which would be both perpetual and exclusive. Summing up, he stated that the Indians' demands are actually threefold: (1) recognition of their ownership of the lands, (2) prevention of further encroachment on these holdings, and (3) recognition (i.e. by the United States Government) of the General Council.

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Mr. Alpert then spoke comparatively briefly. He emphasized his conviction, as a lawyer, that the Indians have a soundly based claim to the lands in question not only in terms of basic human rights and elementary justice but in specific legal terms that will stand up in court. Pointing to the oil derrick which almost literally overshadowed the meeting, he demanded an end to this type of thing and added a bit ominously: "I don't want to present this as a threat but I will say this. Because we feel that our case is a good one, if we cannot obtain satisfaction from the United States Government, we will resort to the World Court or some other appropriate tribunal." (NOTE: While this may not be a completely accurate quotation, this reporter feels confident that it is a very close approximation of the words actually used by Mr. Alpert.)

Second Meeting with General Council

At the meeting in Morton Silver's office the following day an effort was made to nail down more precisely a common basis of understanding. Commissioner Emmons emphasized, as he had at all previous Indian meetings, his definite feeling that it would be necessary and desirable to divide the Florida Seminoles into two broad groupings: (1) those who wish to improve their standards of living in the typically (non-Indian) American pattern and to affiliate themselves with the reservations even though they may not actually live there, and (2) those who prefer to continue living in the Everglades and following the traditional way of life. As to the comparative numerical strength of the two groups, he observed that there seemed to be wide differences of opinion and that the only practical way to arrive at a real answer would be to have some kind of referendum or plebiscite giving each adult Seminole a chance to make a free and unhampered choice. He added his hope, as he had at the reservation meetings, that the reservations would be kept "open" both for any adult Trail Indians who might later change their minds and for any children in the Trail group who might prefer reservation affiliations on reaching the age of 21, and indicated that this proposal was apparently acceptable to the reservation people. Touching on the land problem, he sketched out a rough plan for having an area of perhaps 15,000 to 25,000 acres in the Everglades set aside as a sanctuary for the Trail Indians and establishing some kind of private trusteeship to safeguard the Indians' interests. He also indicated that if such a plan could be worked out, it might be necessary for the Trail people to give up their proportionate share in any judgment money that might be forthcoming to the Florida Seminoles as a result of the claim now pending before the Indian Claims Commission. Finally, without particularly pushing the matter, he expressed the hope that some day the Trail Indians might see fit to send the youngsters to the public schools.

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Responding on behalf of the Indians, Buffalo Tiger indicated that there seemed to be general understanding of the terms outlined and no particular objections. As for schooling of the young, he indicated that this would have to come later after the land matter had been satisfactorily settled. At the meeting in his brother's village the previous day, incidentally, he had spoken a bit on this subject. As he laid it out, the feeling of the Trail people apparently is that white people are not to be trusted (as their experience has taught them) and that attendance at the white man's schools would only contaminate the young and turn them aside from the accepted Seminole path of life. (Here they doubtless have in mind the, to them, horrible example of Mike Osceola,) Morton Silver, Buffalo Tiger and others, however, expressed considerable confidence that once the land problem is settled and the Trail people have tangible evidence of the Government's good faith, they may speedily change their minds on the school question. Without wanting to appear overly skeptical, this reporter would suggest that a definite agreement covering public school education for the young along the Trail should be included as a part of any land settlement or sanctuary establishment that may be worked out. Under such an arrangement, the adult Trail Indians who are deeply committed to the traditional way of life would have an opportunity to live out their lives as they prefer but the children would not necessarily be tied and limited by the decision of their parents.

At the meeting in Mr. Silver's office the lawyers and the Indians were asked to delimit somewhat more precisely the area which the Indians were claiming so that the Commissioner would have this information as part of the total package to be taken back to Washington for study and consideration. After some hesitation and apparent confusion over this matter, Buffalo Tiger and Jimmie Billie, working together, finally traced out with their fingers on a large-scale road map the area where the Trail Indians have hunted and fished for years and which they feel is rightfully theirs. Excluding a strip roughly ten miles wide along the coast, the area designated includes all of Florida lying south of a line running east and west across the middle of Lake Okeechobee. This would run south of the Brighton Reservation and would probably leave out Dania Reservation (as part of the excluded coastal strip) but would definitely take in Big Cypress. When this was pointed out, Buffalo Tiger said, "Well, then, don't go so far up" and Jimmie Billie proceeded to trace out a new northern boundary running just south of the Big Cypress Federal Reservation. Most, if not all, of the adjoining State reservation, however, was included even in the redefined boundary. When an objection was raised to this, the lawyers asserted with some finality that the Trail Indians had been fishing and hunting in that particular area for years (with no interference or objection from Big Cypress residents) and would

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be extremely reluctant to give it up. This may prove eventually one of the most difficult issues to resolve in the whole matter since it apparently involves a sharp conflict of interests between the two groups and a certain amount of equity on both sides. The land was, we were told, set aside by the State of Florida simply "for the use of the Seminole Indians", which would seem to leave the matter squarely up in the air.

The Recognition Question

One final phase of the consultations remains to be covered. At the meeting in Mr. Silver's office Mr. Alpert objected rather pointedly to the Commissioner's frequent use of terms such as "factions" and "groups" and insisted with some vehemence that what we have here is a well established body of long standing -- namely the General Council -- and some Indians who have in recent years strayed away from their affiliations with it. Like Mr. Silver, he obviously regards the non-Council Miccosukees as a numerically insignificant group and also seems to feel -- although he never quite said so -- that the Miccosukees are in every sense of the word a sovereign and independent nation. After this reporter had recapitulated the general understanding reached on the land problem, Mr. Alpert emphasized with some force that recognition of the General Council was also a vitally important issue and should not be overlooked. Subsequently, since our return to Washington, a letter has been received from Morton Silver giving the question of recognition top priority and suggesting that the land problem be "deferred" for later consideration.

Although Mr. Silver states in this letter that he is reflecting the views of the General Council on this matter, this reporter cannot recall that the question of recognition was ever mentioned by any of the Indian spokesmen at either of our meetings. Subsequently in a long-distance telephone conversation with Mr. Silver, this reporter specifically asked why the matter of recognition was being given such importance. Mr. Silver's reply was quite lengthy and involved two principal points. One point revolved around the difficulties which Trail Indians encounter when they fall into the hands of the law (e.g. for speeding or drunkenness) and are left helpless in a police court where they can neither speak nor understand the language. As well as we can understand Mr. Silver's rather involved explanation on this point, what he seems to be saying is (1) that the Trail Indians have their own code and their own system of law enforcement, (2) that individual offenders will generally get better justice under this system than they could hope to find in the white man's courts, and (3) that the chances of obtaining such justice will be greatly enhanced if the Council receives some kind of official recognition. The second point is simply

EXHIBIT 45x

that if the Government continues dealing with every Indian in Florida who sets himself up as some kind of "little chief", factionalism will increase and chaos will reign among the Indian people. This reporter finds the second point considerably more persuasive than the first.

EXHIBIT 45y

MORTON H. SILVER
Attorney at Law

1112 BISCAYNE BUILDING
19 WEST FLAGLER STREET
MIAMI 32, FLORIDA
TELEPHONE 82-8515

FT. LAUDERDALE, FLA., OFFICE
CHARLES H. HONAST, ASSOCIATE
LAWYER'S BUILDING
TELEPHONE 2-2162

SPECIAL DELIVERY ** AIR MAIL

April 7, 1955

Honorable Edgar E. Witt
Chief Commissioner
Indian Claims Commission
Federal Trade Building
Penn. Ave. at 6th St., N.W.
Washington 25, D. C.

Re: Claims Nos. 73 and 73-A

Dear Commissioner Witt:

On March 29, 1955 we were notified by the Clerk, James A. Langston, that our Motion to Quash would be heard Tuesday, May 3, 1955 in Washington, D. C.

In December of 1954 in order to establish our position and for the purpose of discovery we attempted to issue subpoena, etc., to take the deposition of Kenneth Marmon, Superintendent of the Dania Agency, pursuant to Section 17 of the Indian Claims Commission General Rules of Procedure.

To our great surprise, the Clerk (whose duties are presumably ministerial and neutral) refused to issue the subpoena, and in effect opposed us as would an attorney representing the opposition. He stated that we were not "parties" to the action as though he were qualified to venture such an opinion. I promised to prepare a Brief to satisfy him that we were parties, but events occurred subsequently which if we were to have pressed our Motion to Quash would have created some problems, and cannot be adequately explained at this time.

The important point, however, is that the Clerk has prevented us from preparing our case and consequently we would be at a distinct disadvantage were our Motion to be heard in May.

The general law, which of course Mr. Langston could not be held to know, is that the term "parties" includes all who are interested in the subject matter of litigation, who will be gainers or losers in its result and for or against whom the record of the former proceeding may be adduced in another trial as res judicata.

EXHIBIT 46a

The facts are plain and simple.

A claim for money was filed by some attorneys allegedly employed by twelve Indians. The claim was filed on behalf of "all the Indians in Florida". The recognized (not by the Indian Bureau which recognizes no tribal authority or organization) and traditional Miccosukee tribal authority for the Seminole Indians of Florida is known as the General Council for the Miccosukee Seminole Nation, composed of the traditional medicine men. * (You may refer to reports in the Smithsonian Institute and by other anthropologists such as Louis Capron, of West Palm Beach, Florida, and Wilfred T. Neill of Ocala, Florida, etc.) There is no other tribal authority. There are some Indians (whom the Indian Bureau terms as progressives) who have rebelled against their Council and would like to settle the rights of the Seminoles for money. The General Council does not want money and (as the Hopi Indians) believes that money is bad for their people. Furthermore the General Council did not employ the attorneys who filed these claims nor do they wish to have their rights to the land they live on converted to a money judgment.

The Indians who allegedly employed these attorneys have no tribal authority. The Petition filed by the General Council is self-explanatory.

As for the question of whether or not the General Council is a party, I am sure that any appellate court would agree that my clients are interested in this litigation and that the unauthorized actions of these attorneys in Jacksonville would affect their rights and be res judicata.

It is necessary to examine Mr. Kenneth Marmon since he is the Agent who approved the Attorney Contract and is supposed to know who the recognized tribal authority is.

We therefore respectfully request:

1. That you direct your Clerk to issue our deposition subpoenas.

2. That you continue our hearing on our Motion to Quash until some time after June 1955.

3. That you conduct the hearings in Miami, since our witnesses all reside in this area and the cost of

transporting them to Washington would be costly and a hardship and burden upon my clients.

Respectfully yours,

Morton H. Silver, Attorney for the General Council of the Miccosukee Seminole Nation (Florida)

* A Report issued by the U. S. Department of the Interior, Office of Indian Affairs, Washington....."The Seminoles of Florida are not organized under the Indian Reorganization Act. There are two councils, which might be termed political, organized for many years. These councils consisting of older men and medicine men plan and officiate at the Green Corn Dances held each year. One Council is organized by the Cow Creeks and the other by the Mikasukis. These council members usually serve for life."

Wilfred T. Neill, Florida's Seminole Indians, published January 1952:

"There have been no recognized Seminole chiefs for many years. Micanopy, head chief during the Seminole Wars, was probably the last man to exert influence over both the Muskogee and Hitchiti elements of the tribe. Such men as Osceola and Coacoochee the Wildcat were leaders but not chiefs in the usual sense. Many present-day Seminoles consider Billy Bowlegs to have been the last chief of the tribe. He submitted to removal in 1858.

"In recent years the Seminoles have been governed by three tribal councils, one for the Cow Creek Indians, another for the Dania group, and a third for the remainder of the population. Each council member has an equal voice in all decisions made, although each council has one man who is recognized as the leader. No single Indian could really be called a Seminole chief today, even though the newspapers often confer the title on some of the Osceolas or other prominent Seminoles.

48

EXHIBIT 46c

"The Seminoles are understandably secretive about the tribal councils. Each council meets annually a day or two before the Green Corn Dance (except in the case of the Dania group, which does not hold a dance). No outsider is permitted to attend, and no white man knows how much power the council wields. The general opinion is that, in the last few years, severe punishments have not been meted out. However, as late as 1938, a Seminole council carried out a death sentence."

There are many other good authorities I could cite but they would be merely repetitious of what I have already illustrated.

EXHIBIT 46d

April 8, 1955

Mr. Morton H. Silver
1112 Biscayne Building
19 West Flagler Street
Miami 32, Florida

Re: Dockets 73 and 73-A

Dear Mr. Silver:

Enclosed herewith I am handing you copy of order this day made by the Indian Claims Commission striking your Special Appearance and Motion to Quash from the record in these claims.

In explanation of this order, this Commissioner, for himself but not necessarily for the Commission, gives you this explanation of the same: Sec. 10 of the Indian Claims Commission Act provides that members of an Indian tribe, band, or other identifiable group of Indians may under certain circumstances file a claim with this Commission if the situation is such as to permit the filing of same, as shown by Par. 7 of your pleading and the exhibit of the Acting Commissioner of the Bureau of Indian Affairs attached to and made a part of said pleading.

This Commission recently recognized the right of individual Kaw Indians to prosecute a case in behalf of all members of the tribe and our action in so doing was later sustained by the Court of Claims over the protest of the tribal organization.

I will also call your attention to the fact that the Government in its answer (see Pars. 1, 2 and 3 thereof) denies the right of the petitioners in Dkt. 73 — as the defendant likewise does in 73-A — to maintain this claim. This question will therefore be an issue in the case and I am confident the Government will be glad to be advised of any evidence that you might have in support of this position, and if it thought same did so would be glad to use it upon the trial of the case.

In any event, upon the trial of these cases the petitioners will have the burden of proving who they are legally entitled to represent and no one will be bound by the decision in the case who is not legally represented by the petitioners in 73 and 73-A and their attorneys.

Yours very truly,

Edgar E. Witt
Chief Commissioner

Enclosure.

EXHIBIT 47

April 22, 1955

Honorable Dante B. Fascell
House of Representatives
Washington, D. C.

Dear Congressman Fascell:

I am making reply to your letter of April 21st, addressed to Mr. James A. Langston, Administrative Officer of the Indian Claims Commission, in reference to the recent action of this Commission in striking from the record Special Appearance and Motion to Quash, filed by persons on behalf of the General Council of what they claim as the Miccosukee Seminole Nation (Florida); and asking for other information.

It is a fact that this pleading denominated SPECIAL APPEARANCE AND MOTION TO QUASH had been set for hearing for a date in May upon request of the Movants in said motion. The hearing was to be held in Washington, and it was only after the Movants asked for a postponement of the case and the issuance of processes to take depositions and the request that said hearing, if possible, be held in Florida, that the order of the Commission striking said motion was taken. Upon a more thorough examination of what was involved in said motion, induced by the desire to take depositions and incur considerable other expense, they the Commission concluded that as the question involved was solely a question of Law, and the Indians were pressed for funds, and we were strongly of the opinion that the Movants in said motion had no basis to urge the Quash and dismissal of the original petition in Docket 73 and 73-A, that said order so striking said motion should be made and useless time and expense be avoided.

That you may understand the question involved in said motion, I am sending you herewith a copy of (1) Special Appearance and Motion to Quash; (2) Reply of petitioners in Docket 73 and 73-A to said motion; (3) Certificate of Kenneth A. Harmon, Superintendent of the Seminole Agency, attached to the contract between the petitioners in 73 and 73-A and the Indians; (4) a copy of a letter of the writer to Mr. Oliver Dated April 6, 1955, written to him the day the order striking his pleading was made; and (5) a copy of the Act creating the Indian Claims Commission and providing for the presentation of claims (Sec. 10).

I feel that upon examination of the matter you will agree that under Section 10 of the Indian Claims Commission Act that individual members of an Indian tribe, band or other identifiable group of Indians, when no tribal organization exists, is given the right to bring a suit on behalf of all members of said tribe of Indians. In this connection you will note that by paragraph 7 therein, it is stated that there is no tribal organization of said Indians and that there is attached to said pleading and made a part thereof as "Exhibit A", a letter from the Acting Commissioner of the Bureau of Indian Affairs stating that there is no tribal organization of the Seminoles of

(Sp. Ap. & Motion to quash)

EXHIBIT 48a

Florida and that it was for that reason that the Commissioner had approved the contracts involved in Docket 73 and 73-A and thereby authorized the filing of these law suits.

However, the writer is of the opinion that the Indians involved in this motion to quash, as an identifiable group and as Indians who might be affected by any decisions in either Docket 73 or 73-A, would probably be entitled to intervene in said docket numbers as intervenors and bring to the attention of the Commission whatever facts are material to their rights, as issues of fact, when called on merits.

I am attaching hereto a memorandum containing the additional information you request.

If we can furnish you with any additional information, we will be glad to have you call on us.

Sincerely yours,

Edgar F. Witt
Chief Commissioner

Enclosures

EXHIBIT 48b

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs
Washington, D. C.

SPECIAL DELIVERY AIRMAIL

November 4, 1955

Messrs. Buffalo Tiger, Morton H. Silver,
and George J. Miller
704 Biscayne Building
19 West Flagler Street
Miami 32, Florida

Gentlemen:

In accordance with our understanding, I am attaching for each of you a copy of the statement embodying the substance of our October 31 and November 1 discussions in my office.

Only minor changes have been made in the draft as worked out by you gentlemen in consultation with Bureau representatives at the afternoon meeting on November 1. A new sentence has been added after the second sentence in the Land section. Language at the very end of the last sentence in the Education section has been changed from "in accordance with their wishes" to "instruction would be developed jointly with the Group." Language at the end of the Conclusion has been expanded and made a little more inclusive.

Although we have not made any change in the Law and Order section, we are naturally concerned about protecting the individual rights both of the Group members and of any other Indians who may go into the designated area in the future on a temporary visit. I would, therefore, like to have it understood that the law and order code adopted by the Group shall be reduced to writing as promptly as possible and shall not become effective in the designated area until approved by the Commissioner of Indian Affairs.

We are sending copies of this letter and of the attached statement to Area Director Fickinger and Superintendant Marmon for their information.

Sincerely yours,

/s/ Glenn Emmons
Commissioner

Enclosures

EXHIBIT 49a

NOTES ON MEETINGS WITH REPRESENTATIVES OF MICCOSUKEE "GENERAL COUNCIL"

Meetings were held in the Office of Commissioner of Indian Affairs Glenn L. Emmons from 2:30 to 5:15 on October 31 and from 9:30 to 1:30 on November 1. The Government participants at both meetings were Commissioner Emmons, Assistant Commissioner W. Barton Greenwood, Assistant Solicitor (Indians) William V. Kastler, and Information Officer M. M. Tozier. Also present at the November 1 meeting were Assistant Commissioner Selene Gifford, Mrs. Hildegarde Thompson (Chief, Branch of Education), and Mr. Evan Flory (Chief, Branch of Land Operations). Non-governmental participants at both meetings were Messrs. Buffalo Tiger, Morton H. Silver, and George John Miller.

The purpose of the meetings was to discuss the problems of the General Council of the Miccosukee Band of Florida Seminoles (including the other Florida Indians who recognize the "General Council") in an effort to arrive at a common understanding and in furtherance of the Governmental policy of consultation with Indian people.

Mr. Tiger and the other representatives explained the position and views of the Miccosukee Group towards the money claims being prosecuted in the Indian Claims Commission by the "Seminole Indians of Florida," making it clear that the Miccosukee are interested in land rather than money.

The reason for this interest is their desire to preserve their native religion, customs, traditions, and economy. The problem, it was explained, has become acute because of encroachments on their native habitat and way of life resulting from increasing land, cultural, and economic development.

The Government spokesmen emphasized that it would be necessary to discuss with other Florida Indians, and especially those on the reservations, the mutual aspects of these problems, inasmuch as the Group does not purport to represent those others.

Land

The Group had originally outlined on a map a tract comprising roughly the southwest quarter of Florida minus any sizable cities. At the Oct. 31 meeting the spokesmen outlined a smaller area comprising roughly 1,500,000 acres, and including the new Conservation Area located north of and adjacent to the Tamiami Trail and overlapping the Florida State Indian Reservation.

EXHIBIT 49b

plus strips south and west about 12 to 15 miles wide. It was recognized that the Conservation Area will be under water most of the time and will have little or no agricultural value. The spokesmen indicated that this area, together with exclusive hunting and fishing rights in the Everglades National Park, might serve as a compromise land settlement in lieu of any money claims against the U. S., and that what was desired was not necessarily fee simple title but exclusive and perpetual use for hunting, fishing, grazing, agricultural and other purposes not inconsistent with the recognized purpose of the Conservation Area and the National Park. The spokesmen for the Government pointed out that land to the west of the Conservation Area has high potential agricultural value and consequently might be most difficult to obtain. While the Government officials explained that they did not consider it appropriate to compromise any claims to land, it was apparent that the area defined was considerably smaller than the southwest quarter of the State of Florida which the Group has traditionally claimed as theirs. The smaller area designated does not include any of thepresent Federal Indian Reservations to which the Group makes no claims. It was emphasized and agreed by all that members of the Group will not be confined to the designated area and would have the same freedom as any U. S. citizen. It was understood that the designated area would be for the exclusive use of the Group but that any other Florida Indians could join the Group if they relinquished their rights on the Federal Reservations and were acceptable to the Group. It was also understood that members of the Group could relinquish membership in the Group and affiliate with one of the reservations or form no affiliations at all. It was further understood that the area designated for use by the Group would be exempt from all land taxes. It was recognized that some form of perpetual trusteeship under Federal law might need to be created to hold legal title, with equitable title in the Group as long as the Group exists.

Law and Order Jurisdiction

It was proposed that the area would be under the law and order codes (including criminal and private civil jurisdiction) adopted by the Group except with regard to the Ten Major Crimes and other offenses which are traditionally punishable by the United States on Indian reservations.

Education

After discussion of the educational problems, it was agreed that the Bureau of Indian Affairs would hold itself ready to assist the Group in developing the kind of an education program which the Group believes would meet its needs. This would include working with the Group in the development

EXHIBIT 49c

voluntary attendance at public schools. It was pointed out that there is no written Miccosukee language and it was hoped that an effort could be made to develop one, although it was recognized that this is not a responsibility of the Government. The Government spokesmen emphasized that there would be no effort to interfere with the religious customs and beliefs of the Group members. It was pointed out that the instruction would be based upon the everyday life of the members of the Group and instruction would be developed jointly with the Group.

Conclusion

If the foregoing broad objectives are agreeable to the Group, every effort will be made by the Commissioner of Indian Affairs to work with the Group to bring about the accomplishment of these objectives after consultation with appropriate State and Federal officials, other Florida Indians, and other interested parties.

EXHIBIT 49d

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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON 25, D. C.

APRIL 2, 1956

MEMORANDUM

TO: ALL DIVISION CHIEFS AND BRANCH CHIEFS

FROM: INFORMATION OFFICER

SUBJECT: REPORT ON FLORIDA TRIP

DURING THE WEEK OF MARCH 19 COMMISSIONER EMMONS HELD A SERIES OF MEETINGS IN FLORIDA WITH STATE OFFICIALS AND WITH REPRESENTATIVES OF BOTH MAJOR INDIAN GROUPS — THOSE RESIDING ON THE THREE RESERVATIONS AND THOSE AFFILIATED WITH THE TRADITIONAL MEDICINE MEN UNDER THE LEADERSHIP OF INGRAHAM BILLIE. HE WAS ACCOMPANIED BY ASSISTANT COMMISSIONER GREENWOOD, REALTY OFFICER CLARENCE E. HILL, AND MYSELF.

OUR PARTY WENT FIRST TO TALLAHASSEE WHERE COMMISSIONER EMMONS MET WITH GOVERNOR LEROY COLLINS AND HIS CABINET ON THE MORNING OF MARCH 20. IN HIS TALK THE COMMISSIONER INDICATED THAT HE WAS CONCERNED ABOUT THE PROBLEMS OF BOTH MAJOR GROUPS OF INDIANS IN FLORIDA AND THAT THE HELP OF THE STATE WAS NEEDED IN PROVIDING THE INGRAHAM BILLIE GROUP WITH SOME SORT OF AREA WHERE THEY WOULD HAVE EXCLUSIVE RIGHTS TO HUNT AND FISH. GOVERNOR COLLINS REPLIED THAT THE STATE WAS ALSO CONCERNED WITH TRYING TO WORK OUT A SOLUTION TO THESE PROBLEMS AND SUGGESTED THAT THE MATTER BE TAKEN UP IN MORE DETAIL WITH MR. FRED C. ELLIOTT, ENGINEER AND SECRETARY, TRUSTEES OF THE INTERNAL IMPROVEMENT FUND. THIS LATTER GROUP HAS GENERAL JURISDICTION OVER THE SO-CALLED "CONSERVATION AREA NO. 3" IN THE EVERGLADES SOUTH AND EAST OF THE STATE INDIAN RESERVATION. UNDER PLANS OF THE CENTRAL AND SOUTHERN FLORIDA FLOOD CONTROL DISTRICT, THIS AREA WOULD BE UNDER WATER AND WOULD BE A KIND OF FISH AND GAME SANCTUARY.

IN THE SUBSEQUENT MEETING HELD IN MR. ELLIOTT'S OFFICE MR. ELLIOTT INDICATED DEFINITE SYMPATHY WITH THE PROBLEMS OF THE INDIANS AND BROAD CONCURRENCE WITH THE AIMS OF COMMISSIONER EMMONS. HE INDICATED A WILLINGNESS TO SEEK EXCLUSIVE HUNTING AND FISHING RIGHTS FOR THE INDIANS IN THE WESTERN PORTION OF CONSERVATION AREA 3 COMPRISING ABOUT 205,000 ACRES. HE ALSO SUGGESTED, HOWEVER, THAT THE MATTER BE FURTHER DISCUSSED WITH MR. ALDRICH AND MR. FRYE OF THE STATE GAME AND FRESH WATER FISH COMMISSION.

A MEETING WAS HELD WITH THESE TWO MEN AND MR. ELLIOTT IN THE LATTER'S OFFICE ON WEDNESDAY, MARCH 21. MESSRS. ALDRICH AND FRYE INDICATED SOME CONCERN ABOUT THE POSSIBLE REACTION OF FLORIDA SPORTSMEN'S GROUPS TO THE ESTABLISHMENT OF AN EXCLUSIVE HUNTING AND FISHING AREA FOR THE INDIANS BUT EXPRESSED A WILLINGNESS TO SUBMIT THE MATTER TO THE FULL COMMISSION FOR A DECISION.

1

EXHIBIT 50a

On Thursday, March 22, Commissioner Ehrgood met in the Agency office at Dania with a committee of 11 representatives from the three reservations. He told the group that the Bureau is actively supporting Representative Haley's bill to give them beneficial ownership of the "submarginal" land area adjacent the Brighton Reservation and also indicated readiness to move ahead with reorganization of their tribal organization. A preliminary draft of a charter that would organize the group as a non-profit corporation under Florida law has already been worked up by Mr. William F. Mauer, a Fort Lauderdale attorney, and a copy has turned over to us for further consideration.

On the question of land, the reservation committee, after considerable discussion, agreed unanimously to turn over a substantial portion of the State Indian Reservation for use by the Trail group. As a result of this adjustment, the area potentially available for use by the Trail people has increased from 203,000 to about 211,000 acres.

Meetings with the Trail or Buchanan Billie group were held at Jimmie Tiger's Village on the Tamiami Trail on Friday and Saturday, March 23 and 24, and on Saturday evening in the office of Attorney Morton Silver in Miami. Quite early in these discussions it became clear that the Trail people were not interested in using any part of the State Indian Reservation and the concessions made by the Reservation people affecting this area therefore became academic.

What the Trail people are asking, in essence, consists of four major points:

1. Exclusive hunting and fishing rights in the western portion of Conservation Area No. 3;

2. Joint hunting and fishing rights (to be shared with non-Indians hunting or fishing in season) in the balance of Conservation Area No. 3 lying west and south of the Miami Canal;

3. The right to catch frogs and establish camps in a negotiable area of the Everglades National Park fronting 12 miles along the Tamiami Trail and extending back into the Park for a distance of 15 miles;

4. The right to cut cypress for the building of chickees and canoes in the so-called "cypress area" lying generally west and south of the Big Cypress Reservation.

On point 3 Commissioner Ehrgood indicated a willingness to explore the question with Director Wirth of the National Park Service.

As for Point 4, it was explained that there would be great difficulties in obtaining the cutting rights on private lands in the area under discussion. The Commissioner indicated, however, that he would be willing to explore with Mr. Elliott and other State officials the possibility of securing such rights on any State lands that might be situated in the area.

EXHIBIT 50b

AT THE SATURDAY EVENING MEETING THE NEGOTIATIONS REACHED A TEMPORARY STALEMATE WHEN THE TRAIL REPRESENTATIVES REFUSED TO DISCUSS LAW AND ORDER OR EDUCATIONAL QUESTIONS PENDING A FINAL SETTLEMENT OF THE LAND PROBLEM. THE COMMISSIONER, ON THE OTHER HAND, INDICATED THAT HE WOULD PROCEED NO FURTHER ON THE LAND MATTER UNTIL A SATISFACTORY AGREEMENT COULD BE REACHED ON EDUCATION AND LAW AND ORDER. THERE THE MATTER RESTS AND THE NEXT MOVE IS UP TO THE TRAIL PEOPLE. ATTORNEYS SILVERMAN AND MILLER INDICATED THEIR INTENTIONS OF CARRYING ON FURTHER DISCUSSIONS WITH THE TRAIL PEOPLE IN THE HOPE OF PERSUADING THEM TO COME UP WITH SOME STATEMENT OF POSITION ON THE LAW AND ORDER AND EDUCATION QUESTIONS.

IN THE MEANTIME STEPS WILL BE TAKEN WITH THE RESERVATION PEOPLE LOOKING TOWARD EVENTUAL RECOGNITION OF THEIR TRIBAL ORGANIZATION.

M. M. TOZIER (Sgd.)

INFORMATION OFFICER

APPROVED: GLENN L. EMMONS (Sgd.)
COMMISSIONER

EXHIBIT 50c

UNITED STATES
DEPARTMENT OF THE INTERIOR
[illegible]
Washington 25, D. C.

April 2, 1956

MEMORANDUM

To: All Division Chiefs and Branch Chiefs

From: Information Officer

Subject: Report on Florida Trip

During the week of March 19 Commissioner Emmons held a series of meetings in Florida with state officials and with representatives of both major Indian groups -- those residing on the three reservations and those affiliated with the traditional medicine men under the leadership of Ingraham Billie. He was accompanied by Assistant Commissioner Greenwood, Realty Officer Clarence A. Hill, and myself.

Our party went first to Tallahassee where Commissioner Emmons met with Governor Leroy Collins and his cabinet on the morning of March 20. In his talk the Commissioner indicated that he was concerned about the problems of both major groups of Indians in Florida and that the help of the State was needed in providing the Ingraham Billie group with some sort of area where they would have exclusive rights to hunt and fish. Governor Collins replied that the State was also concerned with trying to work out a solution to these problems and suggested that the matter be taken up in more detail with Mr. Fred C. Elliott, Engineer and Secretary, Trustees of the Internal Improvement Fund. This latter group has general jurisdiction over the so-called "Conservation Area No. 3" in the Everglades south and east of the State Indian Reservation. Under plans of the Central and Southern Florida Flood Control District, this area would be under water and would be a kind of fish and game sanctuary.

In the subsequent meeting held in Mr. Elliott's office Mr. Elliott indicated definite sympathy with the problems of the Indians and broad concurrence with the aims of Commissioner Emmons. He indicated a willingness to seek exclusive hunting and fishing rights for the Indians in the western portion of Conservation Area 3 comprising about 206,000 acres. He also suggested, however, that the matter be further discussed with Mr. Allrich and Mr. Frye of the State Game and Fresh Water Fish Commission.

EXHIBIT 51a

A meeting was held with these two men and Mr. Elliott in the latter's office on Wednesday, March 21. Messrs. Aldrich and Frye indicated some concern about the possible reaction of Florida sportsmen's groups to the establishment of an exclusive hunting and fishing area for the Indians but expressed a willingness to submit the matter to the full Commission for a decision.

On Thursday, March 22, Commissioner Emmons met in the Agency office at Dania with a committee of 11 representatives from the three reservations. He told the group that the Bureau is actively supporting Representative Haley's bill to give them beneficial ownership of the "submarginal" land area adjoining the Brighton Reservation and also indicated readiness to move ahead with recognition of their tribal organization. A preliminary draft of a charter that would organize the group as a non-profit corporation under Florida law has already been worked up by Mr. William F. Maurer, a Fort Lauderdale attorney, and a copy was turned over to us for further consideration.

On the question of land, the reservation committee, after considerable discussion, agreed unanimously to turn over a substantial portion of the State Indian Reservation for use by the Trail group. As a result of this adjustment, the area potentially available for use by the Trail people was increased from 206,000 to about 211,000 acres.

Meetings with the Trail or Ingraham Billie group were held at Jimmie Tiger's Village on the Tamiami Trail on Friday and Saturday, March 23 and 24, and on Saturday evening in the office of Attorney Morton Silver in Miami. Quite early in these discussions it became clear that the Trail people are not interested in using any part of the State Indian Reservation and the concessions made by the reservation people affecting this area therefore became academic.

What the Trail people are asking, in essence, consists of four major points:

1. Exclusive hunting and fishing rights in the western portion of Conservation Area No. 3;

2. Joint hunting and fishing rights (to be shared with non-Indians hunting or fishing in season) in the balance of Conservation Area No. 3 lying west and south of the Miami Canal;

3. The right to catch frogs and establish camps in a rectangular area of the Everglades National Park fronting 12 miles along the Tamiami Trail and extending back into the Park for a distance of 15 miles;

4. The right to cut cypress for the building of chickees and dugouts or canoes in the so-called "cypress area" lying generally west and south of the Big Cypress Reservation.

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EXHIBIT 51b

On point 3 Commissioner Bonnin indicated a willingness to explore the question with Director Wirth of the National Park Service.

As for Point 4, it was explained that there would be great difficulties in obtaining the cutting rights on private lands in the area under discussion. The Commissioner indicated, however, that he would be willing to explore with Mr. Elliott and other State officials the possibility of securing such rights on any State lands that might be situated in the area. [ON PRIVATE LTHE COMMISSIONER INDICATED]

At the Saturday evening meeting the negotiations reached a temporary stalemate when the Trail representatives refused to discuss law and order or educational questions pending a final settlement of the land problem. The Commissioner, on the other hand, indicated that he would proceed no further on the land matter until a satisfactory agreement could be reached on education and law and order. There the matter rests and the next move is up to the Trail people. Attorneys Silver and Miller indicated their intentions of carrying on further discussions with the Trail people in the hope of persuading them to come up with some statement of position on the law and order and education questions.

In the meantime steps will be taken with the reservation people looking toward eventual recognition of their tribal organizations.

M. K. Tozier (Sgd.)

Information Officer

Approved: Glenn L. Emmons (Sgd.)
Commissioner

EXHIBIT 51c

LAW OFFICES OF
WAYBRIGHT & WAYBRIGHT
SUITE 308 LAW EXCHANGE BUILDING
EAST FORSYTH AND MARKET STS.
JACKSONVILLE 2 FLORIDA

EDGAR W. WAYBRIGHT
ROGER A. WAYBRIGHT

TELEPHONE ELgin 3-7533

December 7, 1956

Mr. Kenneth A. Marmon, Superintendent
Seminole Indian Agency
P. O. Box 157
Dania, Florida

Dear Mr. Marmon:

Re: The Seminole Indians of
the State of Florida
vs.
The United States of America

The United States Court of Claims has now dismissed the appeal taken by Mr. Morton Silver from the Indian Claims Commission, and this letter is our report to you and our clients, the Seminole Indians of the State of Florida, of that favorable outcome.

We will, therefore, be appreciative if you will see that the copies of this letter sent to you are brought to the attention of as many of our clients as possible on the Big Cypress, Brighton, and Dania reservations, living along the Tamiami Trail, and elsewhere, so that all of our clients may continue to be kept informed of the progress of the tribe's claims.

You and our clients will recall that on September 17, 1954, Mr. Morton Silver, a Miami attorney, filed with the Indian Claims Commission a singular paper, which he called a "Special Appearance and Motion to Quash". That paper purported to be signed by 15 of our clients: Ingraham Billie, Jimmie Billie, Willy Jim, Frank Osceola, Tom Buster, Jimmy Henry, John Poole, Oscar Hoe, Frank Charlie, Jack Clay, Tiger Tiger, Frank Jimmy, John Fewell, Joe Doctor, and Sam Jones Micco.

In that paper, Mr. Silver contended that an unspecified number of our clients whom he claimed to represent, constituted a nation called the "Miccosukee Seminole Nation", which was separate from the Seminole Indians of the State of Florida, and had its own official governing "General Council" of which the 15 Indians named in his paper were members. Mr. Silver admitted in his paper that the United States government did not recognize that any such separate Miccosukee nation existed. Mr. Silver went on in his paper to

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say that this "General Council of the Miccosukee Seminole Nation" had not authorized the filing of the claims that we filed for the tribe before the Indian Claims Commission in 1950; that the Indians who acted for the tribe in executing the contract with us in 1949 were all Cow Creeks rather than Miccosukees; and that the Miccosukees did not want the claims presented. Mr. Silver asked that the Petition we had filed for the tribe in 1950, presenting the tribe's claims, be "quashed".

The statements made in Mr. Silver's paper were, of course, not in accordance with the true facts, as you and our clients know. While the Seminole Indians of the State of Florida are descended from Miccosukees, Cow Creeks, and many other bands that were once identifiable units in past centuries and millenia, they have all been members of the one tribe, the Seminole Indians of the State of Florida, since long before the tragic events that took place in 1823 and later years gave rise to the claims we presented to the Indian Claims Commission for the tribe.

The members of the tribe who executed the contract with us in 1949 were divided about equally between those of Miccosukee descent and those of Cow Creek descent. They were the authorized representatives of the whole Seminole tribe, and executed the contract on behalf of the whole tribe.

Our contract was with the tribe as a whole, and we are authorized to and do represent the whole tribe, and every member of it whether of Miccosukee or Cow Creek descent, including those 15 who purportedly signed Mr. Silver's paper.

On November 3, 1954, we filed a reply to Mr. Silver's paper. We pointed out that the claims we filed in 1950 were claims for the Seminole tribe as a whole; that the 15 of our clients who purportedly signed Mr. Silver's paper were not themselves parties to the case, as individuals, and consequently were not entitled to control the whole tribe's case by asking that it be "quashed"; that we held a contract with the Seminole tribe approved by the proper governmental authority, while Mr. Silver had no approved contract with any Seminole and no right to file any motion for any Seminole. We asked that Mr. Silver's paper be stricken from the record.

In the paper he had filed, Mr. Silver had stated that he would be unable to attend a hearing on his paper in Washington. When the Indian Claims Commission set a hearing on his paper for May 3, 1955, in Washington, Mr. Silver filed a request that the hearing be put off until after June of 1955.

On April 8, 1955, the Indian Claims Commission entered an Order striking Mr. Silver's paper from the record of our clients' cases, as we had requested in our reply to it; and removed the matter from its May 3 calendar as disposed of.

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On May 4, 1955, Mr. Silver filed a notice of appeal to the Court of Claims. On August 26, 1955 (after securing a 60-day extension of time to do so), Mr. Silver filed his brief in the Court of Claims, a copy of which brief we sent to you and our clients. On November 25, 1955, we filed our brief, five copies of which we sent to you and our clients. Mr. Silver got the oral argument before the Court postponed three times, but it was finally argued on October 5, 1956.

When the case was called for oral argument in the Court of Claims on October 5, a peculiar incident occurred. We know nothing of the background that gave rise to it, any more than we know of the background that gave rise to the paper Mr. Silver originally filed before the Indian Claims Commission, so we simply report the gist of what happened, without analysis. Perhaps our clients know a great deal more about it than we do.

When the case was called for oral argument, the Court announced that a letter had just been received by the Clerk of the Court, apparently from those Mr. Silver claimed were his clients. We were not furnished with a copy of the letter, but we understand it read as follows:

> We don't know about this claim and want no part of it. And we also don't want to ask this claim. We have had a meeting but have no way to go up there. We don't have an attorney. We have nothing to do with Morton Silver any more or with Buffalo Tiger, interpreter. The last we worked with Morton or Buffalo Tiger was back in March. Whoever goes up to Washington to fight this case is picked by himself, not by us. Morton Silver doesn't represent the General Council of the Miccosukee Seminole Nation.

We understand that that letter was purportedly signed by Ingraham Billie, Jimmie Billie, Willy Jim, Frank Osceola, Tom Buster, Jimmy Henry, Oscar Hoe, Frank Charlie, Jack Clay, Frank Jimmy, John Fewell, and Sam Jones Micco, who were 12 of the 15 who had purportedly signed the first paper Mr. Silver had filed with the Indian Claims Commission [John Poole, Tiger Tiger, and Joe Doctor, who also purportedly signed Mr. Silver's first paper, apparently did not also sign the letter to the Court]. The letter to the Court was also, we understand, purportedly signed by seven Indians who had not signed Mr. Silver's first paper: Billie Doctor, James Billie, Jimmy Doctor, Johnny Jim, Wilson Doctor, Doctor John, and Henry Billie.

The case was orally argued, for we wanted the appeal disposed of, regardless of whether those few Indians Mr. Silver claimed to represent had repudiated him or not.

EXHIBIT 52c

On December 5, 1956, the Court of Claims handed down its decision dismissing Mr. Silver's appeal. Five copies of the Court's printed decision are enclosed, for the information of our clients and yourself.

We would have preferred that the Court base its decision to dismiss the appeal upon the merits of the questions involved, rather than upon the technical matter of whether Mr. Silver could appeal from the Order of the Indian Claims Commission. Consequently, as you and our clients know from reading the brief we filed, we did not raise that technical question. However, the Court of Claims chose to base its decision upon that technical ground.

The matter of Mr. Silver would now appear to be settled. The record of our clients' cases pending before the Indian Claims Commission is no longer cluttered up with Mr. Silver's paper. Mr. Silver does not represent any of our clients in connection with the claims we are presenting to the Indian Claims Commission on behalf of the whole tribe, and has no standing to be heard by the Indian Claims Commission in connection with those claims. We shall continue to ignore him, and shall continue to press those claims as vigorously as possible on behalf of the whole tribe.

We regret that the intervention of Mr. Silver caused additional delay. We shall continue to press forward with the claims of our clients, the Seminole Indians of the State of Florida, with the expectation that in the future we may proceed with the united support of all of our clients, rather than all but a few.

I went to Washington on October 21-22 to confer with our Washington associate, with the attorneys representing the Oklahoma Seminoles, and with the attorneys representing the government. As our clients know, we are collaborating with the attorneys for the Oklahoma Seminoles in presenting the claims of the Florida and Oklahoma Seminoles for the Florida lands taken in 1823, 1832, and 1839. We of course cannot promise that the time schedule will be met, but from our discussions in October we received the impression that the government attorneys may be willing to cooperate with us in beginning to offer at least part of the documentary proof next Spring. We are hopeful that we may be able to get the case tried by the Indian Claims Commission, at least with respect to whether our clients are entitled to an award in some amount, during the year 1957. We must continue to emphasize that this is merely our hope, however,

Sincerely yours,

WAYBRIGHT & WAYBRIGHT

EXHIBIT 52d

Roger J. Waybright

RJW:lml

MORTON H. SILVER
Attorney at Law

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SPECIAL DELIVERY AIR MAIL

DECEMBER 18, 1956

HONORABLE GLENN EMMONS
COMMISSIONER OF INDIAN AFFAIRS
DEPARTMENT OF THE INTERIOR
WASHINGTON 25, D. C.

DEAR COMMISSIONER EMMONS:

THIS IS WRITTEN PURSUANT TO MY LETTER OF DECEMBER 10, 1956, AND MY SUBSEQUENT TELEPHONE CONVERSATION WITH MR. TOZIER, IN WHICH WE REQUESTED YOU TO HOLD UP APPROVAL OF MR. ROGER J. WAYBRIGHT'S PURPORTED CONTRACT WITH INDIVIDUAL SEMINOLES UNTIL WE HAD A CHANCE TO SUBMIT OUR REASONS FOR THIS REQUEST.

WE HAVE HAD SEVERAL MEETINGS WITH VARIOUS INDIANS IN THE EVERGLADES AND THEY HAVE ALL CONCLUDED THAT, IF POSSIBLE, WE SHOULD FIND A QUICKER AND LESS EXPENSIVE METHOD OF DISMISSING THE CLAIM BROUGHT BY THESE TWELVE INDIANS ON THE RESERVATION, SINCE IT IS SERIOUSLY AFFECTING THEIR LAND NEGOTIATIONS WITH YOU.

WE WERE UNABLE TO OBTAIN A COPY OF MR. WAYBRIGHT'S CONTRACT UNTIL RECENTLY, AND ONLY THEN DID WE DISCOVER THAT THE CONTRACT ITSELF PROFESSED TO BE MADE ON BEHALF OF THE ENTIRE "TRIBE" OF "SEMINOLE INDIANS OF THE STATE OF FLORIDA." WE WERE OF COURSE FAMILIAR WITH THE FACT THAT HIS PETITION AS AMENDED STATES THAT "SAID TRIBAL ORGANIZATION HAS BEEN AUTHORIZED TO BRING THIS ACTION ON BEHALF OF THE SAID TRIBE," BUT WE HAD BEEN UNDER THE IMPRESSION THAT HIS CONTRACT WAS WITH INDIVIDUAL INDIANS, INASMUCH AS NEITHER THE PETITION NOR THE CONTRACT PURPORTS TO EFFECT REPRESENTATION OF AN UNORGANIZED TRIBE. IN VIEW OF THE AUGUST 23, 1954 LETTER FROM THE BUREAU OF INDIAN AFFAIRS STATING THAT "NO TRIBAL ORGANIZATION EXISTS OF THE SEMINOLES OF FLORIDA," WE GATHERED THAT YOUR VIEW WAS THE SAME. WE FULLY APPRECIATE, TOO, THAT THE CONTRACT WAS APPROVED PRIOR TO YOUR ADMINISTRATION.

EXHIBIT 53a

Section 81 of the Federal Statutes states in paragraph Third that the scope of authority of persons purporting to execute an attorney contract as tribal authorities and their reason for exercising that authority shall be given specifically. The "Resolution passed by the Tribal Council in official session," referred to at the outset in the contract, is not attached, nor is there any evidence that it exists. The certificate of the local Superintendent does not refer to the resolution or to any meeting of the tribal council. It merely refers to the signatories as "members of the Seminoles of Florida," as recorded on the Agency census rolls, and also as "Trustees" on the three Reservations. It does not say what they were trustees of; and the fact is, as you and we know, that their trusteeship related solely to a cattle project sponsored by the Federal Government. The further fact is that the General Council did not attend the meeting, official or unofficial, at which the contract was signed and that its members have never signed any contract with Mr. Waybright. The certificate does not state that all members of the tribe were notified, nor does it state that a majority attended the meeting; nor does it state who, if anybody, attended or voted at the meeting, or whether there even was a meeting.

There are further reasons why the contract is void. The residences and occupations of the signatories are not given.

The Judge of Okeechobee County failed to certify, as required by Paragraph 6, the source and extent of authority claimed at the time by the contracting Indians to make the contract.

It contains merely the names of certain individual Indians signing "on behalf of the Seminole Indians of the State of Florida." He does not state whether or not a tribe of Indians is involved.

As required by Paragraph 4, the Agreement itself does not state:

(a) The place where made.

(b) The contract does not specifically set forth the contingent nature of the contract nor does it state

(c) The specific basis of the claim or

(d) The disposition to be made (of the monies) when collected.

EXHIBIT 53b

As required by Paragraph 2, the contract does not bear the approval of the Secretary of the Interior and the Commissioner of Indian Affairs endorsed upon it.

The only attempt at compliance here is an attached certificate by the Assistant Commissioner, giving a conditional approval of the contract, which, according to the opinion of the Attorney General, does not constitute an approval.

It is well settled by judicial interpretation and by the opinion of the Attorney General of the United States, that the requirements of this statute must be literally met and strictly construed for the protection of all Indians; and as stated in the statute, "all contracts or agreements made in violation of this section shall be null and void....."

According to the opinion of the Attorney General: "A contract should be valid from the beginning, and a subsequent approval of a defective contract by a committee of Indians is without effect where it does not appear what authority the committee had," and in a prior opinion stated: "A contract must be approved as made."

In view of the aforesaid reasons which make the Waybright "contract" void, and the fact that the prosecution of this money claim is against the wishes of our Indian Clients, prejudicial to their rights, and hampering our negotiations with you, we respectfully request that you withhold your approval of it.

We shall appreciate word from you as to whether you approve it, now that the matter is before your administration for the first time, inasmuch as future action by our clients is so closely related to prosecution of this claim for money rather than confirmation of their rights to much of the land involved.

Sincerely,

Morton H. Silver

MHS:S

EXHIBIT 53c

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON 25, D. C.

JAN 29 1957

Memorandum

To: Commissioner of Indian Affairs

From: Assistant Solicitor, Indian Legal Activities

Subject: Attorney contract for Seminole Indians of Florida

You have asked me to comment on the matter of the approval of an extension, for an additional two years period, to the contract entered into by the Seminole Indians of the State of Florida and John O. Jackson and Roger J. Waybright, attorneys at law, of Jacksonville, Florida. This contract expired January 6, 1957, before final settlement of the claims filed under the Indian Claims Commission Act could be had. The original term of the contract was for five years from the date of approval, January 6, 1950. A two year extension "from the date of expiration thereof" was approved by the Commissioner on May 17, 1954, in accordance with the provisions contained in paragraph eight of the contract under consideration:

> "* * * provided, That if at the end of five years from the date of approval of this Contract the said claims of the party of the first part shall not have been finally settled, the Commissioner of Indian Affairs may continue this Contract in force for definite periods of not to exceed two years each, until such final settlement has been made."

It is my opinion that the contract may be renewed and that a second extension for a period of two years may be approved, notwithstanding the contentions of Mr. Morton Silver, acting as attorney for certain Seminole Indians, which are set forth in greater detail below. The approved attorney contract for the Seminole Indians of Florida meets the requirements of 25 U. S. C. 81 and substantially complies with the regulations of this Department, 25 CFR 15. The records and files available to us at this time disclose substantial indicia of good faith of the parties and an intent to enter into a valid contract, as well as official approval by the Commissioner of Indian Affairs.

In a letter dated December 18, 1956, Mr. Morton Silver presented certain specific objections to the approval of this contract. Since the validity of the contract has been challenged it is deemed

EXHIBIT 54a

advisable at this time to inquire into the matter of validity. Therefore, I have set out the objections to the contract together with my analysis of the weight and relevancy of each objection imposed:

> 1. "The resolution passed by the tribal council in official session, referred to at the outset in the contract, is not attached, nor is there any evidence it exists. The certificate of the local superintendent does not refer to the resolution or to any meeting of the tribal council."

The Superintendent was directed by the Commissioner by letter dated March 23, 1949, to assist the Seminole Indians in the employment of a reputable attorney if they desired to prosecute any claims. The Superintendent was further instructed that a general council meeting must be called to discuss such employment and that approximately 30 days should be the length of advertising so that all Indians might have proper notice. The records show that a meeting for this purpose, to which all Seminole Indians in Florida were invited, was held at Okeechobee, Florida on February 5, 1949, certified to by William D. Bolhmer, Teacher-Community School, attending as the authorized representative of the Superintendent. Furthermore, the Superintendent certified that "to the best of my knowledge the majority of 773 Seminoles were given notice of a general council meeting for the purpose of entering into a Contract as provided by law." The fact that the resolution recited as authority for the contract is not attached and made a part thereof does not necessarily cause the contract to be invalid but merely makes it voidable under the regulations in 25 CFR 15. Title 25 U. S. C. 81 contains no such requirement and the provisions contained in sections 15.12, 15.13, and 15.14 of the regulations, which authorize a tribal business committee or other similar representative body having standing authority to act on behalf of the unorganized tribe in matters of importance to negotiate with attorneys and enter into contracts, appear to have been complied with.

> 2. "The Judge of Okeechobee County failed to certify, as required by paragraph 6, the source and extent of authority claimed at the time by the contracting Indians to make the Contract."

Hon. T. W. Conely, Jr., Judge of the County Court in and for Okeechobee County, Florida, certified that pursuant to section 2103, Revised Statutes, Frank Shore, Jack Smith, John Henry Gopher, Morgan Smith, John Cypress, Junior Cypress, Jimmie Cypress, Little Charlie Micco, Josie Billie, Sammy Tommie, Ben Tommie and Bill Osceola signed and executed the contract, in person and in his presence, for and on

EXHIBIT 54b

behalf of the Seminole Indians of the State of Florida. Inasmuch as the signatures of these same Indians appear on the contract as Representatives of the Seminole Indians of the State of Florida, Parties of the First Part, it is my opinion that the certification by the court is both adequate and proper. The source of the authority claimed is the statute cited and the extent of the authority is exactly as represented, i.e., twelve representative Seminole Indians acting for and on behalf of the tribe.

> 3. "It contains merely the names of certain individual Indians signing 'on behalf of the Seminole Indians of the State of Florida.' He does not state whether or not a tribe of Indians is involved."

Such objection is immaterial because the Act of August 13, 1946, which establishes the Indian Claims Commission, provides: "Each such tribe, band, or other identifiable group of Indians may retain to represent its interests in the presentation of claims before the Commission an attorney or attorneys at law, of its own selection * * *." I find no language in this statute or 25 U. S. C. 81 requiring the claimant to state whether or not the claimant is a tribe.

> 4. The agreement "does not state: (a) the place where made, (b) the contingent nature of the contract, (c) the specific basis of the claim, (d) the disposition to be made (of the monies) collected."

On the contrary, there is ample language in the certificate of execution, which must be read as part of the contract, to show that the agreement was made in Okeechobee County, Florida; similarly, the specific nature of the claim is covered by paragraph two of the agreement and includes "any and all claims that said tribe may have against the United States of America by reason of any treaty violation, or by reason of any act of omission or commission that the United States may have done to the said Tribe in any of the dealings, whether by treaty, or acting in relationship of guardian and ward between said parties"; likewise, a statement is found in the first paragraph to the effect that in consideration for the services rendered under the contract the attorneys shall receive such compensation as may be decreed by the tribunal before whom such claim is finally adjudicated, not to exceed ten percent of the amount awarded the claimants by the tribunal; the same language, in my opinion, adequately disposes of objection (d). The contract appears to comply with all the requirements of paragraph 4, 25 U. S. C. 81.

5. Another reason for disapproval of the contract urged by Mr. Silver is that:

> " * * * as required by paragraph 2, the contract does not bear the approval of the Secretary of the Interior and the Commissioner of Indian Affairs endorsed upon it. The only attempt at compliance here is an attached certificate by the Assistant Commissioner giving a conditional approval of the contract, which, according to the opinion of the Attorney General, does not constitute an approval."

This argument, we believe, has some merit. The Assistant Commissioner, under authority by delegation stated in the approval, made his approval subject to a condition, to wit: "That the second paragraph beginning on page 2 be amended by adding after the words 'Parties of the second part' in line 2 thereof, the word 'subject to the approval of the Commissioner of Indian Affairs'", which was never formally accepted by the attorneys. However, on August 1, 1950, the attorneys in a letter directed to the Commissioner of Indian Affairs complied with the condition imposed, by requesting approval and recognition of the association of Edgar W. Waybright, Sr. and Guy Martin as attorneys on behalf of the Seminole Indians of Florida. Such action is sufficient to constitute at least an implied acceptance of the terms for approval imposed by the Assistant Commissioner and, therefore, the agreement may be regarded as being complete in all respects.

Inasmuch as the Indian Claims Commission has complete jurisdiction to determine whether the Seminole Indians of Florida, parties of the first part in the contract here discussed, are an identifiable tribe, band or group of American Indians under the 1946 Claims Act, supra, and since the disapproval of the extension of this contract after it has been relied on by the parties for a period of seven years would seriously affect the Indian claim by depriving the claimants of having the question of status considered by the Claims Commission or the Court of Claims on appeal (see Solicitor's Opinion, March 17, 1948, re California Indians); and furthermore, since the requirements of the statute and the regulations have been substantially complied with by the parties acting in good faith with the intent to enter into a valid contract, it is my opinion that the contract may again be affirmed by the approval of the request for an extension of time continuing the contract in effect for an additional period of two years.

Franklin C. Salisbury
Assistant Solicitor
Indian Legal Activities

EXHIBIT 54d

COPY

AMERICAN CIVIL LIBERTIES UNION

Greater Miami Chapter

802 Olympia Bldg.
Miami 32, Florida

February 7, 1957

The Honorable Chief Judge Jones
and the Honorable Judges Laramore,
Madden, Whitaker and Littleton
United States Court of Claims
Washington, D. C.

Honorable Sirs:

It has recently come to our attention that a matter involving the Seminole Indians of Florida is before your Honorable Court. The American Civil Liberties Union became interested in this instance because of its well known concern for civil rights.

The American Civil Liberties Union is a nationwide non-partisan organization, devoted solely to the protection and advancement of the constitutional rights fundamental to the democratic way of life. It has no other program, either political, economic, social or philosophical.

It is our understanding that some twelve Seminole Indians have instituted proceedings before the Indian Claims Commission for damages resulting from certain allegedly wrongful acts perpetrated by the United States against these Seminoles in Florida. This claim is being contested by other Seminoles, described to us as the Miccosukee Seminole Nation, whose contention is that the claim of the twelve Indians was improperly, and without any authority, brought in the name of all Seminoles in Florida. It appears that the aims of the twelve Indians and the Nation are in direct conflict, in that the twelve Indians are seeking money, while the Nation seems to be primarily interested in preserving its ancestral tribal lands.

Our concern in this matter rests on the failure of the Indian Claims Commission to grant the Nation a hearing before the Commission. We have examined the statutes and regulations concerning the procedures of the Commission, and from this examination it appears that the denial of the Commission to grant such a hearing operates as a violation of administrative due process of law. Since the case is before your Honorable Court on the petition of the Nation, the Ameridan Civil Liberties Union believes it would be in the best interests of constitutional due processes of law that the Court carefully weigh the arguments of the petitioners relating to the denial of a hearing below.

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The history of the United States has too often been tainted with undemocratic and inhuman actions towards our American Indians. Such actions have offended the American's conscience and the United States and we have vigorously attempted to mitigate an already irreparable harm by securing to these aggrieved people great material and political benefits. Consistent with this attitude, it is the understanding of the American Civil Liberties Union that the United States is negotiating with the Seminoles in an attempt to settle the century-old dispute by granting them generally, and the Nation in particular, certain lands and other rights wherein they can reside unmolested.

In the interest of constitutional rights and fair play, it appears to the American Civil Liberties Union that all factions should be heard in this litigation. Only in this fashion can a just and equitable solution be found for the problems confronting this aggrieved people.

Respectfully yours,

Richard B. Royce, Chairman
Greater Miami Chapter
American Civil Liberties Union

cc - Indian Claims Commission
Bureau of Indian Affairs

COPY

EXHIBIT 55b

Tallahassee, Florida
July 30, 1957

Board of Commissioners of State Institutions met on this date in the Board Room, offices of the Governor, at the Capitol.

Present: LeRoy Collins, Governor
R. A. Gray, Secretary of State
Richard W. Ervin, Attorney General
Ray E. Green, Comptroller
J. Edwin Larson, State Treasurer
Tom Bailey, Supt. of Public Instruction

Governor Collins called the Cabinet to order and explained that the purpose of the meeting was to consider a request from the Everglades Miccosukee General Council for approval of a constitution. He welcomed the visiting Indians to the meeting and asked Colonel Max Denton, State Commissioner of Indian Affairs, to continue the report he made to the board at the last meeting.

Colonel Denton reported that the Miccosukee group has organized under a constitution and has signatures of a majority of the off-reservation Indians and they feel if the State approves the constitution there will be from 30 to 50 additional Indians signing up. Colonel Denton recommended that this constitutional group be given state recognition by the Board of Commissioners and that the duly elected executive committee be recognized as the governing counsel for the tribe. The Indians are here today to present proof that they have a majority signed up and that Buffalo Tiger is spokesman for the group.

Buffalo Tiger stated that following the visit by the Governor and Comptroller to the Indians they had gone to work to secure names on the petition who would follow the trail group. Out of a total of 305 trail Indians, 201 signatures had been secured.

The following members of the governing agency of the group were introduced:

Howard Osceola	John Poole
Bill McKinley Osceola, Jr.	Henry Sam
Sam Willie	John Willie
Little Doctor	Tommy Tiger
John Osceola	Jimmie Tiger

Honorable Millard Caldwell and Dr. John J. Miller were present as representing the Indians in their request for the constitution.

EXHIBIT 56a

Colonel Denton explained how the constitution was formed, the terms under which it will operate and the different branches of the organization. He stated that the Indians feel that if they have some recognized body authorized to work with the State and represent the Trail Indians, they will accomplish more toward improving living conditions for that unit. It was also brought out that any Indian who desired, would have the opportunity of coming into the Council under this constitution.

Buffalo Tiger called attention to the three (3) branches of the constitution, which are the General Council, the Executive Council, and the Judicial County, and read the names of those comprising the first council in each branch.

Dr. Miller explained the duties of the three branches of the constitution, called attention to conditions for membership, when elections can be held, the power to negotiate with the United States and the State in reference to all matters affecting the Indians, and Buffalo Tiger was identified as chairman of the Executive Council.

Upon discussion of the constitution and questioning by members of the Board as to the authority of the three councils and the legal status of each, the Cabinet was assured that this constitution does not give any legal status above the state or federal governments; that it is an agreement similar to municipal charters designed to provide an organization with which the State can deal in entering into agreements for assisting the Indians in various ways.

It was brought out that there were several individuals who are interested in contributing funds for rehabilitating some of the Indian villages and in other ways improving living conditions for the Indians.

P. M. Boyd of Miami spoke in support of the constitution for the Indians.

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Mrs. Evelyn Harvey of Miami, President of the Miccosukee Indian Association of Miami, urged that the Board approve the constitution; that she has worked with them for many years and feels that under the constitution they will benefit in many ways.

Mr. Caldwell stated that he is highly in favor of granting the request of the Indians and feels that the document (constitution), which was written in conjunction with the Federal officials and when accepted by the State, will be an instrument of great value to the Miccosukee tribe of Indians.

O. B. White spoke in opposition to the constitution on the ground that it had no legal effect; that it will be detrimental to the constitution of the reservation group; that the petition does not represent a majority of the Trail Indians. He pointed out a number of features of the constitution which he said were objectionable.

Bill Osceola, Frank Billie, Billy Osceola, and Mike Osceola stated they were members of the committee of Reservation Indians and requested Mr. White to act as attorney for the committee and that he is speaking for about six hundred (600) Indians.

Mike Osceola spoke in opposition to the Trail Group of Indians and the constitution they are requesting from the State. He stated that he had been advised by Dr. Miller that the Trail Indians are not citizens of the State and the United States. He explained the hardships he had gone through and the threats made against him when he attended school. Another objection he had to the constitution was that the Indians would not be allowed to vote on how their money was spent or for electing members of the council; that there is not more than sixty (60) to sixty-five (65) adult Indians over twenty-one (21) years of age eligible to vote.

Upon questions from the Cabinet as to a statement that the constitution's purpose is for starting a suite for obtaining a large body of land, and that corporal punishment is allowed under

EXHIBIT 56c

tribal laws which would result in loss of life to a member of the tribe, Dr. Miller replied that there were no such provisions in the constitution and matters of this kind would have to be determined through negotiations with the State: that insofar as the Miccosukee tribe is concerned, they do not want jurisdiction that would involve the death penalty.

Howard Osceola, brother of Mike Osceola, stated that his brother's complaint is mostly a family affair and should have no effect on the constitution.

In answering a question as to the several groups, Howard Osceola stated that they were all Seminole Indians but there are two tribes, the Miccosukee Tribe and the Muscogee Tribe.

Education of the Indian children was brought up and information furnished was that some attend the public schools and others attend school on the reservation, the Miccosukee tribe attending the public schools.

Governor Collins summed up the situation to the effect that no unification of the two tribes has occurred and there are still some of the Trail Indians who have no part in the reservation laws or regulations of living conditions. The majority of that tribe has now agreed on a constitution they want the State to approve, and the State is hopeful that eventually the two groups can be united and that the Seminoles of Florida will work as one tribe with the State as partners.

The question of lands came up but the Governor stated that that subject would have to be taken care of at a later date with the Trustees of the Internal Improvement Fund, as this was strictly a Board of Commissioners of State Institutions matter.

The Attorney General expressed the view that this constitution was similar to a municipal charter and in no way superceded local or state governing bodies.

EXHIBIT 56d

With this explanation, motion was then made by Attorney General Ervin that based on the recommendation of the Commissioner of Indian Affairs and the petition of a majority of the Everglades Miccosukee Tribe of Seminole Indians for approval by the State of the proposed constitution, the Board of Commissioners of State Institutions approves the constitution submitted within limitations and specific understandings as outlined by the Attorney General.

Before putting the motion, Governor Collins asked for clarification as to statements made that the Miccosukee group of Indians has never accepted peace with the United States and is still technically at war; that it is the understanding of the Cabinet that this is not true and we desire assurance that under this constitution and government, the Miccosukee group of Indians recognize themselves to be citizens of the United States and of the State of Florida, and that no antagonism exists or is contemplated toward either government in the sense of military conflict.

Dr. Miller and Buffalo Tiger assured the Cabinet that there was no such feeling or intent on the part of the Indians and under the constitution nothing of that nature was in the picture.

Statement was also made that there is no disposition on the part of the Miccosukee Indians to go against the Reservation Indians.

Governor Collins also pointed out that the action taken on the proposed constitution in no sense detracts from or denies recognition of the Reservation group of Indians and their constitution but it is the State's desire to be as helpful to that group as possible, and encourages that group to proceed with their constitution.

The motion to recognize the Miccosukee Council as the Tribal Governing body was put and upon vote was unanimously adopted.

Governor Collins invited the Indian delegation, comprising all groups present, and their representatives and friends, out to the Mansion for refreshments with Mrs. Collins, himself and any of the Cabinet that could attend.

EXHIBIT 56e

Without objection, the Board adjourned.

GOVERNOR - CHAIRMAN

SECRETARY OF STATE

ATTORNEY GENERAL

COMPTROLLER

TREASURER

SUPERINTENDENT OF PUBLIC INSTRUCTION

COMMISSIONER OF AGRICULTURE

ATTEST: LEAH BATTLE, SECRETARY

Commissioner of Indian Affair

EXHIBIT 56f

10

LAW OFFICES OF
WAYBRIGHT & WAYBRIGHT
SUITE 308 LAW EXCHANGE BUILDING
EAST FORSYTH AND MARKET TS.
JACKSONVILLE 2 FLORIDA

EDGAR W. WAYBRIGHT
ROGER J. WAYBRIGHT

TELEPHONE ELGIN 3-7533

October 11, 1957

The Tribal Council and Members of
The Seminole Tribe of Florida
c/o Mr. Kenneth A. Marmon, Superintendent
Seminole Indian Agency
P. O. Box 157
Dania, Florida

Dear Tribal Council and Members:

Re: The Seminole Indians of the
State of Florida
vs.
The United States of America

No. 73 and No. 73-A before
the Indian Claims Commission.

It is my understanding, on the basis of newspaper reports, that at the election called for that purpose by the Secretary of the Interior and held on August 21, 1957, the Seminole Indians of Florida adopted a Constitution and By-Laws, so that the tribe became organized under Title 25, U.S. Code, §476 [Act of June 18, 1934, c.576, §16]; that on September 19, 1957, a Tribal Council was elected under that Constitution, consisting of Betty Mae Jumper (at large) and Charlotte Osceola of Dania, Billie Osceola (at large) and John Josh of Brighton, Frank Billie (at large) and John Cypress of Big Cypress, and Mike Osceola (at large) of the off-reservation group; and that on September 24, 1957, the Tribal Council elected Billie Osceola its Chairman.

It is therefore appropriate that I address this letter to the Tribal Council and members of the Seminole Tribe of Florida, since that is now the official, and only, organization, recognized by the United States, of the Seminole Indians of the State of Florida.

EXHIBIT 57a

Mr. John O. Jackson and I, with the aid of other lawyers we associated with us, have been representing the tribe for some eight years now, in connection with the tribe's claims against the United States. While the members of the tribe have been kept fully advised of the progress of the litigation involving the tribe's claims by frequent written reports and copies of the major pleadings, the governing body of the organized tribe should have a recapitulation of those reports, for its consideration in connection with the request that is the main purpose of this letter. That recapitulation is given here:

Until 1946, the Seminole Indians of Florida had no way to obtain compensation for the lands that were taken from their ancestors by the United States by force and fraud in the years 1823-1839, except by petitioning Congress for redress. Indian tribes had spent decades in vain efforts to obtain some benefit in lieu of compensation for their poverty-stricken people whose farming, hunting and fishing economy had been destroyed with the taking of their tribal lands, and who were unable to compete in the White man's substitute civilization because of lack of even such basic educational qualifications as the ability to speak English.

The Indian Claims Commission Act

The Indian Claims Commission Act [Title 25, U.S. Code Annotated, §§70-70w; Act of August 13, 1946, c. 959; 60 Stat. 1049-1055] was approved August 13, 1946. Under that Act, any tribe, band, or other identifiable group of American Indians could present to the Indian Claims Commission, by August 13, 1951, a petition setting forth any claim, of the nature delineated in the Act, against the United States, that had accrued before the Act was approved.

Among the claims that a tribe could thus present were: any claim that would result if the treaties, contracts, and agreements between the tribe and the United States were revised on the ground of fraud, duress, unconscionable consideration, mutual or unilateral mistake of law or fact, or other equitable ground; any claim that arose from the taking by the United States, whether as a result of a treaty of cession or otherwise, of lands owned or occupied by the tribe without the payment for such lands of compensation agreed to by the tribe; and any claim based upon fair and honorable dealings, where the claim was not recognized by any existing rule of law or equity.

EXHIBIT 57b

The Act provided that any claim of that nature that was not presented by August 13, 1951, could not thereafter be submitted to any court or administrative agency for consideration, nor would Congress thereafter entertain any such claim.

Obviously, the purpose of the act was to give partial justice, at long last, to those Indian tribes defrauded and oppressed by the United States, particularly in the early years of the expanding republic, by giving them five years to present all claims they might have that grew out of such dealings; and to bring to an end all of those controversies by barring all such claims as were not presented within that five year period.

The Act provided that, if a tribal organization existed that was recognized by the Secretary of the Interior as having authority to represent the tribe [such as the tribal organization formed by the Seminoles of Florida eleven years later, on August 21, 1957], that tribal organization would have the exclusive privilege of representing the tribe and presenting the tribe's claims; but that if no such tribal organization existed [as was the situation among the Seminoles of Florida then, and until two months ago], the tribe's claims could be presented by any member of the tribe as the representative of all the members of the tribe. The Act also provided in effect that, even if such a tribal organization existed, if the tribal organization failed to present the tribe's claims (through fraud, collusion, or laches), the Indian Claims Commission could allow any member of the tribe to present the claims on behalf of the tribe.

It seems rather patent that the intent of Congress was to see that all such tribal claims were presented within the five year period, preferably by the recognized tribal organization if one existed, but in any event by some member or members of the tribe, to the end that no tribe would be deprived of the right to have its claims presented because some members of the tribe preferred not to have the claims presented.

Each tribe was allowed by the Act to select the attorneys it desired to represent the tribe in presenting the tribal claims. If, like the Seminoles of Florida at that time (and until two months ago), the tribe had not been formally organized under federal law, with a constitution and tribal council, the federal law and regulations prescribed a number of safeguards to protect the tribe, to insure that the action taken was with the knowledge of and authorized by the tribe, and that the tribe was treated fairly in every respect. The

Superintendent of the Seminole Indian Agency and the Commissioner of Indian Affairs had to be notified before any negotiations were carried on by the tribe with the attorneys it desired, the attorneys had to be investigated and approved, the members of the tribe had to be notified and name tribal delegates to execute a contract for the tribe under the supervision of the Superintendent of the Seminole Indian Agency, the tribal delegates and the attorneys had to execute the contract before a Judge of a court of record, the Judge and the Superintendent had to certify the contract, and the contract had to be approved by the Commissioner of Indian Affairs and Secretary of the Interior.

Negotiation of the Attorneys' Contract

The Act provided [in §13: Title 25, U. S. Code Annotated, §701] that the Indian Claims Commission should send an explanation of the Act to all identifiable groups of American Indians and to the Superintendents of all Indian agencies, who should promulgate the same, and request that a detailed statement of all claims be sent to the Indian Claims Commission.

As I was later told, the Seminole Indians of Florida, like all other Indian tribes in the United States, were informed of the Act soon after it was approved on August 13, 1946; and the members of the tribe, scattered over three reservations and in camps and isolated spots all over south Florida, discussed the matter among themselves for a long time.

After a year or so of such discussion, some of the tribal leaders who had known him for some time approached Mr. John O. Jackson, and at various times during the next year discussed with him the tribe's rights under the Act and whether he would be willing to act as attorney for the tribe in presenting its claims.

After some months of such discussions, as I understand it, and of research and investigation (during which time Mr. Jackson consulted with my law firm), Mr. Jackson told the tribal leaders who were discussing the matter with him that he would represent the tribe if the tribe wished him to do so, and if my law firm would undertake the task along with him. At the request of those tribal leaders, Mr. Jackson discussed the matter at greater length with my law firm, and asked if we would consider acting as attorneys for the tribe in conjunction with him.

My law partner and I had considerable hesitation about undertaking the representation of the Seminoles of Florida. Over the years, a few attorneys had undertaken this specialized type of work, usually at great financial sacrifice. An incredible amount of skilled work would have to be done, and a large sum of money would have to be expended, over a period of many years, in an effort to achieve success. Since the Seminoles of Florida then had no tribal funds available for the purpose, the attorneys would have to advance the necessary expenses, and would receive no reimbursement of those expenses, and no compensation for their work, unless successful. If successful, the amount of the attorneys' compensation would be fixed by the Indian Claims Commission, and could not exceed ten per cent of the amount recovered in any event. Because no Seminole Indian now living had yet been born when the lands were taken from the tribe over a century previously, and the Florida Seminoles had no written records, proof of the validity of the claims would have to come from documents most of which were not available in Florida, so that another lawyer would have to be associated to do some of the research in distant cities. And to handle on-the-spot matters in Washington, a Washington lawyer would have to be associated also. Consequently, any attorneys' fee that might eventually be received, if we should be successful, would have to go in large part to other attorneys. It was not attractive financially to lawyers who are competent to handle such complex matters (although it seems lately to have a peculiar attraction for some lawyers in the Miami area, who apparently are fascinated by the many zeros involved in stating the tribe's multi-million dollar claims in the Petition we filed for the tribe).

However, in our preliminary investigation we became convinced that the claims of the Seminoles of Florida were of considerable merit, and that they had been oppressed and defrauded by the United States to an extent unusual even in the sordid annals of the treatment of American Indians generally. We believed that there was exceptionally sound basis for the claims that the tribe could present, and that clear documentary evidence to support those claims could be produced. Yet some two and a half years of the five year period for presenting those claims had gone by, without the tribe having been able to take any concrete action toward having its claims presented. The tribe had no regular attorneys who might be expected to go forward with the presentation of the claims as a matter of duty, and if some attorneys did not soon begin the long task of entering into a contract with the tribe, having the contract approved, and preparing the presentation, those claims would be barred and the tribe's right to compensation for the old wrongs forever abandoned. We were informed that the tribe as a whole was deeply concerned over its plight, and actively solicited

our aid in the presentation of the claims.

Consequently, motivated by those considerations as well as by the hope of success and eventual compensation to some extent at least, my law partner and I agreed to undertake the presentation of the claims on behalf of the tribe, in conjunction with Mr. Jackson, if the tribe wished us to do so.

The various discussions of the tribal leaders with Mr. Jackson and among themselves, and the going through of all the procedures required by federal law and regulations for the protection of a tribe negotiating a contract with attorneys, took over a year. After all that was accomplished, Mr. Jackson and I executed an Attorneys' Contract with the tribe on February 5, 1949, at the county courthouse at Okeechobee, before the County Judge of Okeechobee County, the tribal delegates that we understood were chosen to do so by the tribe signing the contract on behalf of the tribe.

When that Attorneys' Contract of February 5, 1949, was submitted to the Commissioner of Indian Affairs, he wished some changes made, and on October 15, 1949, Mr. Jackson and I executed a new Attorneys' Contract with the tribe, before the County Judgeof Okeechobee County at the county courthouse at Okeechobee, the tribal delegates that we understood were chosen by the tribe signing the contract on behalf of the tribe. On January 6, 1950, that contract was approved by the Commissioner of Indian Affairs, to whom the Secretary of the Interior had delegated the authority to do so.

Presentation of the Tribe's Claims

After months of additional research and investigation by Mr. Jackson and myself, and by the other attorneys in Washington and Florida that we associated with us, we filed the tribe's Petition, presenting the tribe's claims, before the Indian Claims Commission on August 14, 1950.

Our research had led us to the conclusion that the tribe had four substantial claims of merit on which documentary proof could be produced, and we incorporated those four claims into the Petition:

(1) A claim for $37,500,000 plus interest for the value of 30,000,000 acres of land taken under the Treaty of Camp Moultrie in 1823.

(2) A claim for $5,040,975 plus interest for the value of 4,032,940 acres of land taken under

the treaty of Payne's Landing in 1832.

(3) A claim for $6,250,000 plus interest for the value of 5,000,000 acres of land taken under the Macomb Treaty in 1839.

(4) A claim for $992,000 plus interest for the value of 99,200 acres of land taken for the Everglades National Park in 1944.

Since the filing of the Petition for the tribe over seven years ago, Mr. Jackson and I have done our best to bring the tribe's claims to trial, despite the many difficulties involved in handling a unique matter, with virtually no precedents, before a special tribunal with special rules of law and evidence.

The attorneys representing the United States secured a number of extensions of time for filing pleadings, claiming (with a good deal of justification) that they had only a small staff to try to handle the hundreds of cases filed before the Indian Claims Commission by practically every tribe and band of Indians in the United States.

Almost a year after we had filed the Petition for the tribe, the government attorneys filed a Motion for Summary Judgment on July 11, 1951, contending that the Petition stated no good cause of action, and that hence the United States should not be required to file an answer to it.

We spent a great deal of time and effort in research to assemble the evidence and authorities we needed to combat that Motion, and on January 16, 1952, filed our Statement of Points and Authorities in opposition to it, sending copies to the tribe. On January 28, 1952, the government filed exhibits to be considered by the Indian Claims Commission in connection with that Motion, consisting of certain published books and other documents, relating mostly to the history of the Indians in Florida. On May 8, 1952, the government filed a Motion for authority to offer in evidence supplementary proof relating to our fourth cause of action, this supplementary proof consisting of a number of exhibits relating mostly to the damages resulting from the taking of the land for the Everglades National Park. To this Motion we filed a written Opposition on May 15, 1952, on the ground that such exhibits were immaterial on the question of whether the government's Motion for Summary Judgment should be granted. On June 27, 1952, the government filed a Supplementary Memorandum in support of its Motion for Summary Judgment. Argument was had on the government's Motion for Summary Judgment before the Indian Claims Commission on September 8, 1952, mainly

with reference to our fourth cause of action, the Indian Claims Commission preferring to await a decision of the U. S. Supreme Court in one of the Creek cases before passing on the Motion with reference to our first three causes of action. After that argument, we filed a Supplementary Opposition to the Motion for Summary Judgment insofar as it related to our fourth cause of action, and to the government's Motion for authority to offer in evidence supplementary proof relating to our fourth cause of action. On January 22, 1953, the Indian Claims Commission entered an Order denying the government's Motion for Summary Judgment, and ordering the government to answer our Petition. As will be referred to later, by that Order the Indian Claims Commission also ordered our case to be split into two cases.

The Seminole Indians in Oklahoma, calling themselves "The Seminole Nation" and "the Seminole Nation of Indians, of the State of Oklahoma", meanwhile, about July of 1951, almost a year after our Petition was filed and shortly before the time for filing claims expired, filed a Petition in Docket No. 151 before the Indian Claims Commission. In their Petition, the Oklahoma Seminoles set forth substantially the same claims as we had stated on behalf of the Florida Seminoles in the first and second causes of action of our Petition; and went on to make other claims based upon things that happened to them after they were removed to Oklahoma. The Oklahoma Seminoles also, on July 24, 1951, filed in our case a motion to dismiss our Petition, claiming that the Oklahoma Seminoles are the only ones entitled to sue for the value of the Florida lands, and that the Florida Seminoles are outlaws. On September 12, 1951, we filed a motion to dismiss that motion of the Oklahoma Seminoles, on the ground that they were not a party to our action; and on January 22, 1953, the Indian Claims Commission entered an order granting our motion to dismiss that motion of the Oklahoma Seminoles. As will be referred to later, however, by that Order our case (except for our fourth cause of action) was consolidated for trial with the case of the Oklahoma Seminoles.

In its Order of January 22, 1953, the Indian Claims Commission split the case on behalf of the Florida Seminoles into two cases:

(a) The first three causes of action, for the value of the lands taken under the treaties in 1823, 1832, and 1839, were left in Docket No. 73, and were consolidated, for the purpose of trial on the merits of the respective claims, with the causes of action set forth by the Oklahoma Seminoles in their Petition in Docket No. 151.

(b) The fourth cause of action, for the value of the land taken for the Everglades National Park in 1944,

was split off into a separate case, under Docket No. 73-A. We filed a typewritten Petition in Docket No. 73-A on February 24, 1953, and a printed Petition on March 31, 1953, copies of which we sent to the tribe, re-stating the fourth cause of action in substantially the same way we had stated it in the original Petition.

In its Order of January 22, 1953, the Indian Claims Commission ordered the government to file its Answers to the Petitions in both of the cases, Docket No. 73 and Docket No. 73-A, by March 24, 1953.

The government filed its Answer in Docket No. 73-A, to the cause of action for the value of the land taken in 1944 for the Everglades National Park, on May 1, 1953. For a number of reasons, we considered it to be to the best interest of the tribe not to try this relatively small claim before the trial in the main case, so we have not pressed for trial on the merits in this case.

In the main case, No. 73, involving the three major causes of action, the government attorneys, over our vigorous repeated objections, secured from the Indian Claims Commission a number of extensions of time for filing the government's Answer to our Petition. In addition to continual oral opposition to further extensions of time, on December 14 and 15, 1953, we asked for and obtained the intervention of the two Florida Senators with the Attorney General; and on December 24, 1953, and September 29, 1954, we filed formal Motions for orders requiring the government to file its Answer. Finally, on November 1, 1954, the government filed a typewritten partial answer, and on December 17, 1954, filed a printed complete Answer, copies of which we sent to the tribe.

On the same date, December 17, 1954, the government filed its Answer in the Oklahoma Seminoles' case, Docket No. 151.

At long last, therefore, some four and a half years after we had filed the original Petition, the pleadings in the main case were settled, and we were in position to ask that it be set for trial.

By its Order of January 22, 1953, the Indian Claims Commission had consolidated the main case, Docket No. 73, involving the three main causes of action, for trial with the case of the Oklahoma Seminoles in Docket No. 151. This meant that the Florida Seminoles would join with the Oklahoma Seminoles in attempting to win the case against the United States for the

value of the Florida lands taken under the treaties of 1823, 1832, and 1839. If successful in that, the problem of determining how much of the money should go to the Oklahoma Seminoles and how much to the Florida Seminoles would be faced. There are about four times as many Seminoles in Oklahoma as in Florida.

At that point, almost three years ago, we began pressing to have a date set for the trial in the tribe's main case. I made a trip to Washington on January 4, 1955, to confer with the attorneys for the Oklahoma Seminoles, the attorneys for the government, the Chairman of the Indian Claims Commission, and our Washington associate, in an effort to secure an early trial date. As a result of those conferences, I secured from the Chairman of the Indian Claims Commission tentative approval of a plan to take the depositions of some of the older Seminoles in Miami in October of 1955, to establish - - for what it was worth - - the tribal traditions as to use and occupancy by the tribe of all the lands in Florida. And plans were discussed for agreeing with the government attorneys, during the year 1955, on documentary evidence to be presented, with the goal of trying to have the trial early in 1956 if possible.

However, just as we had finally, after some four years of difficult litigation, gotten the tribe's case to the point where we might expect a trial within another year or so, we were directly faced with the matter that is the primary subject of this communication, and that I wish to discuss at some length before coming to the conclusion that is the purpose of this letter.

The Dissident Members of the Tribe

At the time Mr. Jackson and I executed the Attorneys' Contracts with the tribe on February 5 and October 15, 1949, we of course had no actual personal knowledge as to whether every one of the Seminole Indians in Florida knew of the proposed signing of those contracts, and had participated in choosing the tribal delegates to sign those contracts on behalf of the tribe. Neither Mr. Jackson nor I speak any Seminole dialect, and few of the Seminoles speak English with facility, although a greater number understand English, so that communication necessarily had to be carried on through interpreters, even with some of the tribal leaders. I had had no personal contact with any of the members of the tribe except at the time the contracts were signed, and Mr. Jackson's personal contacts could not have reached all of the 773 adult and child members of the tribe scattered all over south Florida, I am sure.

EXHIBIT 57j

However, we were repeatedly assured that the proposed signing of the contracts with us had been widely discussed among all of the adult members of the tribe for over a year, that substantially all knew and approved of it, and that the tribal delegates who signed the contracts on behalf of the tribe were tribal leaders who had been chosen by the members of the tribe to sign those contracts. I specifically recall, for instance, that at the time the second contract was signed on October 15, 1949, the tribal delegates, in answer to questions by the Superintendent of the Seminole Indian Agency, declared that particular attention had been given to informing the Seminoles who lived off the reservations, in camps along the Tamiami Trial.

Nothing that I can recall was said about it at the time, but years later I was informed that, of the twelve tribal delegates who signed the second contract on behalf of the tribe, seven were of Miccosukee descent and five were of Muskogee or Cow Creek descent.

In good faith, Mr. Jackson and I believed that the whole tribe of Seminoles in Florida favored the action, and wanted us to act as their attorneys in presenting the tribe's claims. Had I thought otherwise, I could not have been induced to undertake the task that has consumed so much of my time, and resulted in so much expense, during the last eight years.

Therefore, Mr. Jackson and I were surprised, while the Petition was in the process of being printed, to receive from a Mr. O. B. White, a Miami attorney previously unknown to me, a letter dated August 1, 1950, in which Mr. White asserted that he had been representing the Seminole Indians in south Florida for some twenty years; that he represented a group of non-reservation Indians who were not notified of the signing of the contract with us; and that a meeting of the tribe should be held at which Mr. Jackson and I could inform the non-reservation and reservation Seminoles of the progress of the case presenting the tribe's claims.

I replied to Mr. White's letter, pointing out what I believed to be the true facts as to the execution of the tribe's contract with us.

I was then bombarded with a series of press releases Mr. White issued to the Miami newspapers, saying derogatory things about me and stating that for five years he had been preparing claims to be presented for the tribe, and would file a petition for the non-reservation Seminoles within 45 days.

Mr. Jackson and I did our best to ascertain the truth of Mr. White's representations. The Petition we had prepared to present the tribe's claims was in process of being printed so that it could be filed with the Indian Claims Commission, and the Commissioner of Indian Affairs had been insisting that it be filed as soon as possible, so I did not feel that I could go to south Florida to consult with the tribe at that time, but Mr. Jackson did. Mr. Jackson was informed that Mr. White had upon occasion represented individual Indians in minor matters, but that neither Mr. White nor any other lawyer had represented the tribe; and that Mr. White did not represent any segment of the tribe, only one Indian seeming to support Mr. White's claim that he did. We decided that we should ignore Mr. White.

However, as a result of the disturbance in the Miami newspapers created by Mr. White's press releases, and because the Petition we had prepared to present the tribe's claims would be printed and filed by that time, making it an appropriate time for us to bring the tribe up to date on the progress of the claims, the Superintendent of the Seminole Indian Agency asked us to attend a tribal meeting on the Tamiami Trail, to which the off-reservation Seminoles would be especially invited, to make a report to the tribe on the status of the tribe's claims.

Mr. Jackson and I attended that tribal meeting, at William McKinley Osceola's camp on the Tamiami Trail, on August 20, 1950, six days after we had filed with the Indian Claims Commission the printed Petition presenting the tribe's claims. We distributed copies of the Petition to those Seminoles present who wished copies, and explained at some length the contents of the Petition and the status of the claims.

We ignored Mr. White, but he came to the meeting with reporters and photographers from the Miami newspapers, and attempted to make a field day out of it. Mr. White claimed that he would soon file a petition on behalf of some "tribal council" he claimed to represent, and made various incorrect factual statements. We found it most embarrassing, as would any reputable lawyers, and would have withdrawn from the case at that time if there had been any indication from the tribe that Mr. White actually did speak for any faction of it. We were unable to ascertain that he spoke for anyone except one Indian who seemed to be sponsoring him. We were assured, then and later, that Mr. White actually had no such status as he claimed to have, and that the tribe was still supporting us. Mr. White did not file any petition, and we heard no more from or about him, so we assumed that we had been correctly informed, and that the tribe was still virtually unanimous in support of the action we were taking for the tribe.

At that meeting, however, and unconnected with Mr. White's dubious status according to our information, we were again startled when we were informed that some of the older Seminoles living along the Tamiami Trail were disturbed by the thought that possibly, if we managed to obtain compensation for the tribe in this case, the government might be inclined to reduce or gradually eliminate the medical assistance or other benefits which otherwise the government might be inclined to continue to give to the tribe. We were of course unable ethically to give any absolute guarantee to our clients that under no circumstances would government officials of the future pay attention to any award the tribe might receive in these cases, in considering what, if any, other benefits the government might give to the tribe. It seemed to us, however, that the tribe would have been most ill advised even to consider seriously forsaking the remedy given to it by the Indian Claims Commission Act, in the mere hope that the government might some day give the tribe other benefits. It seemed more probable to us that, if the tribe did not utilize the machinery Congress had provided for obtaining compensation for its old wrongs, Congress and other government officials might well conclude that the Seminoles of Florida did not feel that the government had done them any wrong, and might use that as a reason for doing nothing at all for the tribe in future years.

After another meeting with the tribe at Dania on September 10, 1950, we understood that that feeling of the few older Seminoles had largely evaporated, and that substantially all the tribe were whole-heartedly in favor of the presentation of the claims. We heard no more about any such views for over three years, and, believing that the tribe as a whole solidly supported our efforts, we went ahead with the complex business of overcoming the difficulties placed in our way by the attorneys for the United States and trying to force them to file an Answer, so that the tribe's case could be set for trial.

Then, on January 20, 1954, we received a letter from a Miami attorney, a Mr. Morton H. Silver, representing himself to be attorney for an unspecified number of the members of the tribe, and asking if we were willing to amend the claim so that it would not include those Indians whom he purported to represent, since they desired not to participate in any money award which might be received.

We were well aware that, in a tribe of about a thousand adult and child members scattered in isolated spots all over south Florida and speaking little English, it is always possible for a few to be misinformed or misled. We were also aware, after consulting the legal directory, that Mr. Silver was a recent law school graduate who had had no contact with the tribe when the tribe negotiated the contracts with us and we

began representing the tribe. We replied that we were unhappy to hear that some members of the tribe had such a feeling, but that since the claims we were presenting were maintainable only on behalf of the whole tribe, of course we could not so amend. We called attention to the fact that, under the governing Act, a few members could not prevent the great majority of the tribe from obtaining an award, and that if the tribe as a whole had not acted any member of it might have been in a position to have the claims presented on behalf of the tribe. We suggested that if some few of the members of the tribe were so inclined, they might decline to accept a share in any benefits which might accrue to the tribe from the presentation of these claims, but that they could not prevent the others from sharing.

Mr. Silver wrote to us again on January 25, 1954, asking us not to press for an early trial of the tribe's case. Believing that only a few, if any, of the members of the tribe were misinformed, we did not feel that their attitude should cause us to relax our efforts on behalf of the entire tribe, so we flatly refused to accede to Mr. Silver's request, and continued our vigorous efforts to obtain an early trial.

About September 16, 1954, Mr. Silver filed a singular paper with the Indian Claims Commission, a copy of which we sent to the tribe, purporting to be signed by 15 Seminoles, in which he asked that an unspecified number of the tribe, which he called the "Miccosukee Seminole Nation", in effect be disassociated from the cases we were presenting for the tribe. On November 3, 1954, we filed a reply to that paper, pointing out that the 15 who purportedly signed that paper were not themselves parties to the cases, the tribe as a whole being the party; that Mr. Silver had no approved contract to represent any Seminoles; that our contract with the tribe was properly executed, approved and filed; and asking that Mr. Silver's paper be stricken from the record.

In the paper he had filed, Mr. Silver had stated that he would be unable to attend a hearing on his paper in Washington. When the Indian Claims Commission set a hearing on his paper for May 3, 1955, in Washington, Mr. Silver filed another paper, asking that the hearing be put off until after June of 1955.

On April 8, 1955, the Indian Claims Commission entered an Order striking Mr. Silver's paper from the record of the cases, as we had requested in our reply to it; and removed the matter from its May 3 calendar as disposed of.

On May 4, 1955, Mr. Silver filed a notice of appeal to the Court of Claims. On June 29, 1955, Mr. Silver filed a motion asking the Court of Claims for an additional 60 days to

EXHIBIT 57n

file his brief, and on July 14, 1955, the Court of Claims entered an Order allowing him that additional time. On August 26, 1955, Mr. Silver filed his brief in the Court of Claims, and on August 30, 1955, we sent to the tribe a copy of that brief. On November 25, 1955, we filed our brief in the Court of Claims; and on December 1, 1955, we sent to the tribe five copies of that brief. On March 9, 1956, we were advised by the Clerk of the Court of Claims that Mr. Silver's appeal would be orally argued before the Court on April 5 or 6. On March 27, 1956, Mr. Silver filed a motion asking the Court to postpone the oral argument until June, and on March 28 the Court entered an Order doing so. On May 8, 1956, we were advised by the Clerk of the Court of Claims that the appeal would be orally argued on June 7 or 8. On May 18, 1956, Mr. Silver filed another motion, asking the Court to postpone the oral argument again, until August; and Mr. Silver's associate telephoned to me on May 18, 1956, asking me to consent to postpone the argument. I told him I would not do so; that the tribe expected me to push the case along as speedily as I could, I had been doing all I could to push it along for some eight years, and I would continue to do so. Nevertheless, on May 23, 1956, the Court of Claims entered an Order postponing the oral argument until August of 1956. Mr. Silver got the oral argument before the Court postponed three times, but it was finally argued on October 5, 1956.

When the case was called for oral argument in the Court of Claims on October 5, a peculiar incident occurred. We know nothing of the background that gave rise to it, any more than we know of the background that gave rise to the paper Mr. Silver originally filed before the Indian Claims Commission, so we simply report the gist of what happened, without analysis.

When the case was called for oral argument, the Court announced that a letter had just been received by the Clerk of the Court, apparently from those Mr. Silver claimed were his clients. We were not furnished with a copy of the letter, but we understand it read as follows:

> We don't know about this claim and want no part of it. And we also don't want to ask this claim. We have had a meeting but have no way to go up there. We don't have an attorney. We have nothing to do with Morton Silver any more or with Buffalo Tiger, interpreter. The last we worked with Morton or Buffalo Tiger was back in March. Whoever goes up to Washington to fight this case is picked by himself, not by us. Morton Silver doesn't represent the General Council of the Miccosukee Seminole Nation.

EXHIBIT 57o

We understand that that letter was purportedly signed by Ingraham Billie, Jimmie Billie, Willy Jim, Frank Osceola, Tom Buster, Jimmy Henry, Oscar Hoe, Frank Charlie, Jack Clay, Frank Jimmy, John Fewell, and Sam Jones Micco, who were 12 of the 15 who had purportedly signed the first paper Mr. Silver had filed with the Indian Claims Commission [John Poole, Tiger Tiger, and Joe Doctor, who also purportedly signed Mr. Silver's first paper, apparently did not also sign the letter to the Court]. The letter to the Court was also, we understand, purportedly signed by seven Indians who had not signed Mr. Silver's first paper: Billie Doctor, James Billie, Jimmy Doctor, Johnny Jim, Wilson Doctor, Doctor John, and Henry Billie.

The case was orally argued, for we wanted the appeal disposed of, regardless of whether those Indians Mr. Silver claimed to represent had repudiated him or not.

On December 5, 1956, the Court of Claims handed down its decision dismissing Mr. Silver's appeal. That decision is reported at 146 Fed. Supp. 459, and copies of it were sent to the tribe. On January 7, 1957, Mr. Silver filed a Motion for Rehearing with the Court of Claims, asking that court to reconsider its decision. On March 6, 1957, the Court of Claims overruled that Motion. On May 13, 1957, Mr. Silver filed a Petition for a Writ of Certiorari with the Supreme Court of the United States, asking that it review the decision of the Court of Claims. That Petition purported to be on behalf of only "Tiger Tiger and John Poole, individually and for the General Council of the Miccosukee Seminole Nation (Florida)." Such petitions are usually not granted.

At that point, although Mr. Silver had been a source of annoyance to us, and had caused us considerable additional work and expense in litigating with him, for more than three years, we did not regard him as being the spokesman for more than the two members of the tribe he named in his petition to the Supreme Court.

At one time during those three years, we understood, perhaps as many as 40 or 50 heads of families, with their wives and children constituting perhaps 150 of the 925 adult and child members of the tribe, had been led by someone to believe such nonsense as that the United States could be made to give them at least south Florida for their own; that there was constant activity on their behalf by direct short-wave radio to Washington; that the President of the United States was sending an Ambassador to negotiate with their independent sovereign nation; and that if the United States couldn't be brought to heel the United Nations would make the United States do so.

EXHIBIT 57p

But we were advised that the better informed and more responsible members of the tribe were gradually bringing the truth home to those dissident members, and convincing them that no one had any reasonable chance of ever getting Congress to appropriate enough money to buy the extensive tracts of south Florida land that they wanted for their exclusive use; that that ineffective method of obtaining redress for the wrongs done to the tribe, by petitioning Congress, had been available to the tribe for a century before the Indian Claims Commission Act was approved, and the tribe had never gotten anything from Congress by following that method; that the only effective method the tribe has to obtain redress for the old wrongs is by presenting the tribe's claims to the Indian Claims Commission.

Many times during those three years, when the tribe was being made a laughing-stock in the Miami newspapers by the ridiculous statements attributed to spokesmen for the imaginary "Miccosukee Seminole Nation", and particularly when Mr. Silver used my name in one of his frequent press releases, I was strongly tempted to withdraw from the case. But I was constantly assured by responsible leaders of the tribe that Mr. Silver actually spoke for only a small, and continuously decreasing, minority of the tribe who had been misled; that the tribe was predominantly united in support of our presenting the tribe's claims to the Indian Claims Commission; and that in a short time even most of the few dissident members would once again join in support of the claims. By the time Mr. Jackson and I met with the Constitutional Committee at Dania on April 12, 1957, we were being informed that only a few of the small group of Seminoles along the central portion of the Tamiami Trail were aligned with Mr. Silver, and that the off-reservation Seminoles at both ends of the Tamiami Trail as well as elsewhere had come again to the same frame of mind as the reservation Seminoles.

We accepted those assurances, although we noted from the newspapers that Mr. O. B. White, of whom we had heard nothing for some six years, seemed to be re-appearing on the scene again, and that both he and Mr. Silver were still loudly proclaiming themselves to be attorneys for various majority factions of the tribe. We believed that the tribe was once again fairly solidly supporting our presentation of the tribe's claims, and that the election to organize the tribe under federal law would end the controversy once and for all by revealing that, despite any claims made in newspapers by self-styled spokesmen for various factions, the tribe was unified and intended to try to obtain compensation for the old wrongs done to it in the orderly way provided by the Indian Claims Commission Act.

EXHIBIT 57q

The Tribal Election

The election held at the call of the Secretary of the Interior, on adoption of a tribal Constitution and By-Laws, on August 21, 1957, finally disillusioned me.

From newspaper reports, I learned that, of slightly more than 1000 Seminoles in Florida, 448 are adults aged 21 or over, and thus entitled to vote; that of those 448 adults 278 (about 62%) live on the reservations and 170 (about 38%) live off the reservations; that of the 278 adults living on the reservations 217 voted for and 5 against the proposed constitution, 56 not voting at all; that of the 170 adults living off the reservations only 24 voted for the constitution and 146 did not vote at all, but boycotted the election.

Since Mr. Silver had announced to the Miami newspapers before the election that his adherents would boycott the election, inasmuch as they already had a "constitution approved by the Florida Cabinet," the election result is a clear demonstration that about a third of the adult Seminoles in Florida are opposed to the presenting of the claims of the tribe to the Indian Claims Commission, and thus in effect opposed to our representing the tribe in connection with those claims.

Conclusion

Eight years ago, Mr. Jackson and I embarked upon the long and difficult task of trying to obtain for the Seminole Indians of Florida the compensation to which we thought they were entitled under the law for the lands taken from their ancestors over a century ago.

Hundreds of thousands of dollars worth of work, and thousands of dollars of expense, have been devoted to that task during the last eight years. I have no doubt that a more suitable organizational plan at the beginning, and somewhat different tactics as a result thereof, would have produced greater progress toward trial, but in a unique type of proceeding, with virtually no precedents as a guide, hindsight is often better than foresight. Much has been achieved, for the tribe's case is now, and for three years has been, in position to be set for trial, so far as the issues between the tribe and the United States are concerned. And the matter of Mr. Silver's interjection into the tribe's case seems effectively to be disposed of, since his contentions have been rejected by two tribunals and the odds are heavily against the matter being taken up by the tribunal of last resort.

EXHIBIT 57r

Much remains to be done, however, by way of preparation for trial and the conducting of the trial or trials. Considerable additional expense must be incurred, and a great deal more work must be done, before a final decision is reached as to whether the tribe will receive compensation, and if so how much.

If we were faced now only with the problem of battling out the tribe's case against the United States, and then the respective rights of the Florida Seminoles and the Oklahoma Seminoles, the task would be complex enough, for certain difficulties there is no point in discussing here raise obstacles to securing justice for the tribe that I would have great trouble in overcoming, if indeed they could be overcome.

I realized at the beginning, eight years ago, that we would spend years, and thousands of dollars, in the effort. And I realized then that in the end, if we were successful, the fees we would receive might not be adequate, although only as the years went by, and we were put in the position of battling a minority of the Florida Seminoles in three tribunals, and the Oklahoma Seminoles in at least one, did I come to full realization of how inadequate those fees would probably be, if indeed any fee at all would be received.

But I did not realize at the beginning, nor at any time until the tribal election two months ago, that one-third of the tribe we are representing has never really supported that effort.

I now realize that fact fully, and coupled with the other difficulties facing us that fact causes me to lose all enthusiasm for the still long and arduous task ahead. I do not believe that I can reasonably be expected to spend additional years of work, and additional thousands of dollars, in an effort to obtain compensation for a tribe one-third of the members of which have rather clearly indicated that they are opposed to my efforts. Under such circumstances, I would never feel that I could turn my undivided attention to the matter of attempting to secure justice for the tribe. And I refuse to practice law on the jungle level, issuing press releases constantly to counter incorrect statements made by spokesmen for various elements of a dissident minority.

Therefore, I desire now to withdraw from representation of the Seminole Indians of the State of Florida in connection with the claims pending before the Indian Claims

EXHIBIT 57s

Commission in proceedings numbered 73 and 73-A. I request the Tribal Council of the Seminole Tribe of Florida, as the governing body of the tribe, to accede to my request and relieve me and Mr. Edgar W. Waybright, my law partner, of any further responsibility in connection with those proceedings.

I have advised the other attorneys involved in the matter of my intention to withdraw. I would prefer that Mr. John O. Jackson, who also executed the Attorneys' Contract with the Seminole Indians of the State of Florida, and Mr. Guy Martin and Miss Effie Knowles, the attorneys who were associated with us, speak for themselves as to whether they wish to continue to represent the tribe or to withdraw.

Sincerely yours,

Roger J. Waybright

RJW:HLA

EXHIBIT 57t

January 7, 1958

Marvin J. Sonosky Esq.,
1028 Connecticut Ave. N. W.,
Washington 6, D. C.

Dear Mr. Sonosky:

In re: Docket Nos. 73 and 73 A - Florida Seminoles

Thank you for your letter of January 6th. I am glad that you talked with Mr. Weissbrodt, and am happy that he would welcome you on the contract. I would feel that the Seminoles would be in good and competent hands, a worthy successor to Roger J. Waybright, if you, Mr. Sonosky, should be their counsel. The most important interest of mine at this time is that these people have competent counsel to vigorously prosecute their claim.

Mr. Emmons and some other officials have been here since Friday and are making every effort to reconcile the differences between off-reservation Indians and the Reservation Indians. The conflict was caused by several attorneys who wished to break into the case, and not even the United States Supreme Court has been able to stop them. These attorneys and their "jungle law practice" and the constant use of the name of Roger J. Waybright in their press, radio and TV releases and in their briefs made Roger feel that he should withdraw.

For my services if I am not on the contract, I shall file a claim for services rendered on research to be paid on a quantum meruit basis. Roger had agreed, with the knowledge and consent of Mr. Jackson, that I should receive 25% of any award. I have completed the research and there is a wealth of documentary evidence, letters, Congressional investigations and reports on which to prove the case. There are also many books and other writings by contemporaries of the Indians of the days of the broken treaties. I am anxious that the claim be pushed to final adjudication. However, these Indians do need counsel and advice in this area, and I am just 25 miles from their headquarters.

EXHIBIT 58

With kind regards, I am

Sincerely

Ollie Knowles

cc Mr. Jackson
Mr. Kenneth Marmon,

IN REPLY REFER TO:

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON 25, D. C.

AIRMAIL

JAN [illegible] 1958

The Executive Council
Everglades Miccosukee Tribe of Seminole Indians
c/o Mr. Morton H. Silver, Attorney-at-Law
710 Biscayne Building
19 West Flagler Street
Miami 32, Florida

Dear Sirs:

In your letter of January 6, you ask for Bureau of Indian Affairs recognition of your tribal organization.

Ordinarily formal recognition is given to Indian Tribal organizations by the Bureau of Indian Affairs and the Department of the Interior where these organizations deal with assets under the trusteeship of the Federal Government. Since your organization admittedly does not deal with such assets, and is presumably not interested as an organization in the management of such assets, the request you have made presents us with a rather unique situation.

After my recent visit to Florida, I am satisfied that your organization includes in its membership a substantial number of Seminole Indians of Florida who are not affiliated with the reservation organizations nor participating in the services now being sponsored by this Bureau. I am also aware, of course, of the recognition which was granted to your organization by the Board of Commissioners of State Institutions of Florida last July.

I am, therefore, willing and glad to recognize your organization which you call the "Everglades Miccosukee Tribe of Seminole Indians" as qualified to speak for and on behalf of those Indians who have affiliated with the organization by signing their names to the roll attached to the Constitution. More specifically, we are recognizing your organization as qualified to speak for its members on matters which are of concern to the Florida Seminoles as a whole (such as the pending claim against the United States) and in connection with any State lands where your organization may be given special jurisdiction by the State. You will, of course, understand that this recognition in no way affects the Federal recognition accorded to the majority of Seminole Indians of Florida who are now organized under Federal law and with whom we are now associating in the management of the tribal trust property.

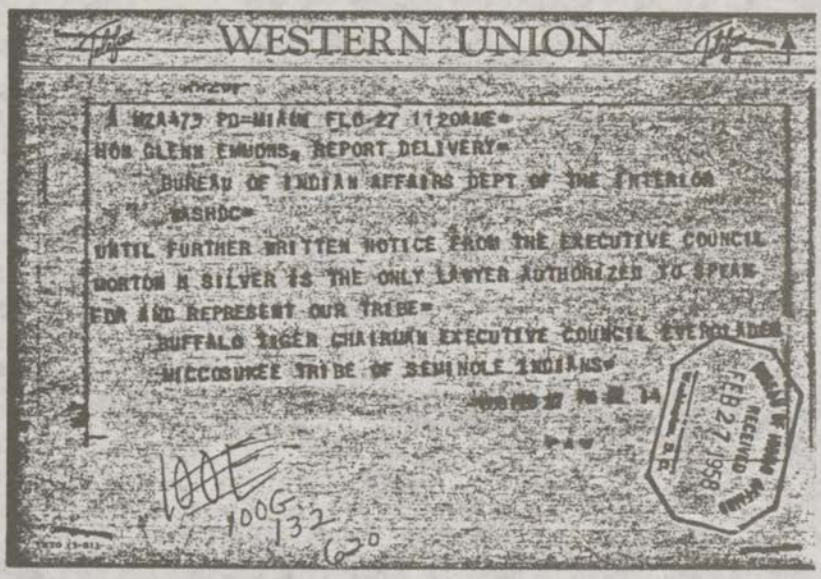
EXHIBIT 59a

It was indeed a pleasure to have had the opportunity to visit with your organizational leaders and members and I trust that your organization will hold firm to the admirable intention with which it was conceived.

Sincerely yours,

Commissioner

EXHIBIT 59b



WESTERN UNION

WZA473 PD=MIAMI FLO 27 1120AME=
HON GLENN EMMONS, REPORT DELIVERY=
BUREAU OF INDIAN AFFAIRS DEPT OF THE INTERIOR
WASHDC=
UNTIL FURTHER WRITTEN NOTICE FROM THE EXECUTIVE COUNCIL
MORTON H SILVER IS THE ONLY LAWYER AUTHORIZED TO SPEAK
FOR AND REPRESENT OUR TRIBE=
BUFFALO TIGER CHAIRMAN EXECUTIVE COUNCIL EVERGLADES
MICCOSUKEE TRIBE OF SEMINOLE INDIANS=

RECEIVED FEB 27 1958

EXHIBIT 60

WESTERN UNION TELEGRAM

RA455 AA535

A MZ-B257 LONG NL PD=MIAMI FLO 2=

UNITED STATES INDIAN COMMISSIONER, GLENN EMMONS= 2 PM 9 20

INDIAN BUREAU DEPT OF THE INTERIOR WASHDC=

TRIBAL COUNCILS WANT TO KNOW IF PAPER SIGNED BY MR JACKSON AND OUR TALLAHASSEE LAWYERS CALDWELL PARKER AND FOSTER ON FEBRUARY 10TH HAVE BEEN SENT TO YOU FOR APPROVAL. AS WE TOLD YOU IN TELEGRAM FEBRUARY 26TH WE HAVE NOT APPROVED THAT PAPER BECAUSE OF TALLAHASSEE LAWYERS HAVE NOT COME TO SEE US HERE AND MAKE REST OF CONTRACT LIKE THAT PAPER SAY AND LIKE THEY HAVE SAID THEY WOULD AND PUT IN CONTRACT WHAT THEY HAVE SAID IN JULY 1955 CONTRACT WITH MR SILVER WHEN HE HIRED THEM, FOR US AND ABOUT THE LAND AND OTHER THINGS WE HAVE TALKED ABOUT OUR TALLAHASSEE LAWYERS MUST DO. OUR LAWYERS HERE SILVER AND MILLER KNOW WHAT WE WANT AND HAVE TOLD OUR TALLAHASSEE LAWYERS MANY TIMES BEFORE THEY SIGNED PAPER WITH MR JACKSON, AND THEY KNEW OTHER PART OF CONTRACT WE ARE SUPPOSED TO MAKE HERE MUST SAY THESE THINGS - AND WE MUST APPROVE WHOLE CONTRACT HERE BEFORE IT IS ANY GOOD. WE HAVE ALWAYS ASKED LAWYERS WHY

566

THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

EXHIBIT 61a

WESTERN UNION
TELEGRAM

RA 453
AMZ B257-2

CONTRACT HAVE TO BE IN TWO PAPERS LIKE THIS. TALLAHASSEE LAWYERS WORKING FOR US HAVE TOLD MR SILVER AND MR MILLER THEY WANT TO SIGN WITH MR JACKSON FIRST ON FIRST PAPER BEFORE MR JACKSON CHANGE HIS MIND AND THEN WE CAN APPROVE AFTER AND PUT THESE OTHER THINGS WE HAVE SAID, AND WHICH OUR TALLAHASSEE LAWYERS ARE SUPPOSED TO DO FOR US IN SECOND PAPERS, THEN THERE BE A CONTRACT - BUT NOW OUR TALLAHASSEE LAWYERS ACT LIKE THEY DONT KNOW WHAT WE WANT AND IT LOOKS TO US FROM MR PARKERS LETTER LIKE OUR TALLAHASSEE LAWYERS WANT TO CHANGE SIDES AND JUST GET MONEY LIKE THEIR FIRST PAPER WITH MR JACKSON SEEMS TO SAY THEY CAN DO - INSTEAD OF GETTING BOTH TRIBES TOGETHER AND MAKING BOTH TRIBES HAPPY BY GETTING WHAT BOTH TRIBES WANT. WE DONT WANT TO FIRE OUR TALLAHASSEE LAWYERS AND WE HAVE NEVER SAID THIS AND MR SILVER HAVE NEVER SAID THIS - ALL WE WANT IS FOR OUR TALLAHASSEE LAWYERS TO DO FOR US WHAT THEY PROMISED MR SILVER IN THEIR CONTRACT THEY HAVE MADE WITH MR SILVER IN 1955 AND TO GET OUR LAND AND OTHER RIGHTS SET UP AND PROTECTED LIKE THEY WERE

EXHIBIT 61b

WESTERN UNION
TELEGRAM

1 RA 455
A MZB257-3

1938 MAR 2 PM 9 20

HIRED TO DO. OUR TALLAHASSEE LAWYERS HAVE TOLD US WE SHOULD ALL MEET HERE FEBRUARY 21ST TO FINISH PAPERS AND TO APPROVE AND SIGN WHOLE CONTRACT AND WE STOPPED FIRST MEETING TUESDAY SO OUR TALLAHASSEE LAWYERS CAN COME. MR JACKSON HAVE COME FEBRUARY 21ST BUT OUR TALLAHASSEE LAWYERS DONT COME AND SO THEY HAVE STOPPED US FROM FINISHING CONTRACT. COUNCILS WANT TO KNOW WHAT OUR TALLAHASSEE LAWYERS TRY TO DO. WE LIKE MR JACKSON AND WANT TO MAKE CONTRACT THE WAY HE TALKS WITH US AND OUR FRIEND JANE WOOD AND OUR LAWYERS HERE FEBRUARY 21ST - AND WE WANT OUR TALLAHASSEE LAWYERS TO HELP US - BUT WE WANT MR JACKSON TO TALK WITH OUR EXECUTIVE AND GENERAL COUNCILS AND OUR LAWYERS HERE, AND OUR TALLAHASSEE LAWYERS IF THEY WANT TO COME, AND MAKE CONTRACT WE HAVE TALKED ABOUT SO WE KNOW WHAT IT MEANS. WE HAVE TOLD OUR LAWYERS HERE THEY MUST TALK FOR US BECAUSE IT LOOKS LIKE ONLY THEY KNOW WHAT WE WANT AND ALWAYS TELL US WHAT THEY ARE DOING. WE WANT TO SETTLE ALL INDIAN RIGHTS LIKE YOU AND GOVERNOR COLLINS AND COMMISSIONER DENTON HAVE SAID

EXHIBIT 61c

WESTERN UNION TELEGRAM

W. P. MARSHALL, PRESIDENT

SYMBOLS
DL = Day Letter
NL = Night Letter
LT = International Letter Telegram

CLASS OF SERVICE
This is a fast message unless its deferred character is indicated by the proper symbol.

The filing time shown in the date line on domestic telegrams is STANDARD TIME at point of origin. Time of receipt is STANDARD TIME at point of destination

1 RA455 A MZ13 251-F 1521.

1938 MAR 2 PM 9 20

AND KEEP WORKING WITH YOU AND STATE OF FLORIDA. WE BELIEVE YOU AND STATE OF FLORIDA ARE KEEPING PROMISES TO US AND WE WILL KEEP OUR PROMISES TO WORK WITH YOU AND STATE OF FLORIDA AND COMMISSIONER DENTON AND COMMISSIONER GREENWOOD AND MR TOZIER LIKE WE HAVE ALL BEEN DOING=

THE EXECUTIVE AND GENERAL COUNCILS EVERGLADES
MICCOSUKEE TRIBE OF SEMINOLE INDIANS
BY BUFFALO TIGER=

THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

EXHIBIT 61d

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100G

MORTON H. SILVER
Attorney at Law

710 BISCAYNE BUILDING
19 WEST FLAGLER STREET
MIAMI 32, FLORIDA
FRANKLIN 4-0551

FT. LAUDERDALE, FLA., OFFICE
CHARLES H. HOMAST, ASSOCIATE
LAWYER'S BUILDING
TELEPHONE 2-2182

Special Delivery Air Mail
Certified - Return Receipt Requested

February 26th, 1958.

The Honorable Glenn Emmons
Commissioner of Indian Affairs
Bureau of Indian Affairs
Department of the Interior
Washington 25, D. C.

Dear Sir:

This will confirm the telegram sent to you at approximately 2:00 o'clock this morning, February 26th. The Executive Council of the Everglades Miccosukee Tribe of Seminole Indians has requested that I express their appreciation of the official recognition you recently extended to them on behalf of the United States, in keeping with your past promises.

The instrument I received from my associates, Caldwell, Parker and Foster, dated February 10th, executed by John O. Jackson and the firm of Caldwell, Parker and Foster, relating to pending Seminole claims, has not received the required approval of the Tribal Council of the Everglades Miccosukee Tribe of Seminole Indians; however, we are making substantial progress along these lines and you may be assured we will keep you posted on all developments.

The Councilmen and Counsel are getting ready for an early meeting with you and Senator Langer, as the Senator requested during his recent visit with us, to move toward an early settlement. Although this does not appear in the aforesaid telegram, I wish to point out that the agreement of association between Caldwell, Parker, Foster, Wigginton and Miller, and myself, dated July 6, 1955, requires the written approval of the Indians of any action taken by the lawyers against the United States, legal or political.

EXHIBIT 62a

George Miller and I send our best regards to Barton, Greenwood and Morrill Tozier.

Sincerely,

Morton H. Silver

MHS:sm

Approved:

BUFFALO TIGER /s/

Buffalo Tiger, Chairman
Executive Council, Everglades Miccosukee Tribe of Seminole Indians

EXHIBIT 62b

AGREEMENT AND LETTER OF AUTHORITY

THIS AGREEMENT and LETTER OF AUTHORITY made and entered into this 30th day of March, 1958, by and between the EVERGLADES MICCOSUKEE TRIBE OF SEMINOLE INDIANS, also known as the Miccosukee Tribe of Seminole Indians, the MICCOSUKEE SEMINOLE NATION, by and through its Executive Council, and approved by its General Council (hereinafter called the "MICCOSUKEE TRIBE"), and MORTON H. SILVER, attorney at law, with offices at 710-12 Biscayne Building, Miami 32, Florida,(hereinafter called "SILVER");

W I T N E S S E T H :

WHEREAS the Miccosukee Tribe asserts that:

(1) Prior to the advent of any white man in any area included in what is now known as the State of Florida, the Miccosukee Tribe owned exclusively and resided on extensive tracts within this area and owned jointly with other Indian tribes and resided on the other tracts within this area; and that

(2) During the period 1513-1763 Spain acquired the use of certain military and commercial bases along the coastline within this area, in return for trade goods and other valuable considerations; and

(3) In 1763, by the First Treaty of Paris, Spain assigned its rights therein to Great Britain; and

(4) In 1765, by the Treaty of Picolata, Great Britain entered into an alliance with the Miccosukee Tribe, and other Indian Tribes, and, in return for trade goods and other valuable considerations, including the alliance, acquired certain lands north and east of the brackish portion of the St. Johns River; and

(5) In 1776, a new nation known as the United States of America came into existence adjacent to the lands of the Miccosukee Tribe; and

(6) In 1783, by the Second Treaty of Paris, Great Britain assigned to Spain all of its rights to land within the area now known as the State of Florida; and

(7) In 1784, by the Treaty of Pensacola, Spain confirmed to the Miccosukee Tribe and other Indian Tribes all their existing rights of ownership to the extensive lands they occupied and used;

(8) In 1791, by the Treaty of Walnut Hill, Spain entered into an alliance with the Miccosukee Tribe and other Indian Tribes and re-confirmed the covenants of the Treaty of Pensacola; and

(9) In 1821 the United States of America purchased from Spain all rights of Spain to the lands within the area now known as the State of Florida, and covenanted in the Treaty of Purchase to recognize all rights of ownership of these lands that were recognized by Spain at that time; and

(10) After the purchase of the rights of Spain, the United States of America attempted, at various times, and by various means to divest the Miccosukee Tribe of its title to, and rights in its lands, including acts of aggression, commonly known as "The Seminole Wars"; and

(11) Various individual Florida Indians surrendered to the United States of America during the Seminole Wars and were sent to the State of Oklahoma, where they effected a settlement between themselves and the United States of America, and where their decendants still live today. When these individuals surrendered, they relinquished their Tribal membership, and any and all claims or rights to the lands, properties, and other rights of the Miccosukee Tribe or any other Tribe of Florida Indians; and the decendants of these individuals, without any right or authority, are now asserting claims against the United States of America for compensation for the lands of the Miccosukee Tribe;

(12) Although hostilities in the Seminole Wars ceased in

EXHIBIT 63b

A. Agreement a[illegible]tter of Authority, p.3

1839, by virtue of a treaty negotiated by the Commanding General of the United States Army, General Alexander McComb, acting on behalf of the United States, at which time the United States abandoned its unsuccessful attempts to conquer by force of arms the Miccosukee Tribe and the Seminole Tribe, the two remaining tribes of the Seminole Nation, the United States of America has asserted title to the lands of the Miccosukee Tribe, and disputes still exist between the United States and the Miccosukee Tribe; and

WHEREAS in 1949 certain named individual Florida Indians, asserting that they represented "the Seminole Indians of the State of Florida," ~~retained attorneys~~ Roger J. Waybright of the firm of Waybright and Waybright, of Jacksonville, Florida, and John O. Jackson, of Jacksonville, Florida, to represent them in the prosecution of any and all claims of the Seminole Indians of Florida against the United States of America, for compensation for lands allegedly taken from the Seminole Indians of Florida by the United States of America, which money claim (herein called the "money claim") ~~the Miccosukee Tribe denied having authorized~~; and

WHEREAS in 1952 the Miccosukee Tribe employed and retained Morton H. Silver, an attorney at law of Miami, Florida, to represent them in protecting their rights and property and to protest and contest said money claim; and

WHEREAS negotiations were commenced between the Miccosukee Tribe and the United States by Silver, on the instructions of the Miccosukee Tribe, for a final settlement of the Miccosukee Tribe's land, and other rights, official recognition of the Tribe and its government, and the protection of the Tribal laws, customs and culture, by requesting the President of the United States to appoint formally his special representative to meet and to negotiate with the Miccosukee Tribe (a true copy of which request is attached hereto

EXHIBIT 63c

as "Annex A" and hereinafter referred to as the "Buckskin Declaration");and thereafter the President replied on March 4, 1954 (a true copy of which reply is attached hereto as "Annex B"); and on August 16, 1954, the President of the United States appointed the Honorable Glenn L. Emmons as his Special Representative to negotiate with the Miccosukee Tribe, who was and is Commissioner of the Bureau of Indian Affairs (a true copy of which appointment is attached hereto as "Annex C"); and

WHEREAS Silver officially protested the said money claim in accordance with the aforesaid instructions of the Miccosukee Tribe; and

WHEREAS Silver,on July 6,1955, associated the law firm of Caldwell Parker Foster Wigginton and Miller,consisting of Millard Caldwell,Julius Parker,Leo Foster,John Wigginton and George John Miller (each and all of whom are herein referred to as "the firm") to assist him with the said negotiations and contest of the money claim; and

WHEREAS Silver, and George John Miller (one of the firm) and Buffalo Tiger (representing the Miccosukee Tribe) met with the Honorable Glenn Emmons, Barton Greenwood, Morril M. Tozier (the representatives of the United States of America) on October 31 and November 1, 1955, in Washington, D.C., to prepare an Agreement acceptable to both the United States of America and the Miccosukee Tribe, followed by another meeting held in the Florida Everglades on March 23 and 24, 1956 (a true copy of the Minutes of which meetings are attached hereto as "Annex D" and"Annex E" respectively); and

WHEREAS the Miccosukee Tribe thereafter, with the assistance of Silver and the firm continued said negotiations with Governor LeRoy Collins and State Indian Commissioner Max Denton, representatives of the State of Florida, and, after formally organizing under a constitution as "The Everglades Miccosukee Tribe of Seminole Indians," were officially recognized by the State of Florida on July 30, 1957; and by the United States of America on January 27, 1958 (copies of which Recognitions as prepared by the State of Florida and the United States are attached as "Annex F"

Agreement and Letter of Authority, p

and "Annex G" respectively); and

WHEREAS as a result of the said negotiations and as part of the settlement with the United States of America, the State of Florida promised, in addition to other things, to the Miccosukee Tribe to set aside in an irrevocable perpetual trust for their use and benefit the lands described in the map attached hereto as "Annex H"; and

WHEREAS various Seminole Indians living mostly on the reservations of the United States of America and composed primarily of the Cow Creek Tribe (formerly known and referred to herein as the Seminole Tribe) with some Miccosukee Indians, were formally organized under a constitution as "The Seminole Tribe of Florida," (hereinafter called the "Seminole Tribe") and officially recognized by the United States of America in August of 1957, which tribe thereafter, in December of 1957, ratified the contract of said John O. Jackson who was conducting the money claim; and

WHEREAS the Miccosukee Tribe considers that it can help the Seminole Tribe and the Seminole Tribe can help the Miccosukee Tribe in accomplishing cooperatively what each Tribe desires to achieve; and

WHEREAS there is now a conflict of interests in various areas, and may be in the future a conflict of interests in various areas, but there is also a possibility of Silver and Jackson assisting each other to accomplish the objectives of both Tribes;

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. The Miccosukee Tribe hereby reduces to one written agreement the oral and written understandings that exist and have existed between the Tribe and Morton H. Silver and does hereby ratify and confirm the employment of Morton H. Silver under the following terms and conditions.

EXHIBIT 63e

2. The Miccosukee Tribe ratifies and confirms Silver's July 6, 1955 agreement with the firm. It is distinctly understood however, that any action taken by the firm, or individual members thereof, including George John Miller, must receive the prior written approval of Silver.

3. The Miccosukee Tribe authorizes Silver to enter into an agreement of alliance with Jackson (hereinafter referred to as the "Articles"), as follows:

(a) It is distinctly understood that the primary objective of the Miccosukee Tribe is to obtain confirmation of the portion of its ancestral lands described in, and in accordance with "Annex I"(which Annex I must bear the signatures of Silver and a majority of the Executive Council and any one of the officers of the General Council) and also the other items specified therein,in an effort to effect a complete and amicable settlement of all disputes between the Miccosukee Tribe and the United States, including the State of Florida and others claiming title via the United States;and,if the conditions of this Agreement,including Annex I,are not met and maintained,all claims of the Miccosukee Tribe shall at its option remain in the status in which they existed prior to the beginning of negotiations with the United States and the State of Florida,unimpaired and unprejudiced in any manner by any award the United States or State of Florida choose to make to any Florida Indian or tribe of Indians, including the said money claim,or any other proceeding, and the Miccosukee Tribe shall in such event be free to take whatever action it then deems advisable.

(b) If, in the mutual judgment of the Miccosukee Tribe and Silver, it appears that the conditions in Annex I cannot be met before final hearing in the money claim, the association with Jackson, of Silver and all associate counsel, including each of the members of the law firm of Caldwell Parker Foster Wigginton and Miller, associated with Silver by the agreement of July 6, 1955 (the firm), shall promptly

EXHIBIT 63f

terminate, and thereupon Silver and the firm, including all of its members, shall withdraw from all association with Jackson and the money claim and shall continue to represent the Miccosukee Tribe as heretofore they have done in obtaining its said objectives, or alternatively Silver or any associate counsel (of the firm) may withdraw from all representation provided that thereafter he shall represent no Florida Indian or group of Florida Indians in any claim against the United States or the State of Florida without the official written consent of the Miccosukee Tribe.

(c) This Agreement and Letter of Authority, without the attached Annex I, shall be attached to, incorporated in, and made a part of the Articles. Any written agreements between Silver and the firm (in particular the said agreement of July 6, 1955) or said Annex I, or any amendment to Annex I (properly signed in the manner hereinbefore described on page 6, paragraph (a)) can also, in Silver's uncontrolled discretion, be attached at any time to said Articles.

(d) If Silver desires, any member of the firm can also be a party to said Articles, so long as such member of the firm shall continue to be bound by the terms of this agreement. Silver can, or any member of the firm can, if authorized by Silver in writing, perform any duty Silver deems necessary arising out of the said Articles. For the purpose of this agreement, George John Miller is considered to be a member of the firm herein.

4. Silver can, if he deems it necessary, submit this agreement and the items described in its paragraph (c) above, on this page, at any time for the approval of the United States or the State of Florida, or any officer, agency, bureau or tribunal thereof.

5. Liaison between Silver and the Miccosukee Tribe shall be through its Executive Council on all matters relating hereto, it being understood that the Executive Council is responsible for obtaining the approval of the General Council, according to the

EXHIBIT 63g

constitution of the Miccosukee Tribe.

6. The Miccosukee Tribe represents that the present respective memberships and officers of its General Council, Executive Council and Judicial Council are set forth in Annex J, attached hereto; and the Miccosukee Tribe shall be responsible for keeping Silver informed in writing of any changes in their membership, or officers, in said councils, as well as any changes in its constitution and the passage of all laws, rules and regulations.

7. Silver shall remain the attorney directly responsible to the Miccosukee Tribe in representing it, but he may associate other counsel with him, provided all associate counsel, including the firm and its members, shall be subject at all times to the obligations and limitations heretofore and hereafter (as mutually agreed between Silver and the Tribe) imposed by the Miccosukee Tribe upon Silver as its attorney.

8. The Miccosukee Tribe (including the councilmen) agrees not to employ, retain or consult with any other attorney, legal advisors, or any other person, other than Silver, or to take any action, directly or indirectly, in connection with, or affecting any matter relating hereto without the written consent of Silver; nor shall Silver or any attorney associated with him (including all members of the firm) take any action other than that authorized herein without the written consent of the Miccosukee Tribe.

9. In the event the Articles are, for any reason, not executed or terminated, Silver and the firm shall continue to represent the Miccosukee Tribe, and to pursue its objectives, under the July 6, 1955 agreement (attached hereto as "Annex K"), including any amendments thereto, which may include any or all of paragraphs 1,2,4,5,6,7,8, and 11 hereof, and shall be paid a reasonable fee by the Miccosukee Tribe out of the property and subject to the terms of paragraph 10(b)[1] or [2] hereof, whichever the case may be. Silver shall request the firm to continue its association with him under this Agreement and Letter of Authority, and subject to the terms and conditions of their July 6, 1955 agreement, including the terms

EXHIBIT 63h

and conditions hereof.

10. Silver shall be paid the following attorney's fee by the Miccosukee Tribe:

(a) Such fees as described, and set forth in the Articles.

(b) In the event of the termination of the Articles as aforesaid, Silver shall be paid the following fees:

[1] In the event the Miccosukee Tribe terminates this agreement or makes performance by Silver impossible hereunder, or if the terms of Annex I or any amendment thereto have been fulfilled, at any time, in whole, or to the written satisfaction of the Miccosukee Tribe, as evidenced by a Tribal Council resolution under its existing constitution, Silver shall be paid the same fees he would have received under the Articles prior to any termination, from any moneys or other property, real, personal, tangible or intangible, of the Miccosukee Tribe, that it at any time owns, or is entitled to receive, benefit from, or participate in, and of the individual members thereof to the extent of any federal or state benefits they may receive; and Silver shall have a lien on such property therefor.

[2] If at the expiration of the term of this agreement, the agreement is not renewed by Silver for another five-year term (which he shall have the option to do) and all of the objectives in Annex I or any amendments thereto have not been fulfilled, Silver shall be paid a reasonable attorney's fee from the same property and in the same manner as described hereinbefore under paragraph 10(b)[1].

EXHIBIT 63i

11. In the event the Articles have not been executed, or have been terminated as hereinbefore described, this agreement shall run for a period of

Agreement and Letter of Authority, p.10

five years from this date; and at the option of Silver, this agreement shall be renewable for an additional five-year term, under the same terms and conditions herein.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their hands and seals on the day and year first above written.

Witnessed By:

Buffalo Tiger Howard Osceola

Henry Tom Nelson John H Osceola

Bobby Tiger Billie H. Osceola

Henry Bert

Marion H. Silver

EXHIBIT 63j

TO: SMITHSONIAN INSTITUTE

THE EVERGLADES MICCOSUKEE TRIBE OF SEMINOLE INDIANS
P. O. Box 44021
Tamiami Station
Miami, Florida

April 17, 1958

Indian Commissioner Glenn Emmons
Indian Bureau
Department of Interior
Washington D.C.

Dear Commissioner Emmons,

We just wrote Governor Caldwell and his partners in Tallahassee, and we are putting a copy in this letter and a copy of his letter he wrote us, on April 11 which we did not get until today.

We have talked alot with Mr. Silver and Dr. Miller and they told us to write down what we wanted and what would settle our land claim, like Senator Langer wanted us to do and we did it. It is like the things we have talked about with you, only not so much land. It is only little land we are keeping. We told Mr. Silver and Dr. Miller they could work with Mr. Jackson and Seminole Tribe, instead of fighting, if they keep working on getting our land and other rights set up right, and get this done before or at the same time money claim is finished. But our Tallahassee lawyers don't want to help us now, and say they want to get out of their July 6 1955 contract we approved on March 30. But Dr. Miller says he is still working with us and will help Mr. Silver and our Tribe. Mr. Jackson told us when he was here Feb. 21, he would help us too, and we could all work together, and settle everything for both tribes, like you and Governor Collins tell us you want to do, but it looks like our Tallahassee lawyers don't want Mr. Jackson to see us again or work with us. We saw a letter from Mr. Jackson where he have said he would not come down because our Tallahassee lawyers told him not to, and it looks very funny to us. [redacted]. Our Tallahassee lawyers have spend more time since January trying to keep us fighting than they do in three years to help us. We heard they told Mr. Jackson they have papers with him on February 10, and not to see us, but they knew and was told before that these papers were for us to approve, and we did not, and we see that you did not either, so papers are no good.

Our councils think this is good time to see you again in Washington, with Mr. Jackson and Mr. Silver and Dr. Miller and some Indians from Seminole Tribe, if they can come, and Commissioner Denton and Mr. Morris, if they can come, so we can make plans for all of us to work together and help each other get what each tribe wants and get this 100 year old problem settled so the white men and indian can live together as friends in this land that was once all ours. We will come there this time, and we want you and Mr. Greenwood and Mr. Tozier to be there, and some of our other friends in Washington who help us. We have come a long way since we first talked with you, and we think maybe we can go faster to settlement if you help and we all get together.

Very truly yours,
The Executive Council

Howard Osceola
Billy Tiger
Buffalo Tiger
William Osceola
Henry Mikko

EXHIBIT 64

GALDWELL, PARKER AND FOSTER
ATTORNEYS AT LAW
BROCK BUILDING
TALLAHASSEE, FLORIDA

MILLARD F. CALDWELL
JULIUS F. PARKER
LEO L. FOSTER
JOHN D. MORIARTY

April 21, 1958

D. 73

Honorable Edgar E. Wit, Chief Commissioner
Indian Claims Commission
General Accounting Office Building
441 G Street
Washington, D. C.

My dear Commissioner:

Messrs. John O. Jackson and Roger J. Waybright, of Jacksonville, brought suit several years ago in behalf of the Sminole Indians of Florida. Mr. Morton Silver, of Miami, purporting to represent one group of the Seminoles, appeared in the cause. Inasmuch as my firm was for some time associated in the matter, it is possible that my name, or the firm's name, appears of record in the cause. I wish to advise that we have found it necessary to withdraw from the Indians Claims matter since we are not in accord with the methods and policies of Messrs. Silver and Miller, of Miami, attorneys to the Indians. This firm's connection with George Miller, as an associate in the practice, was terminated some time ago.

I would appreciate your seeing that the proper notation is made in the record.

Sincerely,

Millard F. Caldwell

MFC/hc

EXHIBIT 65

JOHN O. JACKSON
ATTORNEY AT LAW
SUITE 303 SMITH BUILDING
JACKSONVILLE 2, FLORIDA
PHONE EL 3-6141

April 24, 1958

Mr. Morton H. Silver
Attorney at Law
710 Biscayne Building
Miami 32, Florida.

Dear Mr. Silver:

I acknowledge receipt of your letter of April 18, 1958.

As you have been advised, the contractual association between Caldwell, Parker and Foster and association in connection with Indian Claim filed by me on behalf of the Seminole Indians of Florida, has been by us terminated.

As I have previously advised you, the position which I have taken on the money claim is inconsistent with the position you have taken with your clients regarding land claims. I do not feel that any association with your clients and their claim is desirable, because of lack of common interest; therefore, I request that there be an end to your efforts leading to an association between us, as I do not wish to become involved in such a matter.

I wish you all the luck in the world in your efforts, but at the same time, I must impress upon you the fact that I will NOT be associated with you in the matter.

Very truly yours,

John O. Jackson

JOJ:pj
CC: Caldwell, Parker & Foster
George J. Miller
Miss Effie Knowles
The Executive Council- Seminole Tribe of Florida- Dania
Colonel Max Lenton
The Everglades Miccosukee Tribe of Seminole Indians- Miami

EXHIBIT 66

May 2, 1958

John O. Jackson, Esq.
202 Smith Building
Jacksonville, Florida

Dear Mr. Jackson,

I received your letter of April 24, 1958 on the following Monday, upon my return from our Friday conference in Jacksonville, at which time you told me to disregard what I would find in that letter relating to termination of the negotiations to perfect a basis for co-operation and association.

I am glad to note that you and Caldwell, Parker and Foster have terminated, as between you and them, whatever association may have existed between you and them under the February 10, 1958 instrument, in view of the fact that that firm has recommended this step to you and has withdrawn from the entire picture comprising the claims of your clients and mine. I am also glad to note your recognition that the Everglades Miccosukee Tribe of Seminole Indians is my client.

I regret very much, however, the decision in your April 28 telegram, especially the fact that you were again persuaded to change your mind after our April 25 conference and the plans we then made to go to Washington together. I believed on April 25 that you and I had found a means of checking the dissension between our respective clients that has so long delayed settlement of all their disputes with the United States, and of clarifying the effect of the February 10 instrument, as between you and me, in a manner consistent with its required supplementation by the March 30, 1958 contract summarizing the relation that has existed between my clients and me. You have impressed upon me ever since we first began our negotiations that you were acting in good faith and that your primary purpose in forming an association with us was to get our respective clients together, so that the money claim could move forward with both tribes and their respective counsel participating, and I am at a loss to understand your change in objectives now that such co-operation is at last available to you. George Miller and I devoted a great deal of effort and went to considerable expense to obtain in official form the necessary authority from the Everglades Miccosukee Tribe to enter into an association with you in a manner consistent with the position our clients had

EXHIBIT 67a

taken and to clarify the February 10 instrument. My clients, as we all knew would happen, disapproved that instrument standing alone, because it did not by itself follow their and my instructions to our Tallahassee associates and because these associates were unwilling to follow through as my clients had instructed them to or to clarify and supplement that instrument in accordance with their previous agreements with my clients and me. After your February 21 meeting with my clients and me in Miami I proceeded promptly to obtain what you then reiterated you wanted along the lines we agreed upon. I hate to see effective movement toward such settlement thrown backward through your refusal to let the two tribes work together, especially in view of all the effort expended and the progress made to date, including the efforts of Commissioner Emmons, Governor Collins, and their respective staffs.

My clients are most disappointed that you want the fighting to continue between the two tribes, thereby postponing for many more years - and perhaps permanently - the final settlement of the land and money claims. You obviously saw no inconsistency in working together when you agreed to do so in the February 10 instrument that my Tallahassee associates were negotiating on behalf of my clients and me, nor did either of us see any inconsistency on February 21 here in Miami, when you told my clients and the others present that you wanted us to associate and work together. My clients have of course placed no limitation whatever on you in your representation of your client, the Seminole Tribe, and they have no desire to do so, even if such a thing were possible. Since you made your original decision you have not once expressed the reason for changing your mind and finding an inconsistency in our working together. My opinion, as you know, is that the full settlement of all disputes between the United States and the two recognized tribes of Florida Indians cannot be attained unless the land and money claims are both allowed, and that working together is the obvious way to proceed toward the complete settlement desired by the United States.

I have considered carefully your suggestion of last Friday that we appear hostile on the surface but work together secretly in our future proceedings, and I cannot see how this proposal would accomplish anything constructive. On the contrary, I believe that its result would be to increase the distrust that our respective clients traditionally have of white men and to end in prompting them to break off all negotiations with the United States as useless. I known my own clients well, and I also know that they insist on being kept currently informed of what I am doing. As I told you on April 25 when you suggested withdrawing from the money claim, I emphatically hope that you do not, difficult and long though the work is. Nor can I entertain the idea of taking on the money claim to the extent of representing your clients without the express permission of my clients; I do not see how I or

— EXHIBIT 67b —

anyone else who has served as counsel to the Everglades Miccosukee Tribe could ethically do so. George Miller and I, as well as Miss Knowles can be of considerable help to you and your clients, however by reason of our many years of research and knowledge of the case, and you an be of real help to my clients and me.

I hope that you may again change your mind, so that we can clarify the effect of the February 10 instrument as regards the remaining parties in interest and move forward again to obtain what our respective clients have requested in a manner consistent with their directions. In this connection I still hope that you and your clients will join my clients and me at a conference in Washington, so that we can push for an early and satisfactory settlement of all the disputes with the United States in the interest of both tribes.

Sincerely,

MORTON H. SILVER

Morton H. Silver

MHS.m

cc: Executive Council of the Everglades Miccosukee Tribe of Seminole Indians
Tribal Council of the Seminole Tribe of Florida
Governor Collins
Commissioner Emmons
Colonel Denton
Indian Claims Commission
Ralph A. Barney, Esq.
Miss Effie Knowles
George John Miller

EXHIBIT 67c

THE EVERGLADES MICCOSUKEE TRIBE OF SEMINOLE INDIANS
P.O.BOX 44021
Miami Station
Miami, Florida

RECEIVED
MAY 12 1958
Indian
Claims Commission

May 4, 1958

Indian Claims Commission
Federal Trade Building
Washington, D.C.

Claims no. 73 & 73A

Dea r Commissioners:

We are sending you a copy of our letter to Mr. Jackson, we are sending him today answering his letter to our lawyer Morton Silver, he have sent him on April 24th, 1958, we thought you might like to see.

Very truly yours,

The Exacutive Council
The Everglades Miccosukee Tribe of
Seminole Indians

Buffalo Tiger
Howard Osceola
Bill McKinley Osceola
Henry Bert
Bobby Tiger
Howard Tiger

EXHIBIT 68a

THE EVERGLADES MICCOSUKEE TRIBE OF SEMINOLE INDIANS
P.O. Box 44021
Tamiami Station
Miami, Florida

RECEIVED
MAY 12 1958
Indian
Claims Commission

May 4th, 1958

John O. Jackson
202 Smith Building
Jacksonville, Florida

Dear Mr. Jackson,

We have received the copy of your letter to Mr. Silver you have sent April 24th 1958. We want to say first we are happy to see you have nothing more to do with Tallahassee lawyers and finally see and say you are not our lawyer and you do not represent our Tribe like you have been telling everybody last nine years. Your letter says you and Tallahassee lawyers are still talking and have been doing things about Seminoles, but we have told you in telegram on February 26th 1958 that Tallahassee lawyers have no right to speak or negotiate for us, and we have told that to you and to them and to everyone else that after that time only Mr. Silver can speak for our Tribe and therefore after we have told everyone and Tallahassee lawyers they cannot speak for us you should know they cannot terminate anything or do anything for our Tribe without our permission and we meant it, and we never gave them any permission after that time we told them to stop talking for us.

We are sending copies of your letter and all other papers you have put your name on to everyone so they can see you are NOT our lawyer and we are telling you to straighten out and fix all your papers in the $50,000,000. claim to say the same things you have now said in your letter and other papers you have put your name on since February, so the United States and everyone will not think you are our lawyer. We NEVER hired you and we NEVER forced you to go to Tallahassee tp put your name on papers with our Tallahassee lawyers, and you can see in these papers you are not our lawyer. We NEVER forced you to come to Miami on February 21st 1958 to help Mr. Silver get contract and letter of authority from our Tribe for him to work with you and we did not force you to tell us then you would help our Tribe get our land and other rights set up right if we would help you get your $50,000,000. through, but you DID tell us these things.

When we have met with you here in February 21st 1958 we told you again our Tribe was always against your $50,000,000. money claim and you knew this because we have told you this before when you first came into the Everglades from Jacksonville to get our Tribe to sign your contract back in 1950, but when you promissed in front of everyone and some of our white friends you would help Mr. Silver and our Tribe set up our land and other rights we said Mr. Silver could work with you like we have said in our March 30 1958 contract and letter of authority and then we would stop fighting your money claim and let it go through. Indians remember you said you could help on land because you said you were campaine manager for Florida state lawyer in Tallahassee and we believed you. We also remember you have told Mr. Silver to make some changes in your papers because Tallahassee lawyers not acting right and you told Mr. Silver to fix up papers the way we had been talking and you would be back in two days, but you have changed your mind and did not come back. We did not hear you say anything about these words in your letter inconsistant positions and we never saw it in any letters until now, because we have asked lawyers what it

EXHIBIT 68b

means and what you are saying and it looks to us like you don't know what you are saying because you have always known what our Tribe wants even before you have gone to see our lawyers in Tallahassee in February 10th 1958. The way you were talking to us in February we were thinking you were a good man.

After this you have changed your mind more times than a woman, and from the things we see you say and do, Indians now believe you are not your own boss and not working for Indians. We agreed as you wanted for our Tribe to stop fighting money claim and work together with other Tribe so both Tribes get what they want and both Tribes be happy and Tribe makes papers you ask again for in letter you send to Mr. Silver April 4th 1958, but now it is beginning to look like you or whoever writes your letters don't want this and change your mind again.

So if you don't want our Tribe to help you with your money claim and you have wished us luck, just like our Tallahassee lawyers have said same thing to us when they quit, our Tribe wants to say same thing to you. We wish you all the luck in the world with your 50,000,000. dollars, if you can get it without our Tribe. But when you now break your promiss and tell us you want nothing to do with what our Tribe wants and want nothing to do with our Tribe, we want to make it very clear to you that you better NOT use our name in your $50,000,000. dollar claim ~~mx~~ and you are NOT to say you are our lawyer in that claim, and we mean it.

We want one more meeting in Washington to try to get this 100 year old fight over with like we have all talked about and we want you to let the other Tribe be there so we can both help each other get what we want. Maybe you think you can put money claim through without our Tribe, but we think if our Tribe does not work with other Tribe the money claim will never go through, unless United States wants to give Indians money for nothing because our General Council have said we will fight for our rights to the end of the world.

We don't want to fight with other Tribe and we hope white men will not keep us fighting, so maybe you will change your mind again like you first said if you want money claim to go through.

Very truly yours,
The Executive Council
The EVERGLADES MICCOSUKEE TRIBE of
SEMINOLE INDIANS

Buffalo Tiger
Howard Cassadore
Bobby Tiger
Bill McKinley
Henry Billie
Jake Osceola

EXHIBIT 68c

LAW OFFICES
ROY L. STRUBLE
FIRST NATIONAL BANK BUILDING
MIAMI 32, FLORIDA

ROBERT C. TYLER
EFFIE KNOWLES
HAROLD C. KNECHT, JR.

TELEPHONE
FRANKLIN 1-7593

September 10, 1959

Mr. John O. Jackson,
202 Smith Building,
Jacksonville 2 Florida.

Re: Seminole Claims

Dear Mr. Jackson:

When you called at my office in January or February 1958, accompanied by George Miller and Morton Silver, you will recall that I refused to become a party to any contract with Silver, Miller, Caldwell and Parker because these were the men who had deliberately tried to dismiss the claims of the Seminoles, and had delayed the Claims from 1954 through October 1957. Later you told me Caldwell and Parker had withdrawn and you asked me to reduce my fee from 25% to 10% so that you would be able to associate other counsel. Now I find that Caldwell and Parker get the benefit of that. I reduced my fee on July 2, 1958. **

I also have in mind your statement to the Tribal Council on July 26, 1959 that you did not go to look for Caldwell and Parker, that Julius Parker came to look for you and said he could do you some good. That is the most unmitigated gall and brass of an unethical case hunting lawyer, who had previously tried to wreck the CLAIMS.

In spite of the Final Decree in the suit brought by the Caldwell Parker firm against Morton Silver, I wish to direct your attention to the fact there was never a conflict between those people, they were pass in the same pod trying to wreck the Claims. However, there is a conflict of interest between Caldwell and Parker on the one side and the Trail Indians on the other. There is a serious conflict of interest between Caldwell & Parker and the Tribal Council. I would direct your attention to the following statements in the decree: Paragraph 3, page 1, "Plaintiffs' predecessor firm was associated with Silver in representing these Trail Indians"; paragraph 2, page 2 "the firm acted on behalf of the Trail Indians"; paragraph 3 page 2 "Plaintiffs asserted the independence of the Trail Indians and the opposite view was taken by John O. Jackson representing the Reservation Indians." Paragraph 5, page 2 "NO INDIANS ARE PARTY TO THIS PROCEEDING AND THE QUESTION OF WHETHER OR NOT THE CONTEMPLATED ASSOCIATION WOULD, AS TO THEM, BE ILLEGAL OR UNETHICAL CANNOT BE DECIDED IN THIS PROCEEDING." Paragraph 3, page 3, "Nothing herein shall be construed AS ADJUDGING ANY MATTERS AFFECTING THE INTERESTS OF EITHER GROUP OF INDIANS." The Final Decree was dated August 26, 1959 and you, of course, know that Mr. Silver has a right of appeal until October 25, 1959 and if he takes an appeal that it would be many months before it could be determined.

Also, may I direct your attention to the fact that the Trail Indians plan to bring a suit to enjoin you, Caldwell, Parker et al. from handling the Claims, if you do not disassociate these men? That will be another several years lost. You have already lost two years. Caldwell and Parker cost you almost FOUR YEARS and left no stone unturned until the Supreme Court of the United States KICKED them in the teeth.

EXHIBIT 69a

LAW OFFICES
ROY L. STRUBLE
FIRST NATIONAL BANK BUILDING
MIAMI 32, FLORIDA
TELEPHONE
FRANKLIN 1-7593
ROBERT EFFIE KNOWLES
HAROLD C. KNECHT, JR.

John G. Jackson -- 2

The Seminole Tribal Council adopted a Resolution that they did not want Caldwell and Parker. That should be ENOUGH for them. The reason the Council adopted this Resolution was that they had evidence that Caldwell and Parker were the men who had delayed their Claims during 1953 through October 1957, and they knew it was Caldwell & Parker who had caused a split in the Seminoles and obtained for the Trail Indians recognition as a separate tribe by Florida in JULY 1957 and by the United States in JANUARY 1958. The recognition by the United States made provisions for the Trail Indians to be recognized as a separate tribe FOR THE PURPOSE OF THE CLAIMS. If you keep Caldwell and Parker, you will have further litigation by the Trail Indians.

I would not want a client who did not want me, and I think you wouldn't either. I certainly see no reason why I should give Caldwell and Parker 15% of my fee for three years of hard work on research. I owe them exactly nothing. We would have had a trial in March 1955, arranged by Roger Waybright, had it not been for the unjustified interference of Caldwell and Parker.

My understanding was that you were to meet Roy Struble in Washington on September 14th, but Mr. Struble has been unable to get a response from you to his letters and telephone calls. I have just been advised from another source that you do not desire to accept the wishes of the Tribal Council. You have certainly been HOODWINKED by Parker and Caldwell.

Sincerely yours,

**

P.S. At the time I reduced my fee I recommended to you Linton Collins of Bingham, Collins etc., or Wilkinson, Barker & Cragun, or Charles Bregman, all of Washington, D. C. The Seminoles need counsel in D.C., not Tallahassee, and they need counsel in this end of the State. Of course, you know I retired from Roy Struble's office this summer. However, I know he is honorable, an able lawyer, and the necessary experience for this work. However, he told me before leaving for Washington that he would not become a party to the disgraceful delay these Claims have endured for the last SIX YEARS, and I say all of which is attributable to the case chasing tactics of Caldwell, Parker, Silver and Miller. Roger Waybright declined to talk to any of them and how right he was!

The Department of Justice makes settlements only on the law and evidence, NOT ON POLITICS.

— EXHIBIT 69b —

EVERGLADES MICCOSUKEE TRIBE OF SEMINOLE INDIANS
P. O. Box 44021, Tamiami Station
Miami, Florida

September 20, 1958

The Honorable Dwight D. Eisenhower
President of the United States
The White House
Washington, D.C.

Sir:

We have the honor to transmit to you the final offer of the Miccosukee Nation, or Everglades Miccosukee Tribe of Seminole Indians, to settle by compromise its long-standing dispute with the United States and with the State of Florida as grantee of rights claimed by the United States, together with a statement summarizing our identity and rights and the failure of the negotiations to reach a settlement since we delivered our Buckskin Declaration to you in Washington on March 1, 1954.

Your attention is respectfully directed to the fact that our offer expires in sixty days, after which we shall be forced to take the matter to the appropriate international forum.

Copies of the enclosures are being sent to The Honorable LeRoy Collins, Governor of the State of Florida, and to your special envoy, The Honorable Glenn L. Emmons.

Respectfully yours,

For the Executive Council

EXHIBIT 70a

COMPROMISE OFFER OF MICCOSUKEE TRIBE FOR SETTLEMENT OF ITS CLAIMS AGAINST THE UNITED STATES AND FLORIDA

The Everglades Miccosukee Tribe of Seminole Indians, herein called the "Miccosukee Tribe," as a compromise offer of settlement, offers to accept the following in full settlement of all its claims against the United States and the State of Florida, including that portion of its claims which must be satisfied by retention by the Miccosukee Tribe of a portion of its ancestral homeland, sovereignty and governmental rights and that portion of its claims which the United States and the State of Florida prefer to satisfy in some form other than land by way of achieving full settlement of all claims.

ARTICLE I--FLORIDA RESPONSIBILITIES

1. An area within the ancestral lands of the Miccosukee Tribe shall be officially confirmed to it by formal conveyance thereof in trust, tax free, in perpetuity unless the Miccosukee Tribe officially and voluntarily requests termination of the

EXHIBIT 70b

trust, under the exclusive jurisdiction of the Miccosukee Tribe as distinct from other Indian tribes and for the exclusive use of Florida Indians accepting such jurisdiction, and in a quantity not less than that of the lands shown on the map attached hereto as Annex A, including the present Indian reservation already created by the State of Florida. In particular, the exclusive use contemplated within this area shall include without limitation: (a) the right to earn a livelihood thereon and to lease, use and improve any of the lands in any manner that does not materially interfere with the flood control program as it presently exists; (b) the exclusive right to take frogs commercially at any time; (c) the exclusive right to hunt and fish non-commercially at any time; (d) the right to use without restriction the canals and waterways forming boundaries of this area and to construct and maintain bridges across them that do not interfere with normal navigation; (e) all subsurface rights, including oil, gas and other minerals; (f) the right to operate businesses subject to regulations of the Miccosukee Tribe if it should desire to do so; and (g) the right to add to the corpus of the perpetual trust any lands purchased by the Miccosukee Tribe for its use within a period of five years after full settlement of all its disputes with the United

EXHIBIT 70c

States and the State of Florida.

2. Within the area described in Section 1 of this article the Miccosukee Tribe shall have exclusive civil jurisdiction and exclusive criminal jurisdiction over all Indians, except as regards the ten major crimes. It shall also have tribal jurisdiction of all civil matters arising within this area between Indians and non-Indians and of misdemeanors committed within this area by non-Indians if it adopts Florida law with respect thereto, including the right of appeal to the appropriate Florida courts of appeal. The United States and the State of Florida shall provide at their expense for effective enforcement of laws of the Miccosukee Tribe as regards non-Indians violating within this area laws of the Miccosukee Tribe not enforceable by it against non-Indians at the time of violation and for such boundary marking and patrolling as may be necessary for effective enforcement.

3. The various Indian villages now existing outside the area described in Section 1 of this article and along or near the Tamiami Trail, and not more than three additional villages to be selected by the Miccosukee Tribe along the Tamiami Trail within ten miles of the present city limits of the City of Miami,

EXHIBIT 70d

each village to be approximately ten acres in size, shall also be confirmed to or secured for the Miccosukee Tribe and included in the trust corpus; and additional parcels of a size and location suitable for trading posts, including the parcel already offered by the State of Florida consisting of one section of land bordering on the road presently known as United States Highway 27, shall be secured and maintained for the use of the Miccosukee Tribe and included in the trust corpus.

4. The right of the Miccosukee Tribe to cut cypress and palmetto for dugouts, chickees or other non-commercial purposes shall be confirmed as to any lands south of Lake Okeechobee and west of Miami that will be owned by the State of Florida after effectuation of full settlement pursuant to this agreement.

ARTICLE II--UNITED STATES RESPONSIBILITIES

1. The right of the Miccosukee Tribe to fish, take frogs, and camp non-commercially, and to cut cypress and palmetto for dugouts, chickees or other non-commercial purposes, at any time in all or a substantial portion of its ancestral lands now called by the United States the Everglades National Park, and the right to take frogs commercially within a limited portion thereof, shall be officially confirmed in perpetuity, subject to

reasonable conservation regulations as to bag limits and size of fish.

2. The Miccosukee Tribe shall be entitled to be represented by legal counsel voluntarily selected and officially retained by it in any negotiations or other proceedings entered into by the United States involving payment of compensation in money for lands claimed but not retained by the Miccosukee Tribe, and if the United States pays or agrees to pay money compensation to or for the benefit of the Miccosukee Tribe, the Seminole Tribe of Florida, or their respective members today collectively called the Seminole Indians of Florida by the United States, the payment shall be made forthwith to the Miccosukee Tribe rather than to individuals and shall consist of not less than one half of the total amount of compensation, out of which sum the legal counsel so retained by the Miccosukee Tribe shall receive reimbursement of expenses actually and necessarily incurred and a reasonable fee for services rendered in defending the rights and prosecuting the claims of the Miccosukee Tribe.

3. If the United States pays compensation in money for lands claimed but not retained by the Miccosukee Tribe, the area

described in Section 1 of Article I hereof, together with all other parcels of land constituting the initial corpus of the trust created pursuant to Section 1 of Article I hereof, shall be valued on the same basis per acre as the lands for which compensation is paid, and the amount of this valuation shall be excluded from such compensation.

ARTICLE III--JOINT RESPONSIBILITIES

1. The official recognition now accorded the Miccosukee Tribe by the United States and the State of Florida shall at no time be diminished or impaired, and the Miccosukee Tribe, if it desires, shall be accorded the treatment, rights and privileges accorded other recognized tribes of Florida Indians.

2. No direct or indirect change in the lands constituting the trust corpus established pursuant to Section 1 of Article I hereof, or in its boundaries, topography, wildlife, or other condition, or in its use, and no direct or indirect change in the rights specified in this agreement, shall after official establishment thereof be made without the official written consent of the Miccosukee Tribe. All negotiations with regard to any request for change shall be held at the official headquarters of the

EXHIBIT 70g

Miccosukee Tribe, or the expenses of its representatives to participate therein shall be paid by the agency or party requesting the negotiations.

3. The trust funds held or at any time collected by the United States or the State of Florida as trustees for Indians in Florida shall be paid forthwith to the Miccosukee Tribe, rather than to individuals, in an amount not less than one half of the total thereof.

4. The United States and the State of Florida will, if requested by the Miccosukee Tribe, assist it in developing industries and agriculture of its own, including a hog program and a cattle program similar to that promoted on the present Brighton Reservation, and any member of the Miccosukee Tribe may at his option remove his livestock from any reservation to suitable land within the area constituting the trust corpus and place them under the livestock program of the Miccosukee Tribe. The Miccosukee Tribe may form corporations for the purpose of engaging in business enterprises inside or outside the area constituting the trust corpus with the rights and liabilities accorded to similar corporations by the State of Florida and by the United

States, but the Miccosukee Tribe as such shall be immune from civil and criminal liability to the same extent as is the State of Florida.

5. The members of the Miccosukee Tribe shall not be confined to the area constituting the trust corpus.

6. Every member of the Miccosukee Tribe shall be free to adopt the religion of his choice.

7. The United States and the State of Florida shall guarantee and protect the peaceful enjoyment by the Miccosukee Tribe of the lands constituting the trust corpus and all other rights specified in this agreement, so as to effect fully the objectives of this agreement.

8. The lands retained by the Miccosukee Tribe and constituting the trust corpus shall be officially called "Indian Territory" or "Indian Lands," and the Miccosukee Tribe shall not without request by it be treated as a ward of the United States or of the State of Florida in conducting its tribal government and in the management and improvement of its lands, property and other resources.

9. The United States and the State of Florida, including their agencies, shall enact such laws and regulations and take

EXHIBIT 70i

such further action as may be necessary to effectuate fully the objectives of this agreement.

ARTICLE IV--CONDITIONS OF THIS OFFER OF SETTLEMENT

1. This offer of compromise is made solely for the purpose of arriving at a settlement of the long-standing dispute between the Miccosukee Tribe and the United States and the State of Florida, and is without prejudice to any and all claims of the Miccosukee Tribe against any nation or other political entity.

2. This offer shall remain effective for sixty days from the date hereof.

3. This offer is made as an entity, no provision of which shall be separable from the other provisions; provided, in the performance of the obligations herein set forth those provisions relating to establishment of the trust corpus, to fishing, frogging and camping rights, and to tribal government are paramount and shall be performed first, in the order here enumerated.

EXHIBIT 70j

4. In consideration of acceptance and performance by the United States and the State of Florida of all provisions of this offer the Miccosukee Tribe will convey, to the United States and the State of Florida as their respective interests may appear,

title to all lands of the Miccosukee Tribe, including its lands that lie north and west of Florida, free and clear of all liens, encumbrances and claims of the Miccosukee Tribe.

5. Settlement of the long-standing dispute between the Miccosukee Tribe and the United States and the State of Florida shall in no sense be deemed a surrender by the Miccosukee Tribe and shall constitute an amicable settlement under the law of nations.

6. For the reasons advanced in the brief filed with and incorporated by reference in this offer and bearing the same date, it is distinctly understood that, if the conditions of this agreement are not met and maintained, all claims of the Miccosukee Tribe shall at its option remain in the status in which they existed prior to the beginning of contact and negotiations with the United States upon the creation thereof, and with the State of Florida upon the creation thereof, unimpaired and unprejudiced in any manner by any award of whatever nature that the United States or the State of Florida may make to any Indian or tribe of Indians now or formerly in Florida, and the

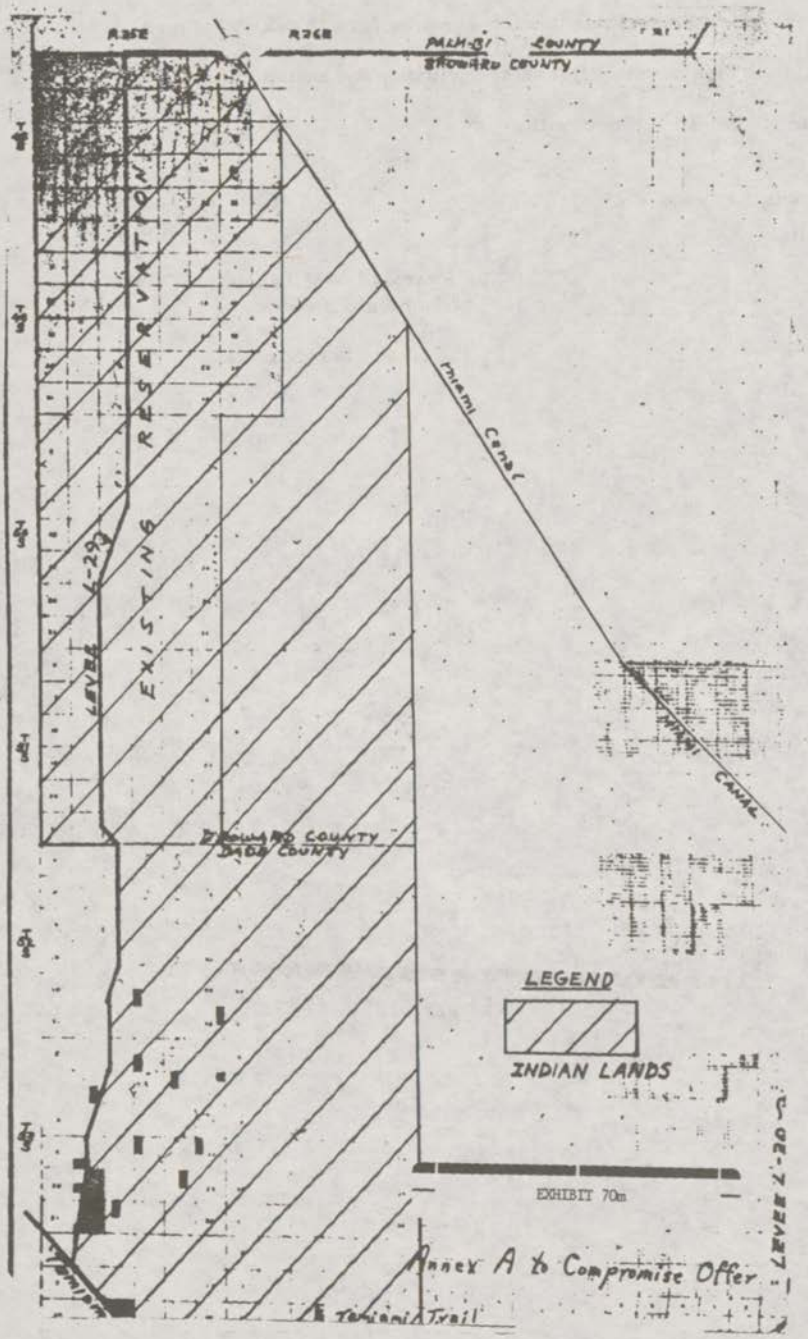
Miccosukee Tribe shall in such event be free to take whatever action it then deems advisable, including the action referred to in its brief filed herewith.

Dated: September 20, 1958.

The Everglades Miccosukee Tribe
of Seminole Indians

By the Executive Council:

EXHIBIT 70-L


R35E
R36E
PALM BEACH COUNTY
BROWARD COUNTY
EXISTING RESERVATION
LEVEE L-29
Miami Canal
BROWARD COUNTY
DADE COUNTY
LEGEND
INDIAN LANDS
EXHIBIT 70m
LEVEE L-28
Annex A to Compromise Offer
Tamiami Trail

THE MICCOSUKEE NATION--
IDENTITY AND RIGHTS

The Miccosukee Nation is, today, the owner of a substantial portion of the lands in the area commonly known as Florida, as well as of lands to the north and west, under treaties with Spain, France, Great Britain and the United States, under the supreme law of the land as enunciated by the Supreme Court of the United States, and as a matter of justice. Its rights are not only those of a nation admittedly unconquered but also those of a beneficiary under a binding trust voluntarily and officially accepted by the United States by treaties.[1] After analyzing these treaties and their legal effect upon the United States and Miccosukee nations, the Supreme Court of the United States held in Mitchell v. United States, 34 U.S. (9 Pet.) 711 (1835), in a unanimous decision participated in by the great Chief Justice, John Marshall (at p. 755):

> "When they [the United States] acquired and took possession of the Floridas, these treaties remained in force over all the ceded territory by the orders of the

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> king, as the law which regulated the relations between him and all the Indians, who were parties to them, and were binding on the United States, by the obligation they had assumed by the Louisiana treaty, as a supreme law of the land which was inviolable by the power of congress."

The Miccosukee Nation, in an effort to be realistic in the light of conditions today and to reach an amicable settlement of all disputes, has for the past several years been attempting to negotiate directly with the United States, and more recently with Florida, a demarcation of a new and drastically reduced portion of its homeland and a settlement of its rights on a basis that will clear the disputed titles to a large portion of Florida and will this time be respected and observed by the United States. It is not asking for any gift; it merely wants confirmed to it a small portion of what it legally and rightfully owns. And it wants this agreement to stand.

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As that great authority on Indian affairs, United States Congressman Joshua R. Giddings, summarized in 1858 the actions of the United States in the introduction to his treatise The Exiles of Florida (at p. vi):

> "Florida was purchased; treaties with the Florida Indians were made and violated; gross frauds were perpetrated; dishonorable expedients were resorted to, and

another war provoked. During its protracted continuance of seven years, bribery and treachery were practiced towards the Exiles and their allies, the Seminole Indians; flags of truce were violated; the pledged faith of the nation was disregarded....

"Men who wielded the influence of Government for the consummation of these crimes, assiduously labored to suppress all knowledge of their guilt; to keep facts from the popular mind; to falsify the history of current events, and prevent an exposure of our national turpitude."

When the first white man set foot in what is now called Florida, the Miccosukee Nation, or Miccosukee Tribe, inhabited and owned that land. Since the terms "tribe" and "nation" have from the advent of the white man in North America been used interchangeably in referring to Indians, the Miccosukee Nation is herein sometimes also called "Miccosukee Tribe," or simply "the Miccosukees." The Spanish called them "Talapoosas" or "Talapoochees"; the British called them "Lower Creeks," in order to distinguish them from the other nations to the north comprising the Creek Confederacy.

EXHIBIT 70p

The Miccosukees were recognized by the Spanish, the British and the French as citizens of an independent nation, as great hunters, as staunch and dependable allies, and as the most formidable warriors among all the Indians. No nation ever conquered them; the forts and commercial posts of the white nations

in the area owned by the Miccosukees were legally obtained from them by negotiations and treaties.

In 1776 a substantial group of British Colonists successfully revolted and established a new nation known as the United States, lying north of the lands of the Miccosukee Nation. As the result of the binding treaties of the Miccosukee Nation known as Picolata (1765) with Great Britain, and as Pensacola (1784) and Walnut Hills (1793) with Spain, by the Treaty of San Il de Fonso (1800) between France and Spain, and by the United States Treaty of Ghent (1814) with Great Britain, the Louisiana Purchase Treaty (1803) with France, and the Treaty of Cession, or Treaty of Purchase, with Spain, entered into in 1819 and ratified by Spain in 1820 and by the United States in 1821, the United States voluntarily, deliberately and irrevocably bound itself to respect the territory and rights of the sovereign Miccosukee Nation, just as Great Britain, France and Spain had done, to protect the Indian lands as then existing, and in addition to act as a trustee on behalf of the Indians and their territories.

The ink was scarcely dry on the last of these treaties, however, when the United States, having been soundly repulsed

in the invasion of the Miccosukee homeland by Georgia in 1812 and by Andrew Jackson in 1818,[2] began a policy of intimidation and bribery, in direct violation of its express obligations under international law, culminating in the Treaty of Camp Moultrie (1823) with the Miccosukees and their allies. With a degree of faith and responsibility as a trustee that the United States itself has never tolerated in a private trust company, it "purchased" some thirty million acres of the trust beneficiaries' lands in Florida at a price averaging one-half cent per acre. Even if this flagrant breach of fiduciary obligations be overlooked, the fact remains that the United States did confirm, as an integral part of this same treaty, the exclusive right of the Indian signatories to a tract of over four million acres extending from north of what is now Ocala to south of Arcadia, including the major citrus, phosphate and cattle belts of today, plus some relatively small parcels in what is now known as West Florida. This treaty was duly ratified by both the United States and the Miccosukee Nation.

Still greedy and unsatisfied, however, the United States next proposed to the Miccosukees and other Indians that they all

leave their native lands and move west of the Mississippi. The Miccosukee Nation refused. The United States, after trapping Chief Osceola under a flag of truce and holding him until his death in prison, prevailed upon a few Indians to sign, under compulsion and bribery, a document called by the United States today the "Treaty" of Payne's Landing (1832). It was not signed by the Miccosukee chiefs--in fact Chief Osceola's response to the proposal was to plunge his knife through it--it was never ratified by the Tribal Council; and at no time was it regarded by the Miccosukee Nation as any more than what it actually was, namely, an agreement with a few Indians not representing the Miccosukee Nation and executed, even by those signing it, under duress and bribery. The Miccosukee Nation thereafter continued to defend its country successfully.

Meanwhile a United States citizen named Colin Mitchell had found his claim of title to a tract in West Florida dependent upon the validity of a deed from the Miccosukee Nation, voluntarily executed by its authorized officials including the famous Chief Kinhagee, the predecessor of Chief Osceola.[3] The United States contested the validity of the title of the Miccosukees, whereupon

its own tribunal, the Supreme Court of the United States, rendered its unanimous decision in Mitchell v. United States, 34 U.S. (9 Pet.) 711 (1835). The Supreme Court met the issue squarely, analyzed all the treaties and actions of the United States during the then recent years, and held unequivocally:

(1) The United States was fully cognizant of the existing relations of Spain, Great Britain and France with the Miccosukees and the other Indians, and entered into and duly ratified the relevant treaties with these nations voluntarily and deliberately.

(2) These treaties, under the Constitution of the United States, are "the supreme law of the land" and are "inviolable by the power of congress" (34 U.S. at 755).

(3) These treaties cannot be revoked or changed even by conquest, since the United States had "solemnly renounced" by treaty any "right of conquest" that it might have had (34 U.S. at 754).

(4) The United States solemnly bound itself by these treaties to respect the rights of the Miccosukees and others to their lands as fully as did the other signatories

EXHIBIT 70t

to these treaties.

(5) The right of the Indian owners to their lands, whether they farmed or hunted on them, is "as sacred as the fee simple of the whites" (34 U.S. at 746).

(6) In addition the United States, having voluntarily assumed by treaties the duties of protector and trustee, cannot legally evade its fiduciary obligations.

Should this decision be overruled or repudiated today, even assuming that this could be done as a matter of international law, the title to a million and a half acres in West Florida would be thrown into chaos. If, on the other hand, this decision is respected, as it should be, the title of the Miccosukees to their lands then occupied is firmly established by United States law, in addition to international law. And if the United States assumes the position that its treaties with the Miccosukee Nation are today mere scraps of paper, then in any event it is firmly bound by the sixth article of its Louisiana Purchase Treaty with France, still admittedly in force (as quoted in Mitchell v. United States at 755):

> "...to execute such articles and treaties as may have been agreed on between Spain and the nations or tribes of Indians, until by mutual consent, other suitable articles

shall have been agreed upon."

In the late 'thirties the United States, having lost heavily in men and money in its fruitless attempts to conquer the Miccosukee Nation and its allies, sent the Commander-in-Chief of the United States Army, General Alexander Macomb, also sometimes spelled "McComb," to negotiate at any cost an end to the Seminole Wars. Meanwhile, several decades earlier, some of the members of the tribes in the tottering Creek Confederacy had moved south out of the Carolinas and Georgia and had settled in Central Florida with the acquiesence of the Miccosukee Nation. In addition many runaway slaves had fled into Florida and lived in scattered groups. They were called by the Indians "Simimolees," generally interpreted by the whites to mean "runaways" but literally meaning "people whom the Sun God does not love." The whites cleverly dubbed the migrant Indians "Seminoles" and called them the "Seminole Tribe." Still more cleverly from a propaganda standpoint, the United States officials at an early period began to refer to the Miccosukee Nation as Seminoles and to create the fiction that there was and had been only one tribe or nation of Indians in Florida, namely, the Seminoles. [4]

EXHIBIT 70v

Even General Macomb, however, treated with both tribes, referring to the Miccosukees by their correct and long-established name, as did the other United States officials familiar with the Indians in Florida. In 1839 he finally negotiated the Macomb Treaty, under which the Miccosukees and their allies were confirmed in that portion of their homeland comprising roughly the southwest quarter of Florida, and they in turn agreed to leave the rest of Florida to the United States.* Both nations observed this treaty for decades, and as a result hostilities ceased; but at a later date the United States began to claim that technically this solemn agreement was not a binding treaty because the Senate had not officially ratified it. If this be a correct position, then a fortiori it is true that the so-called Treaty of Payne's Landing is null and void, quite apart from the bribery, intimidation and fraud practiced on the Indians that did sign it, since the Miccosukee Nation never executed or ratified it. Not only that; the Miccosukees never even purported to recognise it, although the United States for a long period after 1839 did deliberately mislead the other signatories by abiding by the Macomb Treaty provisions, as the Miccosukees have done to this day.

EXHIBIT 70w

Since the delivery of its Buckskin Declaration to the

*See photostat of relevant portion of official Map of the Seat of War in

President of the United States on March 1, 1954, the Miccosukee Nation has clearly and consistently informed the United States, via the legislative, executive and judicial branches, that the lands of the Nation are not all for sale and that, indeed, it strongly prefers not to sell any of them. It has steadfastly maintained that it will neither be moved off its lands by the encroaching white squatters nor deprived of its legal ownership by the simple expedient of enactment of internal laws by the United States[5] and by the governmental grantees of whatever claim to title the United States may have had, or by white legerdemain in the form of shifting purported title back and forth among white governmental agencies and individuals under white law. The only title to Miccosukee lands that the United States has ever established, for itself or for those claiming under it, has been the title to those portions of the Miccosukee Nation's territory guaranteed by the treaties between the two nations and with European nations. At the very least, these treaties bind the United States as firmly as they bind the European signatories and the Miccosukee Nation--quite apart from the overreaching and bad faith exhibited by the United States as trustee in negotiating them.

The Miccosukee Nation and its governing body, known today in white terminology as the "Everglades Miccosukee Tribe of Seminole Indians," has been and is now officially recognized both by the United States and by the State of Florida as a first step in settling this international dispute. For several years it has negotiated in good faith, under the extreme financial hardships deliberately imposed upon it by the whites in a thinly veiled effort to stifle it and wear it down, yet to date the United States and Florida are still delaying and evidently still hoping that the Miccosukee Nation will from sheer exhaustion abandon the remaining portions of its lands that it has not yet been physically deprived of by force in direct violation not only of binding treaty obligations of the United States, admitted by its highest court, but also without even a semblance of the good faith required of the United States in its fiduciary capacity.

The Miccosukee Nation has negotiated with a willingness to compromise. Its original offer to accept, as that small fraction of its lands that must be respected as a place to live rather than merely preempted and paid for, was approximately one million acres. The United States promptly proposed some four hundred thousand acres, largely flooded or to be flooded under the current

flood control program, to be set up in a perpetual and irrevocable trust, tax free and for the exclusive use of the Miccosukee Nation, together with confirmation of its traditional fishing and frogging rights, though not hunting rights, in its lands seized as a national park without even consulting the owner of those lands. When the Miccosukee Nation agreed to this proposal, the matter was then shuttled to the recently created Commissioner of Indian Affairs of Florida, who forthwith cut the figure in half. When the Miccosukee Nation finally conceded this reduction, his next move was to alter the proposal, on his own initiative, to one of non-exclusive and temporary user only, until such time as Florida should decide to seize even this last bit of the Miccosukee Nation's territory. The land confirmation phase of settlement, first considered by the Florida Cabinet over a year ago when the inseparable recognition step was taken, was at that time reserved for later action. Since then the problem has been left untouched, while the Indian Commissioner of Florida flies to Michigan to promote the sale of herb tea on behalf of the puppet tribe on the federal reservation.

The Book of Knowledge accurately analyzes the relations between the United States and the Indian tribes (p. 7237, in Vol. 19,

Feb. 1956 printing):

> "Indians fought, and fought superbly, because of their tribal organizations--which also were religious and educational organizations. Therefore, the Government swung away from John Marshall's position and undertook to destroy the tribal organizations, root and branch. The task of destruction passed from the Army to the civilian Bureau of Indian Affairs in 1853."

This analysis is indeed true, although the United States Indian Bureau should not automatically be saddled with the entire blame. Specifically, the master plan of destruction evolved by the United States, aided and abetted of late by the Indian Commissioner of Florida, has taken the following form:

1. Setting up a few small and inadequate parcels of land as federal reservations and informing the members of the Miccosukee Nation that they must live on these parcels or forfeit all their rights, even though the parcels can be changed or eliminated at the whim of the United States.

2. Creating a puppet tribe from among the Muskogees and a few other individual Indians who capitulated to white pressure and moved onto these reservations, and insisting that this puppet tribe represents the Miccosukee Nation.

3. Informing the Miccosukee Nation that it must either unite with the puppet tribe sponsored by the United

EXHIBIT 70aa

States on the basis of only a minority representation of the Miccosukees in that governing body or be ignored in its attempts to defend peaceably any of its homeland.

4. Initiating and propagandizing the fiction that there never has been a Miccosukee Nation and that all Indians in Florida belong to this puppet tribe, despite the recent official recognition of the Miccosukee Tribe as a separate entity and the recent official report of the Information Officer of the Bureau of Indian Affairs, as well as the long-standing recognition by the Supreme Court, by United States military officers, and by anthropologists, that the separate Miccosukee Tribe, which antedates the birth of the United States, has continuously maintained its existence, its language, and its culture.

5. Making and unmaking state reservations at will, as in the recent maneuver creating the Everglades National Park, when lands of the Miccosukee Nation, originally granted by the United States to Florida without title in the United States,[6] were given back to the United States by Florida with the thought of providing a homeland for animals,

and the coastal state reservation in Monroe County, originally left to the Miccosukees from among their lands, was abolished overnight and the Miccosukees were told to move off it without even being consulted.

6. Depriving the Miccosukee Nation of its rights even to fish and take frogs, let alone hunt, in its homeland by the simple expedient of proclaiming that park regulations now forbid the Miccosukees from following their traditional means of livelihood on their own land, despite the express proviso following the acceptance back from Florida and the dedication of those lands in the Everglades National Park Act, 48 STAT. 816 (1934), 16 U.S.C. §410b (1941), that nothing in those sections

> "...shall be construed to lessen any existing rights of the Seminole Indians which are not in conflict with the purposes for which the Everglades National Park is created."

7. Permitting and steadily encouraging squatting and encroachment by whites on Miccosukee lands, under color of title.

8. Permitting by white law individual Indians not members of the Miccosukee Nation to purport to sell its

lands to the United States by way of claiming money compensation therefor without the authority of the Miccosukee Nation and over its express official protest that it does not authorize this purported sale and claim.

9. Refusing to let the Miccosukee Nation participate in leasing its lands, seizing all income from its lands, allegedly held in trust, and spending this income in ways designed to break up the Nation or for purposes having no relation to the welfare of the Miccosukees.

10. Refusing to distribute this trust income to the Miccosukee Nation, which has always held its property as a tribe, and insisting that this trust income be distributed on an individual basis and to members of the puppet tribe created and dominated by the United States.

11. Threatening to seize the cattle of individual members of the Miccosukee Nation unless they agree to renounce their allegiance to it and join the puppet tribe.

12. Attempting to deprive the Miccosukee Nation of the right to select and retain its own legal counsel.

13. Running up expenses for travel and long distance telephone calls, year after year and in conference after

EXHIBIT 70dd

conference, in an effort to exhaust the meager resources of the Miccosukees obtained by frogging, sale of handicraft and personal labor, as well as the personal resources of the attorneys freely chosen and retained by the Miccosukee Nation to represent it and recognized privately but not publicly by the United States.

And all this is being done in the guise of a trustee!

Counsel for the Miccosukee Nation have consistently urged it to obtain confirmation of its lands and official respect for its legal rights by negotiation and amicable settlement with the United States and Florida. The Miccosukee Nation has followed this advice to date, but the time has come when even its counsel cannot honestly persist in advising it to pursue further the negotiations that now appear to have been entered into by the United States and Florida with no desire for settlement. The meager resources of the Miccosukee Nation and of its counsel can better be spent in securing a decision from impartial tribunals under international law. The Miccosukee Nation has made one concession after another, but each concession to a white proposal has only been followed by demand for another concession. It now appears that the United States and Florida have not made any of

EXHIBIT 70ee

their proposals for compromise settlement in good faith and that their sole purpose in negotiating has been to gain time and exhaust those meager resources of the Miccosukee Nation remaining after the seizure and withholding of its funds by the United States and by Florida.

Today the United States is spending each year hundreds of millions of dollars in attempting to protect the rights of small nations and native minorities around the world. It is the self-appointed champion of freedom-loving peoples. Since World War II it has busied itself in dismembering the colonial empires of its allied nations on the ground that the colonial natives have been mistreated and are entitled to their freedom. It has firmly and self-rightously proclaimed the sanctity of treaties and of international law and has vigorously condemned those larger nations that have embarked on a program of aggression and encroachment and the creation and domination of puppet regimes. Yet, in the one instance in which the United States has the opportunity to practise what it preaches, it has consistently adopted that very policy and employed those very tactics that it so loudly condemns in others. The words written by Congressman Giddings

EXHIBIT 70ff

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exactly a century ago, quoted at pages 2-3 of this brief, still accurately describe the conduct of the United States. Few, if any, events in history can match the fraud, duplicity and ruthless aggression of the United States in its treatment of the Miccosukee Nation.

The Miccosukee Nation could fare no worse by presenting its cause to those other small nations of the world that are hungrily eyed by the larger ones and to those nations whose memory of their struggles to defend their homeland is fresher in their minds, or even to those larger nations that in their policy and tactics, however distasteful these may be to the United States, at least do not attempt to conceal their actions under the hypocritical mask of a noble ideology ignored in practice. Before presenting its cause officially to the embassies of those nations directly involved in the governing treaties, however, and to the other nations that still believe in the precepts of international law, the Miccosukee Nation is making one final attempt to negotiate the preservation of its homeland and the guarantee of its legal rights directly with the United States and Florida. When General Jessup trapped Chief Osceola under a flag of truce and held him till he

rotted in a federal dungeon, the American public and the American press rose up spontaneously and forced Jessup into retirement by popular demand. The Miccosukees are determined to defend what is left of their homeland. Bewildered at times by the chicanery, the machinations and the false propaganda of the junior officialdom of the United States and Florida, but united under an officially recognized government and undismayed in preserving their legal and moral rights, and with that dauntless courage, stolidity and spirit of self-sacrifice that made them the most formidable warriors of their time, they face the future today with determination and confidence--confidence in the justice and legality of their cause, and confidence that the American people themselves, once informed of the facts by an American press still free to print the truth, will reaffirm their respect for treaties and international law and their traditional fiduciary standards of trusteeship, and will see to it that justice is done.

EXHIBIT 70hh

Dated:

September 20, 1958.

Walton H. Lee
Morton H. Silver
710 Biscayne Building
Miami 32, Florida

George John Miller
George John Miller
543 Ingraham Building
Miami 32, Florida


LAKE
KEE-CHO-BEE
OR
BIG WATER
Seminole Nation
Cen. Macomb's May 18 1839
A I - O - K E
G R A S S
W A T E R
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CALLAWAYS
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Dragoons.
Searle, Lieut Bainbridge.
Artillery
Lieut Long. Burnett.
Infantry
Marines.
EXHIBIT 70ii

NOTES TO BRIEF

1. This brief summarizes the position, the identity and the legal rights of the Miccosukee Nation, known today in white parlance as the Miccosukee Tribe. Full documentation of its history, treaties and current negotiations is of course too lengthy to be included in any summary. These documents are a matter of public record and can be reproduced and submitted when necessary. They fully substantiate the statements in this brief.

2. On January 22, 1822 the United States Indian Agent, Captain Bell, who had been officially assigned the task of determining the Indian ownership of lands in Florida at the time of the Treaty of Cession (1819) between the United States and Spain, wrote to the Secretary of War:

> "Permit me to state, that, from all the information I have collected on the subject, it appears that the Seminole nation are the proprietors of that part of the country of Florida bounded on the west by a grant in favor of Panton, Leslie, and Co.; south and west, by the Gulf of Mexico; north, by the Georgia line; and east, by a boundary agreed upon between the English

and Indians, 18th November, 1765, at a congress held at Picolata, and since recognized by the Spanish authorities."

3. In 1830 Daniel Blue, associated with John Forbes and Company, testified in the Mitchell case (Supreme Court Record, p. 607):

"...the Micasuky chiefs and the others of that tribe were the only Florida Indians that signed that cession...."

One of the Indian deeds was described as follows (Supreme Court Record, p. 73):

"We, the undersigned, do say, that although we have not been present at the demarcation of this boundary, we know and agree as to is [sic] justice, and approve of it, and so we do sign, the day of the date, in presence of the Commandant of this fort and of the assisting witnesses.

Copixty Mico of Micosuki, his x mark
Chocalate Tustannukee, First Warrior of Micosuki
Cocha Tustannague, of the same
Tuskoniha, of Micosuki, his x mark.

Don Ignacio Balderas, Captain of the regiment of infantry of Louisiana, Commandant and Subdelegate of the royal finances in this fort. I do certify, that the four preceding signatures of the king of Micosuki and his warriors are the same made in my presence and in that of the assisting witnesses. Appalachie, 2d of August, 1806.

IGNACIO BALDERAS."

Chief Kinhagee was also known as Copixty Mico.

EXHIBIT 70kk

4. Captain John T. Sprague, one of the few eminent authorities on the Florida Indians, wrote in his treatise The Origin, Progress and Conclusion of the Florida War (1848, at p. 19):

> "Here both these parties of [Creek] emigrants encountered the Mickasukie tribe of Indians, the legitimate owners of the soil."

The famous anthropologist and authority on Florida Indians, Frank Drew, in his Notes on the Origin of the Seminole Indians of Florida, 6 FLORIDA HISTORICAL SOCIETY QUARTERLY 22 (1927):

> "The Miccosukees were too intrepid to permit the migration of Seminoles through their territory; so the course of invasion was to the eastward along the upland...."

Another noted contemporary authority, Irvin M. Peithmann, in The Unconquered Seminole Indians (1956), states (at p. 14):

> "The nucleus of the Seminole Nation in Spanish Florida were principally Hitchiti or non-Muskhogean. They were Indians who detached themselves from the Creek Confederacy partly because they were hunters and cared little about agriculture as a means of livelihood. These Indians spoke the Hitchiti tongue, a language that bore no resemblance to that of the Muskhogean Creeks. Out of this branch there emerged the most important element among the Seminoles--the resolute--determined--and vindictive Mikasuki Indians."

EXHIBIT 70-LL

After discussing the other tribes he then summarizes the point as follows:

> "From these many alliances came the present-day Seminoles, a heterogeneous blending of Indian tribal groups. It would be improper, therefore, to call the Seminoles a tribe; they are actually a mixture of many tribes, and even of different races."

United States Congressman Joshua R. Giddings, in The Exiles of Florida (1858), wrote (at p. 256):

> "General Scott, a veteran officer of our army, had exhausted his utmost science; had put forth all his efforts to conquer this indomitable people...but he had failed. The power of our army, aided by deception, fraud and perfidy, had been tried in vain."

Of General Macomb and his efforts, Giddings wrote (at p. 255):

> "Major General McComb arrived in Florida (May 20) for the purpose of effecting a new treaty with the Seminoles upon the basis of permitting them to remain in their native land."

5. E. g., 9 STAT. 519 (1850), 43 U.S.C. §§ 982-984 (1928), purporting to convey to Florida the Miccosukee lands already confirmed to the Miccosukee Nation by the 1839 Macomb Treaty; 16 STAT. 566 (1871), 27 U.S.C. § 71 (1928), attempting by statute to limit the treaty-making power; 43 STAT. 253 (1924),

EXHIBIT 70mm

8 U.S.C. § 3, repealed and now superseded by 66 STAT. 235 (1952), 8 U.S.C. § 1401 (1953), attempting to make the members of the Miccosukee Nation, and others, citizens of the United States without their consent and without even consulting them in the matter; 48 STAT. 987 (1934), 25 U.S.C. §§ 476-479 (Supp. 1957), authorizing the United States to set up puppet governments to circumvent the established tribal governments set up by the Indian tribes themselves.

6. See citation of statute in note 5, supra.

EXHIBIT 70nn

EVERGLADES MICCOSUKEE TRIBE OF SEMINOLE INDIANS
P. O. Box 44021, Tamiami Station
Miami, Florida

September 26, 1958

The Honorable Dwight D. Eisenhower
President of the United States
The White House
Washington, D. C.

Sir:

We recently wrote to you on September 20 about the breakdown in our negotiations with you over the past four years and requested an answer to our final Compromise Offer within sixty days. We have been restrained from taking action before international forums by the advice of our attorneys, who persuaded us to believe that the United States and the State of Florida would negotiate in good faith if their senior executives were informed of the true facts and were presented with a reasonable offer of settlement by way of amicable compromise.

Instead, however, while we have patiently awaited the promissed settlement, and have made every effort to make one concession after another, your agents have been busily organizing a puppet tribe called the Seminole Tribe of Florida and arming it with propaganda, money and other powers to fight against our Tribe on your behalf. These efforts have taken the form of bribing, coercing and intimidating our people and publicizing false and derogatory statements about our Tribe and its government. When we tried to cooperate with your tribe, we were rebuffed. When we protested these activities to your agent, in charge of your tribe, he disclaimed responsibility for these actions, ascribing the bribery and intimidation to "overzealousness" and the publicity to inadvertence. The latest publicity release and other actions emanating from Dania, however, do not bear him out.

If the United States has no intention of negotiating in good faith, then any efforts at direct settlement are pointless. We must accordingly inform you that any repitition of these bad faith activities, including the dissemination of false or misleading information about our Tribe

EXHIBIT 70 oo

and the continued promotion of the rumor that the Miccosukee Tribe and the other Indians in Florida are represented by your puppet tribe, as well as any further attempts to intimidate or bribe our Tribe, its government, or any of its members, will necessarily be construed by us as being done with the approval of your Government and will of course be interpreted as an adverse answer by your Government to our letter of September 20. In such event we shall be forced to take appropriate action on the basis of the actions of your Government.

In this connection we noted on page 1 of The Miami Herald of September 26 that your Secretary of State, referring to the actions of Red China and Russia, is quoted as saying that the stakes involved in the Far East "are not just some more miles of real estate," and that "What is involved is a Communist challenge to the basic principle of peace that armed force should not be used for aggression." Whether this aggression and the use of a puppet regime is a bad thing for Russia to do but is all right for the United States to do is a matter on which your various envoys might well reach some agreement regarding the conduct exhibited.

We sincerely hope that after all these years of effort the United States will finally make at least an attempt to consider our offer in good faith and to reach an amicable settlement by direct negotiation between the governments directly concerned.

Respectfully yours,

The Executive Council

By

cc. Governor Leroy Collins
Tallahassee, Florida

Hon. Glenn Emmons
Special Envoy to the
President

Virgil Harrington, Esq.
Assistant Special Envoy

Col. Max Denton
Assistant Special Envoy

EXHIBIT 70 PP

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON 25, D. C.

July 12, 1960

Executive Council
Miccosukee Tribe of Seminole Indians

Attention: Mr. Buffalo Tiger

Gentlemen:

Assistant Secretary Roger Ernst has reported to me on his discussions with your representatives. I am pleased to hear that progress has been made in these discussions and am looking for an early solution of all outstanding problems.

This series of conferences, I am sure, has made it clear to your representatives that the Department of the Interior recognizes you as the spokesmen of a duly recognized Tribe of American Indians. This relationship was clearly described in Commissioner Emmons' letter to you dated January 22, 1958. I personally confirm, and approve of, this approach in handling the relationships between your Tribe and the Federal Government.

Our consideration of the matters you have presented during these discussions will be expedited. You can expect to hear from us in the very near future.

Sincerely yours,

Fred A. Seaton
Secretary of the Interior

EXHIBIT 71

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON 25, D. C.

July 13, 1960

The Executive Council
Everglades Miccosukee Tribe of Seminole Indians

Attention: Mr. Buffalo Tiger
Mr. Homer Osceola

The attached, noted as "Rough Draft" dated July 12, 1960, is a draft of understanding forwarded you by the Department of the Interior.

This is presented to you in draft form to enable you to study the impressions of the Department and the steps and commitments we feel should be followed to seek satisfactory solution to problems you presently face.

We trust you will study this with your people and let us know if you determine this approach will furnish the solution sought.

You will note the Department as an agency of the United States Government stands willing and able to provide certain advisory services. This we feel fulfills your desire for this type of assistance yet refraining from our "interfering" in your daily lives.

You will note our sincere offer to furnish a representative who "will be able to assist you in management and development of the area set aside for your use and in the protection of your legal rights."

You will note we "offer our best efforts to obtain legislation" where deemed necessary "to achieve this objective" if a 99-year lease is sought.

You will note we offer our cooperation in seeking solution to your land problems.

EXHIBIT 72a

You will note reaffirmation of recognition of the Everglades Miccosukee Tribe of Seminole Indians by the United States of America Department of the Interior and by such recognition we are able to assist you to develop your lands and to provide certain advisory services.

This draft of document is placed in your hands for your serious consideration and comment. We present it as an indication of our good faith and determination to assist you in the betterment and progress you seek as free men.

We are grateful to the Everglades Miccosukee Tribe of Seminole Indians for sending your representatives, namely, Buffalo Tiger, Homer Osceola and John Willie to Washington, D. C., to meet with us. We trust that final satisfactory conclusion of your and our efforts in your behalf will be achieved in the immediate future.

Sincerely yours,

(sgd) Roger Ernst

Roger Ernst
Assistant Secretary

Attachment

EXHIBIT 72b

ROUGH DRAFT
July 13, 1960

Gentlemen:

Assistant Secretary Ernst has informed me of his discussions with representatives of your Council and representatives of the State of Florida concerning your status and your landholdings. As I understand his report, you have two objectives. First, you seek State recognition and Federal protections of the right of your people to live on the land presently used and occupied by them, to hunt and fish on it and otherwise to utilize and develop it for their benefit. You also desire reaffirmance of the Federal recognition of your Tribe, and you want us to make available to you the services of representatives of this Department to assist your people in the development of their land and other advisory services not now available to your people from the State of Florida.

Your first objective, as you undoubtedly recognize, must be settled with the cooperation of the State of Florida. I am informed that a 1959 Florida Statute authorizes the Cabinet of Florida to establish a trust for your benefit and the benefit of other Seminoles of Florida over the area you seek to have recognized as the property of your people.

As an alternative, the Cabinet of Florida could lease the land in question to the United States in trust for your people for 99 years, such lease perhaps renewable at your request. The United States, in turn, could exercise its role as lessee for the benefit

EXHIBIT 72c

of your Tribe and the other Seminoles of Florida. Such action appropriately should be authorized and confirmed by the Congress. I assure you that we would use our best efforts to obtain legislation to achieve this objective.

Of course, it will be necessary for you and the State of Florida to determine how this landholding arrangement can best be worked out, both from a practical and legal point of view. It is my understanding that, if the possibilities open to you under present law are determined to be inadequate, an effort will be made to obtain broader authority from the Florida legislature. At any rate, we want to assure you that we shall cooperate in any conclusion considered desirable by you and the State of Florida.

With regard to the second point of interest to you, I hereby reconfirm the recognition previously given to your people, as stated in my letter of July 12, 1960, as the Everglades Miccosukee Tribe of Seminole Indians. Such recognition means that we are able to assist you to develop your lands and to provide certain advisory services to your people. Our representatives will be able to assist you in the management and development of the areas set aside for your use and in the protection of your legal rights. I have asked that a representative of the Bureau of Indian Affairs be made available for the specific purpose of providing your people with the type of assistance and services needed for these purposes.

It is my understanding that you desire to have the area which would be set aside for your benefit excluded from your claim against the United States, now pending before the Indian Claims Commission.

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON 25, D. C.

IN REPLY REFER TO:
D-61-1143.9a

JUN 19 1961

Morton H. Silver, Esquire
7445 S. W. 19th Terrace
Miami 55, Florida

Dear Mr. Silver:

There has been submitted to us for consideration and approval a proposed claims contract dated March 14, 1961, between you and the group of Seminole Indians designated as the Miccosukee Tribe of Seminole Indians (Everglades Miccosukee Tribe of Seminole Indians). The contract would authorize you to intervene on behalf of this group in any claims now pending before any United States tribunal, including the Indian Claims Commission, and to prosecute any and all claims it may have against the United States by reason of any treaty violation or act of omission or commission whether by treaty or acting in relationship as guardian and ward.

The question of representation of the Seminole Indians of the State of Florida has been the subject of much correspondence between this Department and you. Copies of a letter dated January 12, 1958, from the then Commissioner of Indian Affairs to the Executive Council, Everglades Miccosukee Tribe of Seminole Indians, and one from former Secretary Seaton dated July 12, 1960, addressed to the Executive Council, are annexed to your proposed contract. The letter from the former Commissioner stated that the Bureau of Indian Affairs is willing and glad to recognize your organization, which you call the Everglades Miccosukee Tribe of Seminole Indians, as qualified to speak for and on behalf of those Indians who have affiliated with the organization by signing their names to a certain roll. The Commissioner further stated that more specifically the organization was recognized as qualified to speak for its members on matters which are of concern to the Florida Seminoles as a whole, such as the pending claim against the United States. Former Secretary Seaton's letter confirmed and approved the approach set forth in Mr. Emmons' letter in handling the relationship between the Miccosukee Tribe of Seminole Indians and the Federal Government.

Since copies of these two letters are made part of the recitals of the contract, we assume you are of the opinion that they constitute sufficient recognition of the Miccosukees as a tribe to authorize them

EXHIBIT 73a

to employ counsel for intervention in the claims now pending before the Indian Claims Commission or for the institution of new litigation. However, subsequent correspondence from the Department specifically states the recognition given to the Everglades Miccosukee Indians by former Commissioner Emmons in his 1958 letter was not intended to imply that this group was eligible for Bureau services or assistance on the basis of any status as a "tribe". In essence, what the Bureau was saying in the letter was merely that it recognized the Executive Council of the Everglades group as qualified to speak on behalf of the rank-and-file members of the group, particularly with reference to such matters as those specifically mentioned in the letter. As you know, the Assistant Commissioner of Indian Affairs approved on January 6, 1950, a claims contract between the Seminole Indians of the State of Florida and John O. Jackson and Roger J. Wayboright. This contract was executed by individuals authorized by a general meeting of the Seminole Indians after proper notice had been given to the Indians, including the Miccosukee group.

It is clear that Mr. Jackson and his associates under this contract represent all the Seminole Indians of the State of Florida, including the Miccosukees, in prosecuting their claims against the United States. Pursuant to the provisions of this contract the attorneys filed Docket No. 73 before the Indian Claims Commission on behalf of the Seminole Indians of the State of Florida.

On July 11, 1957, the then Assistant Secretary of the Interior approved a constitution adopted by the Seminole Tribe of Florida. Since the approval of this constitution, the governing body of the Seminole Tribe of Florida is the tribal council and the authority to employ counsel is vested in that council by Article V, Section 2, of the tribal constitution. Section 10 of the Indian Claims Commission Act (60 Stat. 1049, 1052) provides that whenever any tribal organization exists which is recognized by the Secretary of the Interior as having authority to represent a tribe such organization shall be accorded the exclusive privilege of representing those Indians, unless fraud, collusion, or laches on the part of such organization be shown to the satisfaction of the Commission.

Consequently, as the Miccosukees are but a part of the Seminole Indians of the State of Florida, who are all presently represented under the approved claims attorney contract referred to above, we perceive no basis for approving your proposed claims contract. Accordingly, it is returned without approval.

Sincerely yours,

Deputy Solicitor

Enclosure

EXHIBIT 73b

Before The

INDIAN CLAIMS COMMISSION

No. 73 & 73A

THE SEMINOLE INDIANS OF THE STATE OF FLORIDA, Petitioner,	* HOWARD OSCEOLA and HOMER OSCEOLA, individually and on behalf of the Executive Council of the EVERGLADES MICCOSUKEE TRIBE of SEMINOLE INDIANS, also known as the MICCOSUKEE SEMINOLE NATION, * Petitioner, Movants
vs.	vs.
THE UNITED STATES OF AMERICA, Respondent.	THE SEMINOLE INDIANS OF THE STATE OF FLORIDA Respondent.

MOTION TO DISMISS

Come now HOMER OSCEOLA and HOWARD OSCEOLA as Co-Chairmen of the Executive Council of, and representing officially, the Everglades MICCOSUKEE TRIBE of SEMINOLE INDIANS, also known as the MICCOSUKEE SEMINOLE NATION, and hereinafter called "The Miccosukee Tribe", a duly recognized tribe of American Indians, and also as individualsMiccosukees on behalf of said Tribe, and again appear specially for the purpose of dismissing this proceeding as to said Tribe, saying:

1. The so-called "Seminole Nation in Florida" or "The Seminole Indians of the State of Florida" or"the Seminole Tribe of Florida" is in truth and fact composed of two separate, distinct and identifiable tribes of Indians, the one being "Miccosukee" and the other being "Muscogee" or "Cow Creek", the two tribes speaking two different languages, having two different cultures and customs.

2. HOWARD OSCEOLA and HOMER OSCEOLA are individual members of the MICCOSUKEE TRIBE and are also Co-Chairmen of the Executive Council of said Tribe, authorized to file this Motion to Dismiss on its behalf.

3. The said Executive Council is, since 1957, the official Tribal organization of the MICCOSUKEE TRIBE, governing the said Tribe, and officially recognized by the United States as such, as hereinafter mentioned; Prior to 1957 and at the time the Petitions in this claim were filed, the MICCOSUKEE TRIBE was governed by the General Council, which was then and had been for hundreds of years prior thereto, the official tribal organization of the MICCOSUKEE TRIBE.

4. On September 16, 1954 said General Council filed a Special Appearance and Motion to Quash the Petitions herein, on behalf of the

MICCOSUKEE TRIBE, which Motion was denied on April 8, 1955.

5. Since the denial of said Motion, however, the United States has, on January 27, 1958, admitted and officially recognized the separate tribal identity of the MICCOSUKEE TRIBE, and particularly for the purpose of affording said Tribe the opportunity to participate in this proceeding, for proof of which a true photo-copy of said letter of recognition signed by the United States Commissioner of Indian Affairs, the Honorable Glenn Emmons, is attached hereto and made a part hereof as Movants' Exhibit 1.

6. On July 12, 1960 The United States Secretary of Interior, the Honorable Fred A. Seaton, confirmed by letter, the aforesaid recognition and action of said United States Commissioner of Indian Affairs, for proof of which said letter of July 12 1960, a true phot-copy thereof, has been attached hereto and made a part hereof as Movants' Exhibit 2.

7. On or about September 1957, some Indians living of the United States reservations in Florida formed an organization which they called "The Seminole Tribe of Florida", ostensibly for the purpose of managing said reservations, and officially recognized by the United States for such purpose.

8. For several years the MICCOSUKEE TRIBE has been negotiating with the United States for a settlement of its land disputes and differences with the United States, for proof of which are attached copies of the minutes of meetings between the Miccosukee Tribe and the United States officials on November 4, 1955 and April 2, 1956, as Movants' Exhibits 3 and 4 respectively.

9. On February 10, 1959, John O. Jackson, attorney of record for Petitioners herein, entered into a written agreement with the attorneys for the Miccosukee Tribe, recognizing the separate identity of said tribe and the fact that he and his associates are not, and never have been, the attorneys for the Miccosukee Tribe, for proof of which said contract, a true phto-copy thereof, is attached here to and made a part hem of as Movants' Exhibit 5. Said February 10, 1959 contract was executed by Movants' attorneys under a contract approved by the Miccosukee Tribe, regarding associate counsel, for proof of which said contract dated July 6 1955 with the Miami law firm of Caldwell Parker Foster Wigginton & Miller is attached hereto and made a part hereof as Movants' Exhibit 6.

10. The United States, however, has now affirmatively indicated

its refusal to honor its commitments to the Miccosukee Tribe and has left the Miccosukee Tribe with no possibility of authorizing these claims herein and with its right to participate in these proceedings denied by the United States. And as a result thereof there presently exists, as there always has, a conflict of interest between the Indians represented by John O. Jackson herein, and the Miccosukee Tribe.

11. Neither the General Council of the Miccosukee Tribe, or the Executive Council of said Tribe has not at any time authorized the institution of the claims now pending before this Commission.

12. The Petition in this claim states in Paragraph 1:

> "1. Petitioner is the Seminole Indians of the State of Florida, also known as The Seminole Indian Tribe of the State of Florida and the Seminole Tribe of Florida, a tribe of Indians resident in Florida, having a tribal organization recognized by the Secretary of Interior. The said Tribal organization has been authorized to bring this action on behalf of said tribe."

13. That in truth and in fact, at the time the Petitions herein were filed, there was no "tribal organization" recognized by the Secretary of Interior" as is alleged, for proof of which a true copy of a letter of August 23, 1954 from the United States Department of Interior so stating, is attached hereto and made a part hereof as Movants' Exhibit 7; and in truth and in fact the Indians who presumably executed the Contract under which this claim is being prosecuted are Muskogees or non-members of the Miccosukee Tribe who have never had and do not now have any authority to file such claim on behalf of all "Seminole Indians of Florida", and particularly on behalf of the Miccosukee Tribe.

14. The Miccosukee Tribe cannot be bound by this proceeding, and has rights to land in Florida that have never been and cannot be taken from it and that it refuses to sell or surrender. The United States has, by its aforesaid negotiations, recognized the proprietary land rights and interests of the Miccosukee Tribe, and the conflict of interest as aforesaid. As further proof, a letter of July 13, 1960 from the United States Secretary of Interior to the Executive Council of the Miccosukee Tribe is attached hereto and made a part hereof as Movants' Exhibit 8.

15. The attorneys who originally filed the Petition herein, as well as their successors and assigns, namely John O. Jackson, do not now represent and have not at any time had the authority to represent,

EXHIBIT 74c

do not now have the authority and have not at any time represented the Miccosukee Tribe and have no authority to prosecute the present Petition, as now pending; the Movants' here not intending, however, to deny or affirm the extent of said attorneys' authority to represent the twelve "Muskogees" or non-members of the Miccosukee Tribe,or any other organization newly formed for the Indians on the United States reservations which does not include the Miccosukee Tribe which has never and is not now a part of any of said reservation organizations.

16. That this Petition should be dismissed for want of jurisdiction.

17. That additional time be granted Movants to take testimony and that hearings be scheduled in Miami where most of Movants witnesses live, in that Movants are financially unable to attend further hearings in Washington.

WHEREFORE the Movants move the entry of an Order of Dismissal and that the hearings of this Motion be had in the City of Miami, or at such other place or places within a short distance thereof as may be suitable for the Movants to attend.

_____
MOSES OSCEOLA

_____
HOMER OSCEOLA, both individually and on behalf of the Executive Council of the Miccosukee Tribe

MORTON H. SILVER and GEORGE JOHN MILLER
Attorneys for Movants
Biscayne Building
Miami, Florida

By:_____

DESIGNATION UNDER RULE 35 : The Undersigned attorney registers my name and address with the Clerk as Morton H. Silver, 1006 Biscayne Building, Miami, Florida.

_____

I hereby certify that copies of the aforegoing Motion were delievered personally to the attorneys for the Petitioner herein and the United States this 18th day of September, 1961.

EXHIBIT 74d

_____
Morton H. Silver

CONTRACT #9

DKT 73
73A

FEB 16 1968

Memorandum

To: Associate Solicitor, Indian Affairs

From: Staff

Subject: History of Seminole claims and attorney contracts under which they have been prosecuted

I. Attorney Contracts of the Seminole Indians of Florida

The Seminole Indians of Florida have been represented by claims attorneys for almost three decades. On October 15, 1949, twelve representatives of the Seminoles residing in Florida (several of whom were identified as Miccosukees and were later active in the affairs of the group now organized as the Miccosukee Tribe of Indians of Florida) entered into contract No. I-1-Ind-42239, retaining Roger J. Waybright and John W. Jackson, attorneys, to represent the Seminole Indians of Florida in connection with the prosecution of their historic claims against the United States. That contract was approved by the Acting Commissioner of Indian Affairs on January 6, 1950, for a term of five years from the date of its approval, with a provision, utilized repeatedly, for extensions of periods of not to exceed two years, until final settlement of the claims.

From August 21, 1957, the date upon which the "Seminole Indians of the State of Florida" became an organized tribe under the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), the Seminole Tribal Council, first elected on September 19, 1957, was deemed to represent the Indians under Contract No. I-1-Ind-42239. It agreed to all subsequent extensions of the contract and authorized a supplemental contract dated July 25, 1959, and approved by the Commissioner on October 8, 1959, which made Effie Knowles, Roy L. Struble and Charles Bragman parties to the original contract and designated Mr. Struble chief attorney, with full authority over the prosecution of pending claims.

After five extensions, Contract No. I-1-Ind-42239 expired on January 5, 1965. The Seminole Tribe then entered into a new claims attorney contract, dated April 30, 1965, with Effie Knowles, Roy L. Struble and Charles Bragman. That contract, designated No. 14-20-0650-1292, as amended, was for a term of 10 years from January 5, 1965.

II. Seminole Claims Presently Pending Against the United States

Acting under authority of Contract No. I-1-Ind-42239, on August 14, 1950, Messrs. Waybright and Jackson filed a petition on behalf of

EXHIBIT 75a

the Seminole Indians of Florida before the Indian Claims Commission, pursuant to Section 15 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049). In the petition, designated Docket 73, the Seminoles asserted four claims:

(1) A claim for $37,500,000 plus interest for the value of 30,000,000 acres of land wrongfully taken by the United States under the Treaty of Moultrie of September 18, 1823 (7 Stat. 224);

(2) A claim for $5,040,975 plus interest for the value of 4,032,940 acres of land wrongfully taken by the United States under the Treaty of Paynes Landing of May 9, 1832 (7 Stat. 368);

(3) A claim for $6,250,000 plus interest for the value of 4,000,000 acres of land wrongfully taken by the United States under the Macombe Treaty of May 18, 1939 (General Orders No. 6); and

(4) A claim for $992,000 plus interest for the value of 99,200 acres of land wrongfully received by the United States for the Everglades National Park under a deed from the State of Florida dated December 28, 1944.

On July 1, 1951, the Seminole Nation of Oklahoma also filed a petition before the Indian Claims Commission. Designated Docket No. 151, its petition asserted claims virtually identical to those previously presented by the Seminoles of Florida in Docket 73. Ten days later, on July 11, 1951, the Oklahoma Nation moved to dismiss Docket 73 on the ground that it was the only group with standing to seek recovery for Florida lands taken by the United States. That motion was denied by the Indian Claims Commission on January 22, 1953, in an order which consolidated Dockets 73 and 151 (as they contained wholly overlapping claims) and provided that the fourth cause of action in Docket 73, relating to the Everglades National Park, be designated Docket 73-A, and given separate consideration.

Almost eleven and a half years later, on May 8, 1964, after a series of delaying events discussed below, the Indian Claims Commission issued an interlocutory order in consolidated Dockets 73 and 151, wherein it concluded as matters of law that:

(1) "* * * The plaintiffs herein, the Seminole Indians of Florida and the Seminole Nation of Oklahoma, are entitled to prosecute this action for and on behalf of the Seminole Nation as it existed in Florida at all material times."

EXHIBIT 75b

(2) The petitioners had satisfactorily established that at the time of the September 18, 1923, treaty cession (7 Stat. 224), the Seminole Nation held original Indian title to much of the present State of Florida.

The Commissioner further ordered that the consolidated cases proceed for the purpose of determining the acreage and value of the lands involved and the amount of any offsets or credits to which the United States might be entitled. The Government's appeal from that order, filed before the Court of Claims on December 1, 1965, was denied on June 9, 1967 (Appeal No. 11-65). Since no further appeal is possible, the time for filing a petition for a writ of certiorari before the United States Supreme Court having expired, the parties are presently engaged in preparing for litigation of the issues which remain.

III. Previous Miccosukee Activity

The Miccosukees have repeatedly figured in the events surrounding the Seminole claims and attorney contracts.

On October 1, 1953, Morton H. Silver, an attorney, advised the Commissioner of Indian Affairs that he had been retained by the General Council of the Seminole Indians of the State of Florida, and that the council had not authorized, and in fact objected to, the petitions filed in Docket 73. In his reply, dated November 16, 1953, the Assistant Secretary of the Interior noted that the petitions in Dockets 73 and 73-A had been filed on behalf of the Seminole Indians of Florida, a recognized though unorganized group, by their claims attorneys, who were duly authorized to do so under Contract No. I-1-Ind-42239. The Secretary then concluded:

> It is, therefore, assumed that the General Council of Seminole Indians speaks only for a portion of the tribe, and not for the entire Seminole tribe, as the name might indicate.

In fact, the General Council employing Mr. Silver (under a contract which, incidentally, was never submitted for the approval of this Department) represented a group of Miccosukees who, since mid-1950 had registered their objection to Contract No. I-1-Ind-42239, disclaiming any desire to participate in monetary claims against the United States.

On March 1, 1954, a group of Miccosukees who had come to Washington, D. C., as part of the delegation of Seminoles which was to testify on S. 2747 and H. R. 7321, bills relating to the proposed termination of the Seminoles of Florida, issued the so-called Buckskin Declaration, an announcement that the Seminole claims filed before the Indian

Claims Commission were unauthorized and that the Miccosukees sought land, rather than a money award from the United States.

This declaration was followed by voluminous correspondence, involving Federal officials, including the President, whose concern over charges by the dissident Miccosukee group that they had been generally mistreated by the United States led him to appoint the Commissioner of Indian Affairs as his personal representative to investigate the matter. On December 16, 1954, the Commissioner journeyed to Florida where for four days he met with various groups in an attempt to clarify and obviate the basis of the growing rift between the Miccosukees and the other Seminoles of Florida.

The Miccosukees formally voiced their objection to Dockets 73 and 73-A on September 16, 1954, by filing a document entitled, "Special Appearance and Motion to Quash", which urged that the Seminole petitions be dismissed on the ground that the claimants lacked standing to assert claims which involved Miccosukee land and were unauthorized by the Miccosukees. The Seminoles filed a motion to strike the Miccosukee Special Appearance and Motion to Quash on November 3, 1954. On April 8, 1955, the Indian Claims Commission granted that motion, noting simply that, " * * * the question raised is one of law." The Court of Claims denied the Miccosukee appeal from that decision on December 5, 1956, 137 Ct.Cl. 161, 146 F. Supp. 459 (1956), and their subsequent motion for rehearing on March 6, 1957. Their petition for a writ of certiorari was similarly denied by the United States Supreme Court on October 14, 1957. In this, the first of their appearances in Docket 73, the Miccosukees caused a delay of over three full years.

On March 14, 1961, well after 1958, when the Seminoles had become an organized tribe, Morton Silver, who had previously represented the Miccouskees without an approved contract, negotiated a new claims attorney contract with the dissident Miccosukee group, then calling itself the Everglades Miccosukee Tribe of Seminole Indian, and submitted the contract to this Department for approval. In a letter dated June 19, 1961, the Deputy Solicitor returned the proposed contract without approval, noting that the Miccosukees were not a separate recognized group, but " * * * a part of the Seminole Indians of Florida, who are all presently represented under the approved attorney Contract [No. I-1-Ind-42239]."

In spite of this, Mr. Silver continued his unauthorized representation of the Miccosukees, and, three months later, on September 18, 1961, again appeared before the Indian Claims Commission on their behalf, asking that Dockets 73 and 73-A be dismissed. The Commission denied his motion the same day, stating that since the Miccosukees had not

EXHIBIT 75d

filed a timely separate claim, they had no standing to appear as a separate claimant in the cases.

The group now styled the Miccosukee Tribe of Indians of Florida submitted a constitution under the Indian Reorganization Act which was approved on January 11, 1962.

EXHIBIT 75e

CONTRACT #9

IN REPLY REFER TO:
A-68-1183 (4184)

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

OKT 73
73D

FEB 16 1968

Memorandum

To: Commissioner of Indian Affairs

From: Associate Solicitor, Indian Affairs

Subject: Proposed attorney contract between the Miccosukee Tribe of Indians of Florida and the law firm of Strasser, Spiegelberg, Fried, Frank and Kampelman

On December 15, 1967, you submitted to us for review a proposed attorney contract, dated October 26, 1967, between the Miccosukee Tribe of Indians of Florida and the law firm of Strasser, Spiegelberg, Fried, Frank and Kampelman.

The contract and related documents make clear that the principal purpose for which the tribe desires to retain the attorneys is to attempt to intervene in a case presently pending before the Indian Claims Commission. The case, resulting from a consolidation of Dockets 73, 73-A and 151, is prosecuted by the Seminole Indians of the State of Florida and the Seminole Nation of Oklahoma against the United States.

This is not the first time the group now organized as the Miccosukee Tribe of Indians of Florida has attempted to take a hand in this litigation. Attached is a memorandum which sets out some of the history of the case.

Passing some of the earlier activities of this group, you will note that in 1961, the Deputy Solicitor declined to approve a claims attorney contract which it had negotiated with Mr. Morton Silver on the ground that it was not a separate group but

> * * * a part of the Seminole Indians of Florida who are all presently represented under the approved attorney contract I-1-Ind-42239.

The contract referred to is a predecessor to contract 14-20-0650-1292 now held by Messrs. Struble, Bragman, et al.

It should be noted that when the claims which became Dockets 73 and 73-A were filed in 1950 by the attorneys who were parties to contract I-1-Ind-42239, there were no organized Seminole groups in Florida. The claims were filed in the name of "Seminole Indians of Florida."

EXHIBIT 76a

The contract under which the claims were filed had been executed on behalf of the Indians by various Seminole leaders, some of whom were identified as representatives of the Miccosukees and were later active in the affairs of the group now organized as the Miccosukee Tribe of Indians of Florida. (We understand there is little relation between the ethnic Miccosukee group which was one of the principal components of the historic Seminole Nation and the group now organized as the Miccosukee Tribe of Indians of Florida, as ethnic Miccosukee stock is widely represented in all present day groups of Seminole Indians, both in Florida and Oklahoma.)

When the group now formally designated the Seminole Indians of the State of Florida organized in 1957, it took over the representation of the Indians under Contract No. I-1-Ind-42239 from the amorphous group of Seminole leaders who executed it originally on behalf of the Indians. The group now known as the Miccosukee Tribe of Indians of Florida did not organize until 1962.

That the organization of neither group affected the nature of the claims previously filed on behalf of the Seminole Indians is indicated by the interlocutory order entered by the Commission on May 8, 1964. The Commission concluded that:

> * * * The plaintiffs herein, the Seminole Indians of Florida and the Seminole Nation of Oklahoma, are entitled to prosecute this action for and on behalf of the Seminole Nation as it existed in Florida at all material times. (Emphasis supplied)

Review of the case leaves little doubt that it is, and always has been, a representative action brought for the benefit of the successors of all the Indians who composed the Seminole Nation as it existed in the early part of the nineteenth century. No one seems to dispute that the persons who are members of the group now organized as the Miccosukee Tribe of Indians of Florida are such successors and would be admitted to the benefits of any judgment rendered in the case.

The litigation is now in its eleventh hour, having been prosecuted to this point in spite of the disruptive and delaying activities of the group which would now intervene. On January 26, 1968, the attorneys on the proposed contract filed a motion to intervene setting forth that the contract is before the Secretary for approval and asking for 90 days after approval in which to file a memorandum in support of the motion. We have grave reservations whether these efforts can be squared with the best interests of the Miccosukee group, let alone those of the Seminole Indians generally. But, because it is beyond our competence to determine the merits of their legal position, and because they are now an organized and recognized group of Indians, we do not feel that it would be appropriate to disapprove the proposed contract for this reason.

EXHIBIT 76b

However, we are concerned about the way in which compensation will be awarded to and distributed among the several groups of attorneys who are parties to the contracts under which the Seminole claims are being prosecuted. In no event can the total amount of fees awarded be permitted to exceed 10 percent of the total judgment.

Although we have discussed the matter with Mr. Lazarus, we are not clear what he considers would be the base for calculating fees under the proposed contract if the Miccosukee group is permitted to intervene. As we understand him, before a fee could be earned under the proposed contract a separate judgment would have to be entered in favor of the Miccosukees. We don't know whether he means a separate judgment in favor of the group now organized as the Miccosukee Tribe of Indians of Florida or in favor of the successors of the Miccosukee ethnic group which was a component of the historic Seminole Nation. It seems likely to us that only one award will be made in the case for the benefit of all successors of the historic Seminole Nation. It is also probable that any award made in the case which redounds to the benefit of the members of the present day Miccosukee group will in part be attributable to the efforts of the attorneys who are parties to the contracts under which the case has been prosecuted since the early 1950's.

We would concur in approval of the contract subject to the following conditions:

1. That numbered paragraph 4 be amended to read:

> 4. As compensation for services to be rendered under this contract, the Attorneys shall receive not to exceed ten percent (10%) of any and all sums recovered for the tribe, whether by award of the Indian Claims Commission or other tribunal, or by action of any department of the Federal Government or by Congress; provided, however, should the tribe be permitted to intervene in the consolidated case entitled The Seminole Indians of Florida v. United States, Docket No. 73, and The Seminole Nation of Oklahoma v. United States, Docket No. 151, presently pending before the Indian Claims Commission, and receive an award of compensation therein, the compensation of the Attorneys shall be the reasonable value of the services rendered as determined by the Commission pursuant to 25 U.S.C. 70n, not to exceed ten percent (10%) of the amount recovered by the tribe.

EXHIBIT 76c

2. That numbered paragraph 9 be stricken and the following substituted:

> 9. This contract may be terminated by either party upon 60 days' written notice. If so terminated by the Attorneys, they shall not be entitled to recover compensation for services rendered with respect to any claim that has not been reduced to final judgment on the date of termination. If so terminated by the tribe, the Attorneys shall not be entitled to recover compensation for services rendered after the date of termination. This contract may also be terminated by the Secretary of the Interior for cause, after a hearing on reasonable notice. If the Secretary finds that the interests of the tribe so require, he may suspend the contract and payment of all compensation to the Attorneys thereunder, pending a hearing, the holding of which shall not be unreasonably delayed.

3. That the payments authorized under paragraph 5 to reimburse the attorneys for necessary and proper expenses incurred in the performance of their duties, and the payments authorized under paragraph 6 to cover the costs of employing experts, shall be subject to the availability of tribal funds for such expenditures.

Richmond F. Allen

Richmond F. Allan

Attachment

EXHIBIT 76d

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GUY OSCEOLA, 888 Coconut Circle
Naples, Florida
(813) 774-1161

in behalf of himself and all others
similarly situated,

Plaintiff,

v.

Civil Action No. _____

JEROME K. LUYKENDALL,
2700 W. Oakland Street
Arlington, Virginia
(703) 228-3042

BRANTLEY BLUE,
9143 Santayana Drive
Fairfax, Virginia
(703) 591-6791

JOHN T. VANCE,
4400 East-West Highway
Bethesda, Maryland
(202)654-4704

MARGARET H. PIERCE,
3829 Garfield Street
Washington, D.C.
(202) 333-1686

RICHARD W. YARBOROUGH,
5140 N. 37th Street
Arlington, Virginia
(703) 538-2713

Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

JURISDICTION

1. The claims of Plaintiff arise under the Constitution and laws of the United States, namely the Fifth Amendment of the United States Constitution. Plaintiff alleges that 25 U.S.C. §§70-70v particularly §701 are unconstitutional on their face and as applied to Plaintiff in that they deprive Plaintiff and members of his class of their property and other rights without due process of law, as more fully set forth below.

EXHIBIT 77a

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1331. The amount in controversy exceeds $16,000,000.00. In addition to other relief, declaratory relief is sought pursuant to 28 U.S.C. §§2201, 2202.

PARTIES

3. Plaintiff Guy Osceola is a member of the Seminole Nation. He was born in and resides in the territory of the Seminole Nation located in what is otherwise known as the State of Florida.

4. Guy Osceola is a direct descendant of those Seminole people, members of the Seminole Nation, who have never been militarily defeated, have never signed a written treaty of peace, and have never ceded nor given over their right to freely live upon and utilize their aboriginal territory in what is now known as Florida.

5. Guy Osceola sues on his own behalf and, pursuant to Rule 23 of the Federal Rules of Civil Procedure, on behalf of all other Seminoles similarly situated; namely, those Seminole people who by Seminole law and usage are entitled to live in and utilize Seminole land and other property, and who do not wish to surrender such rights in return for monetary damages or compensation and who have not actually authorized nor consented to the presentation of a claim to the Indian Claims Commission.

6. That class is so numerous that joinder of all of its members is impractical. Members of that class number at least one hundred and probably as many as two hundred, many of whom do not speak English and live in remote areas of the Everglades. There are questions of law and fact common to members of the class and the Plaintiff's claims are typical of the claims of the class. The conduct of the Defendants and their enforcement of the statutes complained of, namely, 25 U.S.C.§§70-70v, operate to bar all members of the class from asserting and protecting their interests regarding their land and rights as Seminole people.

7. Defendant Jerome K. Kuykendall is Chairman of the Indian Claims Commission, and is sued individually and in his official capacity. His office and place of business is: Sixth Floor, 1730 K Street, N.W., Washington, D.C.

25-417 O - 78 - 28

8. Defendants John T. Vance, Richard W. Yarborough, Margaret H. Pierce, and Brantley Blue are Commissioners of the Indian Claims Commission. They are sued individually and in their official capacities. Their offices and place of business are: Sixth Floor, 1730 K Street, N.W., Washington, D.C.

CAUSE OF ACTION

9. On August 14, 1950, there was filed with the Indian Claims Commission, twenty copies of a petition alleged to be in behalf of the "Seminole Indians of the State of Florida". The petition was brought by several named individuals claiming to represent the "tribal organization" of all Seminoles. The Petition states in numbered paragraph 1:

> 1. Petitioner is The Seminole Indians of the State of Florida, also known as The Seminole Indian Tribe of Florida and The Seminole Tribe of Florida, a tribe of Indians resident in Florida, having a tribal organization recognized by the Secretary of the Interior. The said tribal organization has been authorized to bring this motion on behalf of the said tribe.

10. There was not at that time any such "tribal organization recognized by the Secretary of the Interior". Nor did the individual petitioners bear any lawful authority from the Plaintiff or Plaintiff's class herein nor from any organization representing substantially all the Seminole people in what is now known as Florida.

11. The said petition was assigned Docket Number 73, and, by order of January 22, 1953, was consolidated with the overlapping claim of the Seminoles of Oklahoma in Docket Number 151.

12. The consolidated claims in Docket Numbers 73 and 151 sought money damages for the alleged taking of Seminole lands without adequate consideration. Only monetary relief has been requested by the petitioners, and the Indian Claims Commission will grant only monetary relief.

13. On September 17, 1954, fifteen Seminoles representing themselves and the General Council of Miccosukee Seminole Nation filed what they denominated a "Special Appearance and Motion to Quash". A copy of said motion is attached as Exhibit 1.

EXHIBIT 77c

14. Said motion was in substance an application to intervene for the purpose of urging the dismissal of the petition for the reason, among others, that the petitioners did not represent the movants and that the movants did not wish to have their rights to their traditional homeland in any manner determined or disposed of by the Indian Claims Commission. The said motion stated, in pertinent part:

> 8. That the Miccosukee Seminole Nation (Florida) has never authorized this claim, cannot be bound by this proceeding , and has rights to land in Florida that they are not willing to exchange for money, nor surrender.

15. On April 8, 1955, without opinion and without a hearing, the Commission made an order striking the motion from the record.

16. Movants appealed this decision to the Court of Claims. The Court of Claims dismissed the appeal on the ground that the order denying the motion was not a final judgment and therefore not appealable. Billie v. United States, 137 Ct.Cls. 161 (1956).

17. In 1957 certain Seminoles in Florida organized themselves as a federally chartered corporation under the Indian Reorganization Act of 1934. This group, calling themselves "The Seminole Tribe of Florida", with the apparent approval of the Commission, succeeded as the petitioners in Docket 73 under Attorney Contract I-1-Ind-42239 with the alleged approval of the Department of the Interior.

18. The Plaintiff and members of his class are not now and never have been part of nor in any way affiliated with "The Seminole Tribe of Florida" described in paragraph 17 above, nor have they in any manner authorized "The Seminole Tribe of Florida" to represent them in the presentation of any claim.

19. Again, on September 18, 1961, Howard Osceola and Homer Osceola, representing the Executive Council of the Miccosukee Nation, and successors to those who had attempted to intervene in 1954, filed a motion to dismiss the petition urging as new grounds that the Miccosukee Seminole Nation had recently been accorded separate recognition by the United States government in 1958.

20. This motion was denied from the bench by then Commissioner Holt, without opinion, on the same day the motion was filed.

21. On January 29, 1968, "The Miccosukee Tribe of Indians of Florida and Buffaloe Tiger and Sonny Billie, in a representative capacity on behalf of all descendants of the Miccosukee Indians who resided in Florida in 1823 and 1832 ... "filed a Motion for Leave to Intervene in the consolidated Dockets 73 and 151".

22. Said Motion for Leave to Intervene described in paragraph 21 above was denied by the Commission on September 17, 1968, 19 Indian Claims Commission 440.

23. On May 8, 1964, the Indian Claims Commission entered an interlocutory order, along with findings of fact and an opinion, determining that the petitioners in Dockets 73 and 151, consolidated, had established Indian title to all of the present State of Florida with the exception of limited areas which had been allegedly sold or disposed of by the Seminoles prior to 1823.

24. The Order of the Indian Claims Commission of May 8, 1964, was affirmed by the Court of Claims, 180 Ct. Cl. 375 (1967).

25. On June 28, 1968, the Indian Claims Commission entered a second interlocutory order and additional findings of fact more particularly describing the territory embraced by petitioners' claim. 19 Indian Claims Commission 179 (1968).

26. On October 22, 1970, the Indian Claims Commission made a final award in the amount of $12,262,780.63.

27. Said final Award was appealed by the United States and the petitioners to the Court of Claims.

28. The Court of Claims remanded the case to the Indian Claims Commission to supply more specific findings and reasoning as to the value of the territory involved. 197 Ct. Cl. 350 (1972).

29. Petitioners in Docket 73 or their agents called a meeting which was held on January 22, 1976, near Hollywood, Florida, the alleged purpose of which meeting was to explain, discuss and consider the proposed terms of settlement of Dockets 73 and 151.

30. Plaintiff and members of his class did not receive adequate, or, in many cases, actual notice of said meeting and its purpose.

EXHIBIT 77e

31. Many members of Plaintiff's class are poor, not literate in the English language, and live more than 100 miles across the Everglades from the site of the meeting on January 22, 1976.

32. Among Seminole people, as well as other native people, particularly those Seminoles not speaking English and following a traditional way of life, voting is not an accustomed practice, and nonattendance at a meeting is intended to have the same meaning and effect as a negative vote as to the matter under consideration.

33. The proceedings at the meeting on January 22, 1976, in no way reflected the wishes or position of the Plaintiff or members of his class.

34. Since January 22, 1976, Plaintiffs and their attorney have attempted many times to learn the terms and status of the proposed settlement, but petitioner's attorneys have refused to make that information available.

35. The petitioners in Dockets 73 and 151 and the United States on March 17, 1976, filed a Joint Motion for the Entry of Final Judgment and a Stipulation for the Entry of Final Judgment, requesting the Commission to enter final judgment in the amount of $16,000,000, under specified conditions.

36. Said Joint Motion states in pertinent part:

> Such final judgment shall finally dispose of all rights, claims or demands which plaintiffs asserted or could have asserted with respect to the subject matter of Docket Nos. 73 and 151, consolidated. The entry of final judgment of the Indian Claims Commission pursuant to this motion and the stipulation filed herewith shall constitute a final determination in these cases, from which all parties waive any and all rights to appeal or otherwise seek review thereof.

A copy of said Motion and Stipulation and supporting papers is attached herewith as Exhibit 2.

37. By Order of the Indian Claims Commission signed on March 18, 1976, a hearing is now scheduled on said Joint Motion for March 26, 1976, at 10:00 A.M.

38. Said hearing on March 26, 1976, is scheduled in violation of Indian Claims Commission rules which require that such hearings be set not sooner than ten days after the filing of the stipulation of settlement.

EXHIBIT 77f

39. Plaintiff and members of his class have received no formal notice of said hearing on March 26, 1976, and they have not been advised that they have an opportunity to appear at said hearing.

40. Any appearance at said hearing by members of Plaintiff's class would in any event be limited to testimony as to the amount of the settlement and whether said settlement was properly understood.

41. Any such appearance by members of Plaintiff's class who are generally poor and living in Florida would be unduly burdensome and in fact impossible, even if they had received adequate notice.

42. No purpose would be served by further attempts to intervene in the Indian Claims Commission proceedings, as any such attempt would be entirely futile.

43. On or very soon after March 26, 1976, the Indian Claims Commission will, unless restrained, enter a final judgment awarding to the petitioners $16,000,000 and purporting to forever terminate the interest and rights of all Seminole people including Plaintiffs herein in their aboriginal traditional homeland.

44. Plaintiff and members of his class, as Seminoles, have an interest in the land, territory and other matters which are the subject of the present proceedings before the Indian Claims Commission.

45. The territory comprehended by the proceedings in Dockets 73 and 151, for the alleged taking of which the petitioners are seeking monetary compensation, includes all of the traditional Seminole territory, in which Plaintiffs have an interest.

46. Plaintiff and other members of his class do not now and never have consented to authorize any person or organization to seek or accept monetary compensation in return for their rights and interests in their traditional homeland.

47. Plaintiff and members of his class, along with others, constitute a nation of people, separate from the United States, having a separate language, a separate government and laws, and having a territory historically recognized as belonging to them, and which has at various times been recognized, de facto and de jure, as constituting a separate nation.

EXHIBIT 77g

48. An oral treaty of agreement was entered into between the Seminole Nation and representatives of the United States in the mid-nineteenth Century at the close of the Seminole Wars. This agreement, which was renewed in 1936, was to the effect that the fighting should cease, that the Seminole people were to be "left alone", and that their right to live in their traditional homeland in their accustomed manner was to be respected by the United States.

49. Said agreement is binding and effective under international law and has not been abrogated by the United States.

50. A judgment by the Indian Claims Commission in Dockets 73 and 151 will deny the Plaintiff and members of his class their rights and deprive them of their property in violation of international law, and in violation of the agreement of the United States with the Seminole Nation.

51. A judgment of the Indian Claims Commission granting the motion to enter judgment in Dockets 73 and 151, will deprive Plaintiff and members of his class of their rights and their property without due process of law and will deny them the equal protection of the law in violation of the Fifth Amendment to the United States Constitution.

52. Section 70i of 25 U.S.C. is unconstitutional on its face, because it delegates to the Secretary of the Interior the authority to determine without appropriate standards, who may proceed before the Indian Claims Commission.

53. Sections 70-70v of 25 U.S.C. are unconstitutional as applied to Plaintiff and members of his class because they operate together to deprive them of their rights without notice or opportunity to be heard, and without opportunity to exclude themselves from the effects of a judgment of the Indian Claims Commission.

54. It has been the consistent practice of the Defendants and their predecessors to refuse all forms of relief other than monetary compensation in all claims brought before the Indian Claims Commission.

55. Said practice of the Defendants to refuse all forms of relief other than monetary compensation is in violation of the Fifth Amendment to the United States Constitution and contrary to 25 U.S.C. §§ 70a, 701, and 70r.

- EXHIBIT 77h -

56. Plaintiffs have no adequate remedy at law, and unless the relief prayed for is speedily granted Plaintiffs will be irretrievably denied their rights and property as members of the Seminole Nation.

RELIEF

WHEREFORE, Plaintiff prays in behalf of himself and all others similarly situated:

1. That a Court of three Judges be convened pursuant to 28 U.S.C. §§2282 and 2284, to hear and determine this Cause.

2. That this Court declare that the statutes 25 U.S.C. §§ 70-70v and particularly 25 U.S.C. §70i are invalid and in violation of the Fifth Amendment to the United States Constitution on their face and as applied to Plaintiffs;

3. That this Court issue a temporary restraining order, and an interlocutory and permanent injunction restraining Defendants from entering any final judgment or order in consolidated Dockets 73 and 151 now pending before the Indian Claims Commission.

4. In the alternative, that the Defendants be directed to declare in connection with any future judgment of the Indian Claims Commission in Dockets 73 and 151, consolidated, that such judgment or order is not binding upon Plaintiff herein or members of his class, but without prejudice to Plaintiffs' rights to receive a share of any monetary award made in said matter.

5. In the alternative, that Defendants be enjoined and directed to accord Plaintiffs a reasonable opportunity to petition the Indian Claims Commission for leave to intervene in Dockets 73 and 151, consolidated, prior to entry of final judgment.

EXHIBIT 77i

6. That such other and further relief be granted as to the Court may appear just and equitable.

ROBERT T. COULTER
Institute for the Development of Indian Law
927 15th Street, N.W.
Washington, D.C. 20005
(202) 638-2287

ROGER A. FINZEL
612 Lexington Place, N.E.
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(202) 543-6662

Attorneys for Plaintiff

OF COUNSEL:

NANCY STEARNS
Center for Constitutional Rights
853 Broadway
New York, New York 10036
(212) 674-3303

March 26, 1976

WASHINGTON,)
) SS:
DISTRICT OF COLUMBIA)

Guy Osceola, being first duly sworn deposes and says that he is the Plaintiff in the foregoing and annexed Complaint; that he has read the foregoing and annexed Complaint and that, to the best of his knowledge, information and belief, the matters stated therein are true.

GUY OSCEOLA

Subscribed and sworn to before me this 26th day of March, 1976.

NOTARY PUBLIC

EXHIBIT 77j

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GUY OSCEOLA ,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 76-492
v.	)	
	)	
JEROME K. KUYKENDALL, et al.,	)	
	)	
Defendants.	)	
	)	

FILED
APR 7 1976
JAMES F. DAVEY, Clerk

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

This matter comes before the court on plaintiff's application for a temporary restraining order. Upon consideration of the application, memoranda submitted in support thereof, defendants' opposition thereto, oral argument thereon, and the entire record herein, the court makes the following findings of fact and conclusions of law.

Findings of Fact

1. Plaintiff, Guy Osceola, is a Seminole Indian, born and presently residing in the "territory of the Seminole Nation", otherwise known as the State of Florida.

2. Plaintiff sues on his own behalf and on behalf of the class composed of "those Seminole people who by Seminole law and usage are entitled to live in and utilize Seminole land and other property, and who do not wish to surrender such rights in return for monetary damages or compensation and who have not actually authorized nor consented to the presentation of a claim to the Indian Claims Commission." Complaint ¶ 5.

EXHIBIT 78a

3. Defendants are the Chairman and Commissioners of the Indian Claims Commission (ICC). The Commission, pursuant to the Act of August 13, 1946, 25 U.S.C. §§ 70-70v, is presently adjudicating the claim of the Seminole Nation to compensation for those portions of the tribe's territory appropriated by the United States.

4. The proceeding before the ICC was initiated in 1950 by a group designated as the Seminole Indians of the State of Florida. In 1951, a group designated the Seminole Indians of Oklahoma filed a petition which overlapped the claim asserted in 1950, and the two petitions were consolidated. Each petitioner purported to represent the Seminole Indian Nation as it existed in Florida prior to 1823 and sought compensation for the wrongful acquisition of Seminole territory by the United States under the Treaties of September 18, 1823, 7 Stat. 224, and May 9, 1832,7 Stat. 368.

5. In 1954, representatives of the Miccosukee Tribe, of which plaintiff Osceola is a member, filed a "Motion to Quash" the petition of the Florida and Oklahoma Seminoles. The ICC dismissed the motion. The Court of Claims affirmed the Commission's action, stating, in part, that the ICC proceeding would not determine title to any lands. See Billie v. The Seminole Indians of the State of Florida, 137 C.Cls. 161 (1956). A similar motion was dismissed summarily by the ICC in 1961.

6. In 1957, certain Seminoles in Florida organized themselves under the Indian Reorganization Act of 1934, 25 U.S.C. § 476, and were substituted as petitioner in the proceeding before the ICC.

7. On January 11, 1962, a group called the Miccosukee Tribe became federally recognized under the Indian Reorganization Act. In January, 1968, this group moved to intervene in the proceeding before the ICC. The Commission denied the motion on the grounds that the interests of this group was represented by the present petitioners. Plaintiff Osceola and the class he purports to represent are not members of the federally recognized Miccosukee organization, and they disavow the group's attempt to share in any monetary settlement of the claims before the Commission.

8. In 1970, the ICC entered a final judgment for $12,262,780.63. 24 Ind. Cl. Comm. 1 (1970). Both sides appealed and the Court of Claims remanded the case to the Commission for more detailed findings of fact. See Seminole Indians of the State of Florida and the Seminole Nation of Oklahoma v. United States, 197 C.Cls. 350 (1972).

9. Pursuant to negotiations and approval by all parties, a joint motion for entry of final judgment was filed with the Commission on March 17, 1976, which would settle all claims for $16,000,000. A hearing of that motion was held on March 26, 1976. Plaintiff did not appear at the hearing or participate in the settlement negotiations.

EXHIBIT 78c

10. Money judgments of the ICC are paid in accordance with 25 U.S.C. §1401, et seq., after a supplemental appropriation is obtained from Congress. This procedure entails a delay of several months between judgment and payment.

Conclusions of Law

1. In order to obtain a temporary restraining order, plaintiff must prove (1) there is a substantial likelihood of prevailing on the merits, (2) he will suffer irreparable harm without an order, (3) a restraining order will not cause substantial harm to defendants, and (4) a restraining order would further the public interest. See Virginia Petroleum Jobbers Ass'n v. FPC, 259 F.2d 921 (D.C. Cir. 1958).

2. Plaintiff alleges that the proceeding before the Commission will deprive him and members of his class of their property without due process of law, since the statutory representative is not adequate. Specifically, plaintiff complains of 25 U.S.C. § 70i, which provides that the representative of an Indian group recognized by the ICC shall be the exclusive representative of the group for the purpose of prosecuting claims before the Commission, and 25 U.S.C. § 70u, which provides that once a claim is adjudicated by the Commission, all further claims by any party are forever barred.

3. The court finds that, even assuming plaintiff's constitutional argument to be sound, he has failed to prove that irreparable injury is imminent. The Act's res judicata

bar is not effective until claims are paid. See Western Shoshone Legal Defense and Educational Association v. United States, Appeal No. 3-75, at 14 n. 16 (Ct. Cl. February 18, 1976). Plaintiff's representation at oral argument that the entry of a judgment alone will place members of the class, unfamiliar with the workings of the legal system, in jeopardy of immediate eviction is sheer speculation. Plaintiff's affidavits and proffered testimony fail to indicate even a remote likelihood of imminent eviction. Certainly, such action will not be undertaken by the United States, whose counsel stated in open court that he did not view the Commission proceeding as affecting title to land in any way and that the United States contemplated no action of any kind against plaintiff or his class. The court cannot justify granting the extraordinary relief requested on the basis of vague statements that unknown persons might be contemplating action against Seminoles residing off the reservation.

4. Issuance of an order restraining the entry of judgment by the ICC will delay the ultimate payment of the claim, thus injuring petitioners before the Commission. Since it appears to the court that no harm can come to plaintiff until the date of payment, there is no justification for delaying the procedures necessarily preceding payment.

In light of the above findings of fact and conclusions of law plaintiff's motion for a temporary restraining order must be denie An appropriate order accompanies this memorandum.

UNITED STATES DISTRICT JUDGE

4-7-76
Date

EXHIBIT 78e

AFFIDAVIT

1. My name is JIMMY WILSON.
2. My mailing address is, S.R. Box 7, Ochopee, Florida.
3. I live in a village 38 miles S.E. of Naples, Florida.
4. I am spokesman for my village of 12 people.
5. I hold no land deed by the whitesmans standard. I hold only my Indian title and right of occupancy to this land. My family and I live where we choose, as we always have.
6. There are some Indian people who have turned their backs on their own people, their traditions, and way of life. These people speak for a small handful of people only.
7. Our tradition is , by not being present at meetings means a vote of no. There were many more Indian people not at the January meeting than there were people there who voted.
8. I do not live on a reservation, and I was not informed of this meeting. If I had been, I and my people would not have voted for selling of our land.
9. Our God gave us this land for us to live on, hunt, fish, and live in peace. Every year the whiteman tries to take more and more of our Indian land from us. He does not try to know us and respect our ways of life. He tries to make us one of him.
10. We are different from the whiteman, with different beliefs and customs by which we live. The selling of our land is against the way of life and custom for anytrue traditional Seminole Indian.
11. We have always been in this land. We have always been able to hunt, fish, to cut wood for our homes, and live where we wished. We do not wish to give up our rightful claim to our land. This has always been ours.
12. We have many places unoccupied where we may live and teach our children what our fathers taught us. We are free to do this now as we always have been free to do.
13. We are traditional Seminole people. This land is not ours to sell. Indian people do not sell their land. It is against my traditional beliefs to give up or sell my rights in my Seminole land.

EXHIBIT 79a

14. I did not receive prior notice of any meeting that was held in Hollywood, Florida, January 22, 1976, concerning the claim of Seminole land before the Indian Claims Commission.
15. I am not an enrolled member of the " Seminole Tribe of Florida, inc.", organized under the Indian Reorganized Act of 1934.
16. I am a traditional Seminole Indian, and a member of the "Traditional Seminole Nation", which is older than any of the white governments laws.
17. I have never given anyone the authority tb represent me or any member of the "Traditional Seminole Nation" or to bring a claim in my behalf before the Indian Claims Commission.
18. I hereby authorize Robert T. Coulter to represent me and I join plaintiff in the suit known as GUY OSCEOLA v. KUYKENDALL, Civil case no. 76-0492, in the U.S. District Court for the District of Columbia.
19. I have the complaint in that case and affirm that it is true to the best of my knowledge and belief.

Jimmy Wilson
JIMMY WILSON

Subscribed and sworn to before me
this 1st of April, 1976.

Barbara P. Schuyler
NOTARY PUBLIC

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES DECEMBER 9, 1977
BONDED THRU GENERAL INSURANCE UNDERWRITERS

EXHIBIT 79b

AFFIDAVIT

1. My name is BOBBY HENRY.
2. My mailing address is, P.O. Box 384, Marco Island, Florida.
3. I reside at Big Cypress Bend. A village on the Tiamiami Trail, about 25 miles S.E. of Naples, Florida. This village consists of 3 families, a total of 20 people.
4. I live on land that is our traditional territory that our God gave to us and our forfathers, and our future generations.
5. This land is the home of the Seminole people. We have no other title to the land than our right as a member of the Traditional Seminole Nation, and our aboriginal title to this land to live on as our God gave it to us.
6. There is land not occupied by anyone which is part of the Seminole lands, the rightful territory of the Traditional Seminole Nation.
7. These are lands on which we hunt, fish, and live on from time to time. On these same lands we cut Cypress trees and palmettos to build our homes. We cut cypress to make souveniors which we sell for our income. On these lands we can do this in peace and harmony without being hendered.
8. I am not an enrolled member of the " Seminole Tribe of Florida, inc.", organized under the Indian re-organization Act of 1934.
9. I did not receive prior notice of any meeting held on January 22, 1976 at Hollywood, Florida, concerning the claim before the Indian Claims Commission.
10. I have never authorized any person to bring a claim in my behalf or in the behalf of any member of the Traditional Seminole Nation before the Indian Claims Commission.
11. This is against my customs and belief to sell or give up my land that God gave to us and our children.
12. White people have their own type of laws and customs for themselves. We have OUR OWN laws, customs, and beliefs for us. We do not wish to do away with any of them.
13. I hereby authorize ROBERT T. COULTER to represent me and I join as a plaintiff in the suit known as GUY OACEOLA v. KUYKENDALL, civil case no. 76-0492, in the U.S. District Court for the District of Columbia.

EXHIBIT 79c

25-417 O - 78 - 29

14. I have read the complaint in that case and affirm that to the best of my knowledge and belief that it is true.

Bobby Henry
BOBBY HENRY

Subscribed and sworn to before me
this 2nd of April, 1976.

Pauline T. Sawyer
NOTARY PUBLIC

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES DECEMBER 9, 1977
BONDED THRU GENERAL INSURANCE UNDERWRITERS.

AFFIDAVIT

1. My name is O.B. WHITE OSCEOLA.
2. My mailing address is, 3164 Connecticut Avenue, Naples, Florida.
3. I am speaking for myself and my family.
4. My family lives 3 miles south of Naples, Florida, in an Indian village.
5. There are 5 families, 21 people.
6. I reside on land where my grandfather before me have lived.
7. I hunt, I fish, I live in peace on these lands.
8. From these lands I make my living. I cut cypress and palmettos. I can move about freely on this land with my children.
9. We hold high respect for many of the whitemans laws. They should respect our laws and ways. We want to remain free to our own laws and ways of life, still with respect for the whitemans way of life.
10. My Father, Cory Osceola, has spent much of his 83 years to get the government to acknowledge our right to our way of life. To live freely where we wanted and not be bothered by the white governments laws.
11. The older people use to respect the Indian and his way of life. They didnot try to tax us. Now the younger people have no respect for the Indians traditions and way of life.
12. The older ways and agreements should not be forgotten by the younger white generation. The new laws the younger people are trying to pass, pertaining to Indians, should not be based on the misconcepts of the Indian beliefs by the younger white generation.
13. We are traditional Seminole people. The true Indians never sell their Indian birthright to these lands.
14. This land is for the sustainment of our life and our childrens life. We do not believe in materialacquisition of property deeds.
15. I have never authorized any person to bring a claim in my behalf of any member of my family, Traditional Seminole people, members only of the "Traditional Seminole Nation", before the Indian Claims Commission.
16. We are not enrolled members of the "Seminole Tribe of Florida, inc.", organized under the Indian Reorganized Act of 1934.

EXHIBIT 79e

17. We did not receive any notice to a meeting in Hollywood, Florida, January 22, 1976, about the unauthorized claim before the Indian Claims Commission.
18. I have read the complaint in Civil Case no. 76-0492 and to the best of my knowledge and belief, I affirm that it is true.
19. I hereby authorize Robert T. Coulter to represent my family and I in the suit known as GUY OSCEOLA v. KUYKENDALL, Civil Case no. 76-0492, in the U.S. District Court for the District of Columbia.

O.B. WHITE OSCEOLA

Subscribed and sworn to me
this 1st day of April, 1976.

NOTARY PUBLIC

Notary Public, State of Florida at Large
My Commission Expires October 8, 1979

EXHIBIT 79f

AFFIDAVIT

1. My name is DOUGLAS OSCEOLA.
2. My mailing address is Rt. 7, Box584, Naples, Florida.
3. I reside at various villages along the Tiamiami Trail.
4. I am speaking on my behalf and many young people that feel the same as I, that speak little or no English.
5. We strongly object and oppose this so-called trading and selling of Indian land.
6. We hold all those envolved, Indian and white government people, in this 1976 dealings in the same class and low esteem as those people envolved in the corrupted dealings of the Jackson Administration and Indian people of the 1800's.
7. The same underhanded ways and means of disposing of Indian rights and lands by dealing with corrupted Indians through illegal and unauthorized ways and means, we strongly object to.
8. We oppose and object that the present day government is still dealing with opportunists, both Indian and white government officals, to futher only themselves.
9. Real Indian peoples rights are being tampered with by opportunist and illegal process of law, both Indian and the white governments.
10. We had no prior notice of any meeting in Hollywood, Florida, on January 22, 1976, pertaining to a claim before the Indian Claims Commission.
11. We have never authorized any person to bring a claim in my behalf, or the behalf of any member of the Traditional Seminole Nation before the Indian Claims Commission.
12. We are not enrolled members of the "Seminole Tribe of Florida, inc.", organized under the Indian Reorganization Act of 1934.
13. We hereby authorize ROBERT T. COULTER to represent us and we join as a plantiff in the suit known as GUY OSCEOLA v. KUYKENDALL, Civil case no. 76-0492, in the U.S. District Court for the District of Columbia.
14. I have read the complaint in that case, and to the best of my knowledge and belief, I affirm that it is true.

Subscribed and sworn to before me
this 5th day of April, 1976.

Notary Public, State of Florida at Large
My Commission Expires May 10, 1979
Bonded by American Fire & Casualty Co.

DOUGLAS OSCEOLA

EXHIBIT 79g

EXECUTIVE COUNCIL

HOWARD OSCEOLA
CO-CHAIRMAN
HOMER OSCEOLA
CO-CHAIRMAN
BILL OSCEOLA
JOHN OSCEOLA
DOUGLAS OSCEOLA
RAINEY JIM

Everglades
MICCOSUKEE TRIBE
of
Seminole Indians
(UNITED STATES RECOGNITION — JANUARY 27, 1938)

SECRETARY

Phone: frog City 2
Station 21

Star Route Box 37-1A
Ochopee, Florida 33943

March 21,1976

Indian Claims Commission
1730 K St. N.W.
Washington D.C. 20006

Claim #73

Mr. Commissioners:

We have read in the newspapers where all Indians in Florida are supposed to have held a meeting and approved a so-called $16,000,000 settlement. We also hea the BIA sent out notices of the meeting. This is not true. We don't know any Indians who received such a notice. We were never notified of any such meeting and do not approve of any so-called $16,000,000 settlement. And we are sending you the letter of recognition U.S. Indian Commissioner Glenn Emmons gave our Tribe agreeing that our council must approve any such settlement, and the letter U.S. Secretary of Interior Seaton signed himself approving Mr. Emmons agreement dated Jan.27,1958, on July 12,1960.

The lawyers who filed this so-called claim #73 25 years ago for $50,000,000 and the lawyers who made this so-called settlement for $16,000,000 are not our lawyers and never have been. The Indian called Howard Tommie, who says he speaks for all Indians in Florida does not speak for our tribe or tribal council and never has. He has never been on our council and has never been in our tribe. He is a Muskogee and has never had any authority to represent our tribe or make an so-called $16,000,000 settlements for our Miccosukee Nation or tribal council. For 25 years we have tried to tell you that the individual Indians who made the so-called claim #73, 25 years ago in the name of all the Indians in Florida, wer not then and never have been representatives of all the Indians of Florida or our Miccosukee Nation- but you were afraid to hear this truth and afraid to eve let us have a hearing-which everyone is supposed to have under your constitutio It was a fake money claim 25 years ago when it started, and it is a fake money claim today.

We cannot stop you from giving away U.S. money to whoever you want to. But we want to make it clear to you and the rest of the world before you try to tel everyone you are giving your money to all the Florida Indians, that our Tribe does not want your money and we have never asked for it. Our Miccosukee Seminol Nation has never made any claim for money in your Commission or any place else in the U.S. government.

For 25 years we have told you and the U.S. we want our land, not money.

And we know that the U.S. has made strong treaties, stronger than your Commission, where the U.S. must protect our people and our Florida lands for us forever. These strong treaties say you cannot let anyone trick us out of our lands and you cannot force us to sell it. Our land is not for sale.

We are sending you a copy of our letter to Pres.Ford, Feb.2,1976 and attorne general Levi, Feb.3,1976 and Mar.16,1976, and our letter to the U.S.Congress c/o Bella Abzug, Mar.16,1976.

Cert.# 129940 Ret.Rec.Req.
Copy Sent to Cong.Bella Abzug

The Executive Council

Howard Osceola Douglas M. Osc
Homer Osceola Bill McKinley Osceola

EXHIBIT 79h

AFFIDAVIT OF BOBBY CLAY

STATE OF FLORIDA

COUNTY OF COLLIER

I, Bobby Clay, being first duly sworn, deposes and say:

1. I am Bobby Clay, a member of the Seminole Florida Tribe of Indians, and am a member of a group of that tribe known as the " Seminoles Independents."

2. I have been advised that the Indian Claim Commission of the United States is meeting to accept testimony as to an alladged $16,000,000 settlement between the United States Government and the Seminole Indians.

3. Affiant states that the exchange of some 32 million acres of land in Florida seized from the Seminole Indians more than a hundred years ago was never discussed with the "Independent Seminoles" and any such settlement is not acceptable to me.

4. I do not want money. I want the open country like it has always been and used as I have known it during the forty years of my life.

5. Everything could be changed if I accepted that money. Under the laws of my people all Indians must support a contract before it is acceptable. It would require a unanimous approval for such a settlement to be accepted.

6. Such a proposed settlement is according to the white man's law and not the laws of the Seminole Indians.

EXHIBIT 79i

7. I am a member of the Seminole Indian Tribe and do not live on a United States Government Reservation. I was not asked to participate in the vote and have not seen any documents involved in the settlement or proposed settlement.

8. I will not accept any money and if I were forced to, it would be a violation of my property rights both under Indian Law and Federal Laws of the United States Government.

9. In the beginning when God created Earth and created us, the Indians, he gave us our way of life, our tradition, our culture and our customs and he told us not to sell land as long as we live from generation to generation.

10. I hereby request that my dissent to any settlement between the Seminole Indians and the United States Government be recorded with this Honorable Commission.

11. I, an " Independent Seminole" want to keep my way of life as God gave it to me. I heard that the "Reservation Indians" wantad to accept the money for the land. I want to state that as an Independent Seminole, I do not agree.

12. I do not want to live on a U.S. Government Reservation and I do not believe in the ownership of real estate.

13. I do not believe in voting or taking the majority of people as the will of God.

14. I as an "Independent Seminole" Indian, and do not believe in the selling of land and I believe that the exchange of land for money should be stopped completely.

s/ Bobby Clay
BOBBY CLAY

SWORN TO AND SUBSCRIBED before me this 29 day of March, 1976.

s/ Pauline T. Sawyer
NOTARY PUBLIC
My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES DECEMBER 3, 1977
BONDED THRU GENERAL INSURANCE UNDERWRITERS

EXHIBIT 79k

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

GUY OSCEOLA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 76-0492
	)	
JEROME K. KUYKENDALL, et al.,	)	
	)	
	)	
Defendants.	)	

DEFENDANTS' MEMORANDUM IN SUPPORT OF THEIR MOTION TO DISMISS

I. STATEMENT

A. History of the Proceedings Before the Indian Claims Commission.

The Indian Claims Commission proceeding was initiated by a group designated as the Seminole Indians of the State of Florida on August 14, 1950 (Docket No. 73). On July 23, 1951, a group designated as the Seminole Indians of Oklahoma filed a petition (Docket No. 151) which wholly overlapped the claim asserted in Docket No. 73. The two claims were consolidated for trial by order of the Commission on January 23, 1953. Each petitioner filed suit as a representative of the Seminole Indian Nation as it existed in Florida prior to 1823 and sought additional compensation for the acquisition of "Seminole" lands by the United States under the Treaties of September 18, 1823, 7 Stat. 224 and May 9, 1832, 7 Stat. 368.

EXHIBIT 80a

On September 17, 1954, a group of Indians purporting to act for themselves as individuals and for the General Council of the Miccosukee Seminole Nation of Florida filed a special appearance for the sole purpose of making a "motion to quash" the above-mentioned petitions. The grounds for the motion were (1) that the petitions presented claims to lands on which the Miccosukee Seminole Nation resides and (2) that the General Council of the Miccosukee Seminole Nation had not authorized anyone to bring such a claim on its behalf. The Seminole Nation of Florida moved the Commission to strike the motion from the record.

The Commission ordered the special appearance and motion to quash stricken from the record on April 8, 1955. That order was appealed to the Court of Claims which rendered its opinion in Billie v. The Seminole Indians of the State of Florida, 146 F.Supp. 459, 137 C.Cls. 161 (1956). In dismissing the appeal, the Court of Claims characterized the "motion to quash" as a motion by one who was not a party, and who did not wish to intervene to dismiss the petitions. The Court noted that although the appellants were not and did not wish to become parties to the Commission's proceedings, they claimed title to part of the land for which compensation was sought in those proceedings. The Court further noted that if the appellants' title to the land was paramount, it would not be affected by the decision of the Commission since the decision would not

purport to adjudicate the appellants' right or title to the land. Id. at 137 C.Cls. 165. The Court held that since the order appealed from was not a final order and did not finally determine some positive legal right of the appellants, the appeal had to be dismissed as not coming within the Court's jurisdiction to review acts of the Commission. Id. The United States Supreme Court denied the appellants' petition for certiorari, 355 U.S. 843 (1957).

In 1957 certain Seminoles in Florida organized themselves under the Indian Reorganization Act of 1934, 25 U.S.C. 476 and were substituted as petitioner in Docket No. 73.

On September 18, 1961, another group of Indians purporting to represent the "Executive Council of the Miccosukee Nation" filed another motion to dismiss the above-mentioned petitions. That motion was overruled by the Commission on the same day. 13 Ind. Cl. Comm. 326, 343 (1964). No appeal was taken from that ruling.

On January 11, 1962, the Secretary of the Interior approved a Constitution and Bylaws for the Miccosukee Indians which thereby became a federally recognized Indian tribe pursuant to the Indian Reorganization Act, 25 U.S.C. 476.

On May 8, 1964, the Commission issued an interlocutory order providing: (1) that until September 18, 1823, the Seminole Nation as then constituted possessed original Indian title to all of the present State of Florida; (2) that the United States

acquired the Seminole lands in Florida, outside a defined reservation, under the Treaty of September 18, 1823, 7 Stat. 224; (3) that the Seminole Nation had recognized title to the 1823 reservation until May 9, 1832; and (4) that the Seminole Nation of Oklahoma and the Seminole Indians of Florida, together comprised the Seminole Nation as it existed in Florida until 1823. 13 Ind. Cl. Comm. 326, 339-340, 367-368 (1964). The United States appealed this order to the Court of Claims. In United States v. The Seminole Indians of the State of Florida and the Seminole Nation of Oklahoma, 180 C.Cls. 375 (1967) the Court of Claims affirmed the findings of the Commission and remanded the case for appropriate proceedings. On page 378 of that opinion the Court said:

> The appellees in this action comprehend both groups of Seminoles -- those Indians who removed to Oklahoma and those Indians who remained in Florida -- each group having been recognized as a successor in interest to the Seminole Nation as it existed in Florida in 1823.

On January 26, 1968, the federally recognized Miccosukee Tribe of Indians of Florida moved for leave to intervene in the proceedings before the Commission. The memorandum in support of that motion recognized that attempts had been made to dismiss the petitions in 1954 and 1961. The memorandum disavowed those attempts stating that the 1954 attempt had been "ill-advised" and that the 1961 attempt had not been authorized by the Miccosukee Indians. (See Footnote 1 to Exhibit A attached to defendants' memorandum in opposition to plaintiff's motion for a temporary restraining order.)

In an opinion dated September 17, 1968, (a copy of which is attached as Exhibit B to defendants' memorandum in opposition to plaintiff's motion for a temporary restraining order) the Commission found that the Miccosukees had a common and undivided interest in Docket No. 73 and accepted as true the contention that the Miccosukees in the State of Florida were not enrolled with, part of, or associated with the petitioners in Docket No. 73 (the Seminole Indians of the State of Florida). The Commission pointed out, however, that this distinction was not an aid in determining their collective claim of yesteryear. The Commission framed the question as whether the Miccosukees were represented in the proceedings and concluded that they were. Therefore, the Commission concluded the petitioners in intervention did not meet the requirements for intervention and the motion was denied. 19 Ind. Cl. Comm. 440, 446 (1968). No appeal was taken of that decision.

In 1970, the Commission entered a final judgment for $12,262,780.63. 24 Ind. Cl. Comm. 1 (1970). Both sides appealed and the Court of Claims remanded the case to the Commission for more detailed findings of fact. Seminole Indians of the State of Florida and the Seminole Nation of Oklahoma v. United States, 455 F.2d 539, 197 C.Cls. 350 (1972).

Pursuant to negotiations and approval by all the parties, a joint motion for entry of final judgment was filed with the Commission on March 17, 1976, which would settle all claims for $16 million. A hearing on that motion was held on March 26, 1976.

B. The Plaintiff's Allegations.

(1) The Parties

The plaintiff, Guy Osceola, alleges that he is a "member of the Seminole Nation" who was born and resides in the traditional territory of the Seminole Nation, which is located in the State of Florida. (C. at 2). The plaintiff sues on behalf of himself and a class of Indians who, it is alleged, "have never been militarily defeated, have never signed a written treaty of peace, and have never ceded nor given over their right to freely live upon and utilize their aboriginal territory in what is now known as Florida." (C. at 2) The plaintiff is not a member of any federally recognized Indian tribe and he expressly disavows any connection with the petitioners in Docket Nos. 73 and 151 and the federally recognized Miccosukee Indian Tribe that attempted to intervene in those proceedings in 1968. The plaintiff does, apparently, purport to be the successor in interest to those Miccosukees who attempted to quash the petitions before the Commission in 1954 and 1961.

The defendants are the Chairman and Commissioners of the Indian Claims Commission (hereinafter "the Commission"). The Commission, pursuant to the Act of August 13, 1946, 25 U.S.C. 70-70(u) (hereinafter "the Indian Claims Commission Act" or "the Act") is presently adjudicating the claim of the Seminole Nation for additional compensation for the tribe's territory ceded to or appropriated by the United States.

(2) The Alleged Property Right

The plaintiff alleges that he and the members of his class are, by Seminole law and usage, "entitled to live in and utilize Seminole land and other property". (C. at 2) . Although the geographical confines of their property are not delineated, the nature of the alleged property right is more fully described on pages 1 and 2 of the plaintiff's reply memorandum in support of his motion for a temporary restraining order. There, the plaintiff cites the Handbook of Federal Indian Law at page 183 for the proposition that although title to Indian property is vested in the tribe, the individual Indian has a right of participation. This right of participation, then, is the right that the plaintiff alleges will be impaired by the Commission's proceedings. The plaintiff alleges that his right of participation arises out of the fact that his ancestors have never surrendered to, nor ceded their property rights to, the United States. (C. at 2). It is this allegation that distinguishes the plaintiff's claim from those of the petitioners in Docket Nos. 73 and 151, and the federally recognized Miccosukee Indian Tribe. Each of those groups alleges that, with the exception of certain reservation lands, all of the property rights of the Seminole Indian Nation as it existed in 1823 have been either ceded to or appropriated by the United States. Consequently, those groups seek compensation for the cessions or appropriations in accordance with the terms of the Indian Claims Commission Act.

(3) The Alleged Constitutional Cause of Action.

The plaintiff seeks to enjoin the Commission from entering a final judgment in Docket Nos. 73 and 151 on the grounds that the judgment will deprive the plaintiff and the members of his class of "their rights and their property without due process of law and will deny them the equal protection of the law in violation of the Fifth Amendment." He alleges that Section 70i of the Act is unconstitutional on its face because it delegates to the Secretary of the Interior the authority to determine, without appropriate standards, who may proceed before the Commission. He also alleges that the entire Act is unconstitutional as applied to the plaintiff and his class because it deprives them of their rights without notice or opportunity to be heard and without an opportunity to exclude themselves from the effects of a judgment of the Commission.

In addition, the plaintiff alleges that the practice of the Commission of refusing all forms of relief other than monetary compensation is a violation of the Fifth Amendment.

(4) The Alleged Nonconstitutional Cause of Action.

The plaintiff alleges that a judgment by the Commission will deprive him and his class of their property in violation of international law. This allegation is based upon the allegation that the United States entered into an oral treaty with the plaintiff's ancestors and that this treaty is binding and effective. (C. at 8).

The plaintiff also alleges that the Commission's practice of refusing all forms of relief other than monetary compensation is in violation of 25 U.S.C. 70(a), 70(1), and 70(r).

II. ARGUMENT

It is submitted that the complaint fails to state a claim upon which relief can be granted for the following reasons:

A. The property rights alleged by the plaintiff are not protected by the Fifth Amendment.

B. Any right the plaintiff may have in the subject property -- from whatever source derived -- will remain unaffected by the Commission's judgment award.

C. The plaintiff has never properly presented to the Commission his claim of a present interest in the subject property and that claim is now barred by 25 U.S.C. 70(k).

D. Even if the plaintiff had presented the Commission with a timely claim and had received an adverse ruling, this Court would not have jurisdiction to review that ruling.

E. This Court does not have jurisdiction to declare rights based upon aboriginal possession.

A. The property rights alleged by the plaintiff are not protected by the Fifth Amendment. The plaintiff's allegations concerning the nature and extent of his property interest are outlined above. In short, the plaintiff alleges that he owns an individual right of participation in his tribe's aboriginal territory in the State of Florida. Thus, the plaintiff alleges

that he has a right of participation on lands to which his tribe has "Indian title" as that phrase has been interpreted by the United States Supreme Court. See United States v. Santa Fe Pacific R. Co., 314 U.S. 339, 345 (1941) where the Court said:

> If it were established as a fact that the lands in question were, or were included in, the ancestral home of the Walapais in the sense that they constituted definable territory occupied exclusively by the Walapais (as distinguished from lands wandered over by many tribes), then the Walapais had 'Indian title . . .'

It is well settled, however, that Indian title based on aboriginal possession is subject to extinguishment by Congress, and that Congress power in that regard is supreme. As the Court said in United States v. Sante Fe Pacific R. Co., supra at 347:

> The manner, method and time of such extinguishment raise political, not justiciable issues. Buttz v. Northern Pacific Railroad, [119 U.S. 55 (1886)] supra, p. 66. As stated by Chief Justice Marshall in Johnson v. M'Intosh, [8 Wheat. 543 (1823)] supra, p. 586 "the exclusive right of the United States to extinguish" Indian title has never been doubted. And whether it be done by treaty, by the sword, by purchase, by the exercise of complete dominion adverse to the right of occupancy, or otherwise, its justness is not open to inquiry in the courts. Beecher v. Wetherby, 95 U.S. 517, 525 (1877).

There is, of course, an exception to the above rule where Congress, by treaty or other agreement, recognizes Indian title and declares that thereafter the Indians shall hold the lands permanently. Just compensation must be paid

pursuant to the Fifth Amendment for a subsequent taking of such land. Tee-Hit-Ton Indians v. United States, 348 U.S. 272, 277-278 (1955). This distinction is based on the principle that Indian occupation of land without congressional recognition creates no rights against taking or extinction by the United States which is protected by the Fifth Amendment or any other principle of law. Id. at 285. Once Congress has recognized Indian occupancy, however, that recognition creates a tribal right which is protected by the Fifth Amendment. See also, Shoshone Indians v. United States, 324 U.S. 335, 340 (1945).

The plaintiff has alleged no congressional action which would amount to a recognition of his ancestor's Indian title. In this regard, it should be remembered that the plaintiff expressly alleges that his ancestors were not signatories of the treaties of 1823 and 1832 (7 Stat. 224; 7 Stat. 368 respectively). Indeed, it is vital to plaintiff's claim that he so allege since those treaties expressly cede to the United States the land occupied by the Seminole Nation prior to 1823. Thus, if the plaintiff alleged that Congress had, by those treaties, recognized his ancestor's Indian title, he would at the same time be admitting that that Indian title had been ceded to the United States.

The plaintiff does allege, however, that his ancestor's Indian title was recognized in "an oral treaty of agreement"[1/]

1/ The U.S. Constitution, Article II, Section 2, sets forth the manner in which the United States enters into treaties. It does not include an "oral treaty or agreement."

between "the Seminole Nation" and representatives of the United States. He alleges that this "treaty" was entered into in the mid-nineteenth century and that it was renewed in 1936. (C. at 8) It should be remembered, however, that the power to recognize Indian title has been left exclusively to Congress. United States v. Sante Fe Pacific R. Co., supra, at 278-279. The plaintiff has alleged no act of Congress which accorded the plaintiff or his predecessor's legal rights in the subject land or which authorized any officer or agency of the United States to do so. We are aware of none.

It is submitted, therefore, that if the plaintiff's allegations are true, he has failed to state a claim upon which relief could be granted. The plaintiff and the members of his class have no right or interest which is protected by the Fifth Amendment or any other principle of law. Therefore, even if we accept the allegations concerning the effect of the Commission's judgment on the plaintiff's rights (a subject dealt with in the next section of this memorandum), that effect would be within Congress supreme power to extinguish Indian title.

B. Any right the plaintiff may have in the subject property -- from whatever source derived -- will be unaffected by the Commission's judgment award. In the preceding section, we demonstrated that the plaintiff has alleged no legally cognizable right or interest in property. We now submit that even if the plaintiff does have some present right or interest in property, that right or interest will be unaffected by an award in the proceedings before the Commission.

The plaintiff alleges that the Commission's judgment will operate to deprive him and the members of his class of their rights in certain property. (C. at 8) The allegation is explained on page 2 of the plaintiff's memorandum in support of his motion for a temporary restraining order where it is stated:

> A judgment entered by the Indian Claims Commission in this matter will be an absolute bar to any further assertion of rights to the land in question by any Seminoles, including plaintiff. 25 U.S.C. 70u.

Section 70u provides in pertinent part:

> (a) . . . The payment of any claim, after its determination in accordance with this chapter, shall be a full discharge of the United States of all claims and demands touching any of the matters involved in the controversy.
>
> (b) A final determination against a claimant made and reported in accordance with this chapter shall forever bar any further claim or demand against the United States arising out of the matter involved in the controversy. (Emphasis added)

It is submitted that the plaintiff's claim to a present interest in the subject property is not a claim or demand "touching any of the matters involved in the controversy."

The petitioners in Docket Nos. 73 and 151 brought their actions to recover additional compensation for lands ceded to or appropriated by the United States in 1823 and 1832.

The plaintiff's claim, on the other hand, is that he presently holds an interest in some unspecified portion of the lands for which the petitioners seek compensation. The crucial distinction here is between the plaintiff's claim of an individual right and the petitioner's claim of a tribal right.

The Court of Claims has recently reaffirmed this distinction in Western Shoshone Legal Defense and Education Association v. United States, _____ C.Cls. ____ (Slip Op. of February 18, 1976, a copy of which is attached as Exhbit C to the defendant's memorandum in opposition to the temporary restraining order) where it said:

> Plaintiffs make some feints against the constitutionality of Section 10's (25 U.S.C. 70i) reposing the privilege of exclusive representation in the organized entity . . . But it makes sense for Congress to have taken that position. A claim under the Claims Commission Act is not an aggregation of individual claims but a group claim on behalf of a tribe, band or other identifiable group. (Citations Omitted) The suing claimant represents that group interest and it is reasonable to say that at least prima facie the organized entity 'recognized by the Secretary of the Interior as having authority to represent such [claiming] tribe, band or group' should be the exclusive suing party. An Indian claim under the Act is unlike a class suit in that there is no necessity that the position of each individual member of the group be represented; it is only the group claim which need be put forward. (Slip Op. p. 14) [Emphasis added]

As is pointed out by the Court, this distinction also refutes the plaintiff's analogy to class actions. Since the Commission is adjudicating a tribal claim, no individual right of the plaintiff (or any other Indian) is being adjudicated and the requirements of a class action, where each member of the class has an interest that is being adjudicated, are not applicable.

This distinction also explains the position taken by the Court of Claims when the plaintiff's predecessor sought to quash the petitions in Docket Nos. 73 and 151. The Court said:

> If appellant's title to the land which is the subject matter of the suit is indeed paramount, its paramount title will not be affected by the decree of the Commission as to the rights of the original parties since it will not purport to adjudicate appellant's title or right to the land in question.

Billie v. The Seminole Indians of the State of Florida, 146 F.Supp. 459, 461, 137 C.Cls. 161, 165 (1956).

Thus, the Commission's judgment and award in Docket Nos. 73 and 151 will not and could not affect the plaintiff's claim to an individual interest in the subject land. As is developed more fully below, this claim has never been and cannot now be presented to the Commission and is not, therefore, involved in the proceedings before the Commission.

It is defendants' contention, therefore, that (a) the plaintiff has alleged no property interest protected by the Fifth Amendment or any other principle of law and (b) any right the plaintiff does have in the subject property will remain unaffected by the Commission's judgment and award. Therefore, the defendants are entitled to a dismissal of all of the plaintiff's claims that are based upon the allegations that either the Indian Claims Commission Act or the Commission will operate to unconstitutionally deprive the plaintiff of his rights.

C. The plaintiff has never properly presented to the Commission his claim of a present interest in the subject property and that claim is now barred by 25 U.S.C. 70(k). The plaintiff also alleges that the Commission's refusal to grant any relief other than monetary compensation is a violation of the Fifth Amendment and of 25 U.S.C. 70(a), 70(1), and 70(r). In addition to the reasons outlined in parts II A and B of this memorandum, it is submitted that these claims should be dismissed for an additional reason - neither the plaintiff nor his predecessors have ever presented their claim to the Commission within the time allowed by 25 U.S.C. 70(k).

We have already pointed out that Congress power to extinguish or recognize Indian title is supreme. (See pa : II A of this memorandum, supra.) Congress also has the exclusive power to consent to suits against the United States. United States v. Sherwood, 312 U.S. 584, 586 (1941). It was

exercising this latter power when it enacted the Indian Claims Commission Act. Otoe and Missouria Tribe of Indians v. United States, 131 F.Supp. 265, 271, 131 C.Cls. 593 (1955). Assuming arguendo that the consent contained in the Act would have allowed the Commission to declare or recognize Indian title to lands, the plaintiff or his predecessor would still have had to bring their claim before the Commission pursuant to the Act's provisions. Section 70(k) provides:

> The Commission shall receive claims for a period of five years after August 13, 1946, and no claim existing before such date but not presented within such period may thereafter be submitted to any court or administrative agency for consideration, nor will such claim thereafter be entertained by the Congress. [Emphasis added]

Thus, even if the plaintiff is correct in his contention that the Commission had the power to recognize and declare the plaintiff's alleged interest in the subject property, a contention denied by defendants, that claim had to be presented to the Commission no later than August 13, 1951. Any claim not presented by that date was lost, as Congress expressly provided that no court or agency could hear such a claim after that date.

The first time any claim to the subject property was presented to the Commission was on September 17, 1954, when the first group of Miccosukees filed a special appearance for the purpose of moving to quash the petitions in Docket Nos. 73 and 151. This was over three years past the time when any such claim expired by operation of Section 70k. Of course, when

Congress exercises its power to consent to suits against the United States, limitations and conditions upon this consent must be strictly observed and exceptions are not to be implied. Soriano v. United States, 352 U.S. 270, 276 (1957).

D. Even if the plaintiff had presented the Commission with a timely claim and had received an adverse ruling, this court would not have jurisdiction to review that ruling. When Congress exercised its political function of consenting to suits against, and recognizing possible liability in, the United States by enacting the Indian Claims Commission Act, it also provided the exclusive procedure for adjudicating claims brought pursuant to that Act. Section 70(s)(b) of the Act provides for review of the Commission's final determination in the Court of Claims. Section 70(s)(c) provides for review by the Supreme Court of determinations of law by the Court of Claims.

Therefore, even if the plaintiff or his predecessors had properly presented this claim to the Commission and had received an adverse determination on that claim, their only recourse would have been to appeal to the Court of Claims and ultimately petition for certiorari to the Supreme Court. (Indeed, the group who made the 1954 motion exhausted this procedure, supra at 3) This Court would not have had jurisdiction to review such a determination. The fact that the plaintiff did not properly present his claim cannot operate to enlarge this Court's jurisdiction.

It is submitted, therefore, that the plaintiff's challenge to the Commission's refusal to grant other than monetary relief should be dismissed because the plaintiff does not have standing to make that challenge and this Court does not have jurisdiction to hear it.

E. This Court does not have jurisdiction to declare rights based upon aboriginal possession. Finally, the plaintiff alleges that international law requires the United States to recognize his alleged rights. The short answer to this contention is that the plaintiff has not alleged and we are not aware of any act of Congress that authorizes this Court or any Court to adjudicate present claims to land based upon aboriginal possession. Therefore, this claim must also be dismissed.

III. CONCLUSION

For the foregoing reasons, it is respectfully submitted that the plaintiff has failed to state a claim upon which relief can be granted and that the complaint should be dismissed with prejudice.

Respectfully submitted,

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EXHIBIT 80s

APPENDIX B

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

GUY OSCEOLA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action
	)	No. 76-492
JEROME K. KUYKENDALL, et al.,	)	
	)	
Defendants,	)	
	)	

MEMORANDUM OPINION

In this action for declaratory and injunctive relief, plaintiff alleges that the Act creating the Indian Claims Commission, 25 U.S.C. §§ 70-70v, is unconstitutional on its face and as applied to plaintiff. The matter first came before the court on plaintiff's motion for a temporary restraining order, which was denied in an order of April 7, 1976.[1] Subsequently, a three-judge court was convened to hear the merits of plaintiff's claim, pursuant to 28 U.S.C. §2284. Now before this three-judge court is defendants' motion to dismiss. Also currently pending is plaintiff's motion for certification of a class pursuant to Rule 23 of the Federal Rules of Civil Procedure and Rule 1-13(b) of the local rules of court.

[1]The court's order denying the temporary restraining order was based on the failure of plaintiff to show that he and his class were in imminent danger of irreparable injury, as is required by *Virginia Petroleum Jobbers Ass'n* v. *FPC*, 259 F.2d 921 (D.C. Cir. 1958).

Plaintiff Guy Osceola is an Indian residing in the state of Florida on an unspecified tract of land which he terms part of the "territory of the Seminole Nation." He purports to represent a separate and distinct group of Seminoles known as the Everglades Miccosukee Tribe of Seminole Indians. The complaint alleges that plaintiff "is a direct descendant of those Seminole people, members of the Seminole Nation, who have never been militarily defeated, have never signed a written treaty of peace, and have never ceded nor given over their right to freely live upon and utilize their aboriginal terrritory in what is now known as Florida." The Seminoles whom plaintiff seeks to represent number from one to two hundred persons, many of them living in remote reaches of the Everglades and not speaking English.

Underlying plaintiff's claim is a rather complicated procedural history which begins in 1950, when the Indian Claims Commission received a petition on behalf of the "Seminole Indians of the State of Florida." The petition sought compensation for unfair dealing in the two treaties which resulted in the Indians' relinquishment of Florida and their eventual relocation on an Oklahoma reservation: (1) the 1823 Camp Moultrie Treaty under which the Indians relinquished "all claim or title which they may have to the whole territory of Florida" in return for the promise of a Florida reservation and further consideration totaling $152,500; and (2) the 1832 Treaty of Payne's Landing which relocated the Seminoles from the Florida reservation to the Indian Country in Oklahoma. In 1953 the petition, Docket No. 73 before the Indian Claims Commission, was consolidated with a petition for an overlapping claim by the Seminoles of Oklahoma, Docket No. 151.

The persons filing the 1950 petition claimed to be acting for the Seminole tribal organization, though at that time there was no such tribal organization recognized by the Secretary of the Interior. Plaintiff in the instant case alleges that those persons acted without authority from the class of Indians which plaintiff seeks to represent. Plaintiff differentiates his claim from that of the Seminoles who filed the 1950 petition by noting that they have requested only money relief, which is apparently the only sort of relief the Indian Claims Commission is empowered to grant. In contrast, plaintiff speaks for a group of

Indians now possessing "Seminole land" and desiring to remain in possession of that land.

Fearful that the proceedings before the Indian Claims Commission would somehow affect their interest in the land which they occupy, plaintiff and his predecessors in interest have embarked on an extended, if sporadic, campaign to keep the petitioners in Docket No. 73 from obtaining a judgment from the Commission. In 1954 a group calling itself the General Council of the Miccosukee Seminole Nation filed a "motion to quash" the 1950 petition. That motion was struck from the record in an order of April 8, 1955, by the Indian Claims Commission. On appeal from that action by the Commission, the Court of Claims dismissed the appeal on the ground that the order denying the motion was not a final order and therefore was not appealable. *Billie* v. *United States*, 146 F. Supp. 459, 137 Ct. Cl. 161 (1956), *cert. denied*, 355 U.S. 843 (1957). In dictum the Court of Claims made comments which appear relevant to the instant suit;

> It seems to be appellant's position that although it is not and does not wish to be a party to the suit, its title to part of the land which is the subject matter of the suit is paramount, and that a decree of the Indian Claims commission establishing the rights of the original parties to that subject matter (land) would work an injustice and irreparable injury on the appellant. If appellant's title to the land which is the subject matter of the suit is indeed paramount, his paramount title will not be affected by the decree of the Commission as to the rights of the original parties since it will not purport to adjudicate appellant's title or right to the land in question.

146 F. Supp. at 461. The same group that filed the motion to quash in 1954 also filed a motion to dismiss the pending petition in 1961; that motion was denied by the Indian Claims Commission on the day it was filed. Plaintiff associates himself and the group he seeks to represent with the group which filed the 1954 and 1961 motions.

On May 8, 1964, the Commission entered an interlocutory order finding that petitioners in Docket Nos. 73 and 151 had established "Indian title" to all of the present state of Florida with the exception of certain limited areas which had been disposed of by the Seminoles prior to 1823. That ruling was affirmed by the Court of Claims in *United States* v. *The Seminole Indians*, 180 Ct. Cl. 375

(1967). The Commission made a final award of $12, 262,780.63 on October 22, 1970. The United States appealed the award to the Court of Claims, and the Court of Claims remanded the case to the Commission for more specific findings and reasonings as to the value of the land involved. *Seminole Indians* v. *United States*, 455 F. 2d 539, 197 Ct. Cl. 350 (1972).

After negotiations and approval by all the parties, a joint motion for entry of a final judgment in the amount of $16, 000,000 was filed with the Commission on March 17, 1976. The Commission held a hearing on that motion March 26, 1976. Plaintiff contends that he and the members of his proposed class received no formal notice of the hearing and had no opportunity to be heard and that the hearing was held in violation of the Commission's own rules regarding the scheduling of such hearings. Thus the hearing is said to violate plaintiff's rights to due process of law. Plaintiff further alleges that his due process rights were infringed by inadequate notice concerning a meeting which was held January 22, 1976, at Hollywood, Florida, for the purpose of discussing the proposed settlement.[2]

As the petitoners' claim slowly made its way toward final judgment, yet another group of Seminoles appeared before the Commission seeking to be heard. In 1968 a group called the Miccosukee Tribe, federally recognized since 1962, filed a motion to intervene in the proceedings before the Commission. The motion was denied on the ground that the proposed intervenor was already adequately represented by the original petitioners; no appeal was taken from that denial. Plaintiff and his group are not members of the federally recognized Miccosukee organization, and they disavow that organization's attempt to share in any monetary settlement of the claims before the Commission. Similarly, the federally recognized Miccosukees disclaim any association with plaintiff and his predecessors in interest who have sought to halt the Commission's consideration of the Seminole land

[2]In its findings of fact concerning the compromise settlement of $16,000,000, issued April 27, 1976, the Indian Claims Commission found that the notice for the January 22, 1976, meeting had been adequate.

claim. In its 1968 motion to intervene in the Commission proceedings, the federally recognized Miccosukee Tribe referred to the 1954 motion to quash as "ill-advised" and to the 1961 motion to dismiss as filed "by a lawyer unauthorized to act on [the Miccosukees'] behalf."

Plaintiff's primary concern in this suit for declaratory and injunctive relief is that his property rights and those of the Indians he represents will be undermined by the adjudication before the Indian Claims Commission—an adjudication in which they have been denied effective participation. In an attempt to bar the entry of a final judgment by the Commission, plaintiff argues that the entire statutory scheme of the Indian Claims Commission Act, 25 U.S.C. §§70-70v, operates to deprive him and his proposed class of the due process of law guaranteed by the fifth amendment. The alleged constitutional violation springs from the Commission's adjudication of plaintiff's property rights without notice and opportunity to be heard and without opportunity to exclude himself from the effects of a judgment. More specifically, plaintiff contends that §70i of the Act is unconstitutional because it delegates to the Secretary of the Interior the authority to determine without appropriate standards, who may proceed as a tribal representative before the Indian Claims Commission. Plaintiff also alleges, as a secondary matter, that the Act deprives him and his proposed class of the equal protection of the law since it requires Indians to assume heavier burdens than other racial or ethnic groups in the assertion and protection of their property rights.

Stripped to its bare essentials, plaintiff's claim is that he and his group hold "Indian title" to the land on which they reside by virtue of their aboriginal possession of it—a possession which continues to this day. Plaintiff contends that this Indian title was not disturbed by the treaties of 1823 and 1832 because his ancestors were not allowed meaningful participation in those agreements and that, in fact, his ancestors' rights in the land were recognized by the United States in an oral treaty of 1842. Defendants' motion to dismiss is based primarily on the arguments that the property rights claimed by plaintiff are not protected by the fifth amendment because Congress has never recognized any Indian rights in the disputed land and that, in any event, any rights which plaintiff may have in

the subject territory will be unaffected by the award of the Indian Claims Commission which is sought to be enjoined by this suit.[3]

Resolution of this conflict requires examination by the court of the concept of original Indian title,[4] a legal doctrine dating from the opinion of Chief Justice Marshall in *Johnson* v. *M'Intosh*, 21 U.S. (8 Wheat.) 543 (1823). In that case the Supreme Court indicated that the sovereign held exclusive title to all aboriginal Indian lands, subject to a right of occupancy in the Indians still residing there. Thus the Indian title claimed by plaintiff cannot be a fee simple absolute as the use of the term "title" might imply; rather, if plaintiff in fact holds Indian title to the subject territory because of continued possession since aboriginal times, that Indian title conveys no more than a right to use and occupy the land at the will of the United States.

The relatively narrow view of Indian property rights embodied in *Johnson* v. *M'Intosh* was reaffirmed in *Tee-Hit-Ton Indians* v. *United States*, 348 U.S. 272 (1955), the most recent case in which the Court has fully considered the question of Indian title. The Tee-Hit-Tons, an Alaskan Indian tribe, argued that their rights under the fifth amendment were violated by the refusal of the United States to compensate them for a taking of timber from land allegedly owned by the tribe. Like plaintiff in this case, they contended that their "tribal predecessors have continually claimed, occupied and used the land from

[3]In their motion to dismiss, defendants have argued that this court lacks jurisdiction over plaintiff's claim and that plaintiff should take his case to the Court of Claims. Such an argument ignores the fact that plantiff seeks an injunction and a declaratory judgment, relief which the Court of Claims is not empowered to grant. *See United States* v. *King*, 395 U.S. 1 (1969). Plaintiff's claim is clearly one "arising under" the Constitution and laws of the United States, and this court thus has jurisdiction over it pursuant to 28 U.S.C. §1331.

[4]The law of Indian title prior to the decision of the Supreme Court in *Tee-Hit-Ton Indians* v. *United States*, 348 U.S. 272 (1955), is examined in Cohen, "Original Indian Title," 32 Minn. L. Rev. 28 (1947). *See also* "The Supreme Court, 1954 Term," 69 Harv. L. Rev. 119, 147-51 (1955); Note, "Systemic Discrimination in the Indian Claims Commission: The Burden of Proof in Redressing Historical Wrongs," 57 Iowa L. Rev. 1300, 1304-06 (1972); Comment, 26 Rutgers L. Rev. 909, 913-16 (1973).

time immemorial." *Id.* at 277. The government urged that the Indians had no compensable interest in the land because Congress had not recognized any property right in the Indians. The Supreme Court accepted the government's argument, holding that congressional recognition of Indian property rights "may be established in a variety of ways but there must be the definite intention by congressional action or authority to accord legal rights, not merely permissive occupation." *Id.* at 278-79.

With respect to the Tee-Hit Tons' claim of aboriginal title arising from the tribe's longstanding occupation of the territory in question, the Court said:

> It is well settled that in all the States of the Union the tribes who inhabited the lands of the States held claim to such lands after the coming of the white man, under what is sometimes termed original Indian title or permission from the whites to occupy. That description means mere possession not specifically recognized as ownership by Congress. After conquest they were permitted to occupy portions of territory over which they had previously exercised "sovereignty", as we use that term. This is not a property right but amounts to a right of occupancy which the sovereign grants and protects against intrusion by third parties but which right of occupancy may be terminated and such lands fully disposed of by the sovereign itself without any legally enforceable obligation to compensate the Indians.

Id. at 279.

After a review of the prior cases which were considered relevant to the facts presented in *Tee-Hit-Ton*, the Court added:

> No case in this Court has ever held that taking of Indian title or use by Congress required compensation. The American people have compassion for the descendants of those Indians who were deprived of their homes and hunting grounds by the drive of civilization. They seek to have the Indians share the benefits of our society as citizens of this Nation. Generous provision has been willingly made to allow tribes to recover for wrongs, as a matter of grace, not because of legal liability.

Id. at 281-82. The court concluded that the taking by the government was not compensable "because Indian occupation of land without government recognition of ownership creates no rights against taking or extinction by the

United States protected by the Fifth Amendment or any other principle of law." *Id.* at 285.

Clearly emerging from the holding of the Court in *Tee-Hit-Ton* are several principles which have a direct bearing upon this case: (1) fee title to the Indians' aboriginal land is vested in the United States even if an Indian tribe can claim that it originally held Indian title to the land; (2) any right which Indians of today have in such former Indian territory is a mere right of possession or occupancy, subject at any time to taking or extinction by Congress; and (3) recovery for past wrongs to the Indians who were deprived of their lands is a matter of legislative grace rather than legal liability on the part of the United States. Harsh as these rules may seem, they remain the law applicable to plaintiff's claim. In a much more recent decision than *Tee-Hit-Ton*, the Court noted in dictum the salient aspects of the law of Indian title:

> It very early became accepted doctrine in this Court that although fee title to the lands occupied by Indians when the colonists arrived became vested in the sovereign—first the discovering European nation and later the original States and the United States—a right of occupancy in the Indian tribes was nevertheless recognized. That right, sometimes called Indian title and good against all but the sovereign, could be terminated only by sovereign act. . . Indian title, recognized to be only a right of occupancy, was extinguishable only by the United States.

Oneida Indian Nation v. *County of Oneida*, 414 U.S. 661, 667 (1974).

Assuming *arguendo* that plaintiff could demonstrate that he and his group hold Indian title to the land in question, the most which that Indian title could give him, under numerous decisions of the Supreme Court,[5] is a right to possession and occupancy. Regardless of the judgment entered in Docket Nos. 73 and 151 by the Indian Claims Commission, plaintiff's right to possess the land may be terminated at any time by the United States. The decision by the Commission represents its finding that the Seminoles held Indian title to most of the state of Florida

[5]See cases discussed in Cohen, "Original Indian Title," 32 Minn. L. Rev. 28 (1947).

prior to the 1823 treaty and that the compensation which they received for ceding that land to the United States was inadequate. The judgment in Docket Nos. 73 and 151 is a means of providing additional compensation to the Seminoles' descendants—compensation granted by Congress as an act of legislative grace. Entry of the judgment will create no new property rights in the United States, for the United States already holds fee simple title to the land, subject only to any rights of possession which plaintiff and others like him may have.[6] Similarly, plaintiff's right of possession and occupancy will not be affected by the judgment.

Since plaintiff's claim of Indian title gives him nothing more than a mere right of possession of the land, it is difficult to see how plaintiff could assert a cause of action against the Indian Claims Commission or any other agent of the United States until that possession is disturbed. Plaintiff's complaint clearly indicates that he and his group remain in possession of the land to which they claim Indian title. Furthermore, counsel for defendants represented to the court during oral argument that the United States contemplated no action of any sort against plaintiff or his class.[7] Under such circumstances, the court must conclude that plaintiff's complaint is premature. Plaintiff's possessory rights, which are the only rights available to him under a claim of Indian title, are not presently threatened, and they may never be. As one commentator has observed "[j]udicial machinery should

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[6]The *Tee-Hit-Ton* Court held that ownership vested in the United States by virtue of its conquest of the Indians:

> This position of the Indian has long been rationalized by the legal theory that discovery and conquest gave the conquerors sovereignty over and ownership of the lands thus obtained.

348 U.S. at 279. Defendants in this case argue that the United States holds title based on the Seminoles' cession of the territory under the treaties of 1923 and 1932. Under either theory, it is clear that fee simple title to the land in question is now in the United States.

[7]This representation was made during oral argument on plaintiff's motion for a temporary restraining order in April 1976. Ostensibly nothing has happended since that time to change the government's position.

EXHIBIT 81e

A-16

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be conserved for problems which are real and present or imminent, not squandered on problems which are abstract or hypothetical or remote." K. Davis, *Administrative Law Text* 396 (3d ed. 1972). *See International Longshoremen's and Warehousemen's Union* v. *Boyd*, 347 U.S. 222 (1954).

If in the future plaintiff's possesory interest is challenged, his claim of Indian title may become ripe for judicial consideration. At that time he may be able to establish that he and the group he represents hold Indian title to their land by showing "actual, exclusive, and continuous use and occupancy 'for a long time' " prior to the challenge. *Sac & Fox Tribe* v. *United States*,315 F. 2d 896, 903, 161 Ct. Cl. 189, 201-02, *cert. denied*, 375 U.S. 921 (1963). If Indian title is proven, then the right of occupancy can be extinguished only by "plain and unambiguous" act of Congress. *United States* v. *Santa Fe Pac. R. Co.*, 314 U.S. 339, 346-47 (1941). When the right of occupancy is so extinguished, no compensation is available to the Indians unless their Indian title has been "recognized."[8] *Tee-Hit-Ton Indians* v. *United States*, *supra*, 348 U.S. at 281-85. And such recognition, like extinguishment of Indian title, must be by unequivocal act of Congress:

> Congress, acting through a treaty or statute, must be the source of such recognition, and it must grant legal rights of permanent occupancy within a sufficiently defined territory. Mere executive "recognition" is insufficient, as is a simple acknowledgment that Indians physically lived in a certain region. There must be an intention to accord or recognize a *legal* interest in the land.

Sac & Fox Tribe v. *United States*, *supra*, 315 F. 2d at 897.

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[8]Plaintiff relies upon *Mitchel* v. *United States*, 9 Pet. 711 (1835), for the proposition that the Seminoles held recognized, treaty-guaranteed title to their Florida land. Defendants content that *Mitchel* is inapposite to the instant case because it dealt with the narrow issue of title to a specific tract of land. The court need not consider at this time the impact of the *Mitchel* holding upon plantiff's rights since any claim which plaintiff might have is not yet ripe. In light of *Tee-Hit-Ton Indians* v. *United States*, 348 U.S. 272 (1955), and other cases subsequent to *Mitchel*, it appears that the question of whethr plaintiff's right of occupancy is recognized by treaty would arise only upon extinguishment of that right by the United States and then only in order to determine whether plaintiff was entitled to compensation.

Eventually plaintiff may be required to prove certain of the allegations of his complaint in order to protect his rights against interference by the United States or third parties.[9] For the present, however, the most he claims is recognized Indian title and the most to which he would be entitled under that claim is a right of possession and perhaps of compensation should that possession be disturbed in the future.[10] It is undisputed that plaintiff is currently in possession of the land and that the United States has no impending plans to contest that possession. Thus plaintiff's complaint sets forth no concrete or current controversy and must be dismissed for failure to state a claim upon which relief can be granted.

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[9]If plaintiff's claim of recognized Indian title should become ripe at some future time, the appropriate forum in which to assert that claim would be the Court of Claims rather than federal district court. The Court of Claims has jurisdiction over such actions by the terms of 28 U.S.C. §1505, which provides:

> The Court of Claims shall have jurisdiction of any claim against the United States accruing after August 13, 1946, in favor of any tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States or Alaska whenever such claim is one arising under the Constitution, laws or treaties of the United States, or Executive orders of the President, or is one which otherwise would be cognizable in the Court of Claims if the claimant were not an Indian tribe, band or group.

[10]Plaintiff attempts to avoid the holding of the *Tee-Hit-Ton* case by noting that there the Indians' rights were extinguished by Congress, as it clearly has the power to do, whereas here it is the members of the Indian Claims Commission who threaten an "unconstitutional taking or interference" with Indian land. Plaintiff's Memorandum in Opposition to Motion to Dismiss at 12. The court, however, does not believe that there has been an interference with any right possessed by plaintiff. In any event, the comments of the *Tee-Hit-Ton* Court concerning the nature of Indian title remain unaffected by the distinction which plaintiff seeks to draw between his case and that of the Tee-Hit-Tons.

In the alternative, plaintiff suggests that the court consider the *Tee-Hit-Ton* decision to have been overruled by subsequent cases such as *Goldberg* v. *Kelly*, 397 U.S. 337 (1969), which establish rights of procedural due process under the fifth amendment. Those cases are not relevant to the issues raised in *Tee-Hit-Ton*, and the continuing validity of the *Tee-Hit-Ton* view of Indian title is clearly suggested by the Court's remarks in *Oneida Indian Nation* v. *County of Oneida*, 414 U.S. 661, 667 (1974).

An appropriate order accompanies this memorandum opinion.

/s/ Malcolm R. Wilkey
UNITED STATES CIRCUIT JUDGE

/s/ Joseph A. Waddy
UNITED STATES DISTRICT JUDGE

/s/ Thomas A. Flannery
UNITED STATES DISTRICT JUDGE

EXHIBIT 81f

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1976

No. _____

GUY OSCEOLA,

Appellant,

v.

JEROME K. KUYKENDALL, *et al.*,

Appellees,

ON APPEAL FROM THE DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

JURISDICTIONAL STATEMENT

Appellant appeals from the order of the United States District Court for the District of Columbia, entered on March 11, 1977, dismissing this action for failure to state a claim upon which relief can be granted. The Appellees in this matter are the Commissioners of the Indian Claims Commission, Jerome K. Kuykendall, Brantley Blue, Margaret H. Pierce, Richard W. Yarborough, and John T.

Vance. This Statement is submitted to show that the Supreme Court of the United States has jurisdiction of this appeal and that a substantial question is presented.

OPINION BELOW

The opinion of the District Court for the District of Columbia is not reported. A copy of the opinion is attached hereto as Appendix B.

JURISDICTION

This suit was brought under 28 U.S.C. § 1331 against the Commissioners of the Indian Claims Commission, seeking, among other forms of relief, a declaration that the Indian Claims Commission statute, 25 U.S.C. §§ 70-70v is unconstitutional and seeking an injunction against its operation pursuant to 28 U.S.C. § 2282. The order of the three-judge District Court was entered on March 11, 1977, and notice of appeal was filed in that court on May 4, 1977. The jurisdiction of the Supreme Court to review this decision by direct appeal is conferred by 28 U.S.C. § 1253.

QUESTION PRESENTED

May Indian persons presently living on and claiming a legal interest in their ancestral lands challenge, by a suit for declaratory and injunctive relief, a final judgment of the Indian Claims Commission which adjudicates that all Indian rights to the said lands were extinguished by the United States, where the judgment and procedures of the Commission are challenged as violating the United States Constitution and laws and the law of nations?

STATUTES INVOLVED

The relevant sections of the Indian Claims Commission statute, 25 U.S.C. §§ 70-70v (1970 & Supp. V 1975), *as amended by* Act of Oct. 8, 1976, Pub. L. No. 94-465, are set forth in Appendix A hereto.

STATEMENT

Appellant, Guy Osceola, is a member of a substantial group of Seminole people whose ancestors remained in Florida pursuant to the agreement with General Worth in 1842 which ended the Seminole wars. The group of which Osceola is a part is a portion of the Seminole Nation which has never been militarily defeated and which has never ceded nor given up its traditional lands in Florida. These Seminole people, numbering 200 or more, continue to assert and claim the absolute right and title as members of the Seminole Nation to their traditional Seminole lands. Many of these Seminole people live in villages on lands which they hold in common simply and solely as members of the Seminole Nation.

On August 14, 1950, several individual Seminoles claiming to represent the "tribal organization" of the Seminoles filed a petition before the Indian Claims Commission seeking money damages for the alleged taking of all the Seminole lands in Florida without adequate compensation. There was not at that time any federally recognized "tribal organization" of the Seminoles, and the individual petitioners had no authority to file the claim from the group represented by Osceola. In 1953, this claim, known as Docket No. 73, was consolidated with an overlapping claim by certain Seminoles in Oklahoma, known as Docket No. 151.

In order to protect their homes and their rights to their other lands, Osceola's predecessors by motion sought to oppose the proceedings before the Commission, asserting that they did not wish to exchange their land rights for money and that the claimants were acting without authority. That motion was stricken from the record without a hearing and without opinion by Order of the Commission on April 8, 1955. On appeal, the Court of Claims dismissed the appeal on the ground that the Commission's action was not a final order and thus not appealable. *Billie* v. *United States*, 146 F. Supp. 459, 137 Ct. Cl. 161 (1956), *cert. denied*, 355 U.S. 843 (1957).

Again in 1961, the same group moved to oppose the

proceedings before the Commission. The motion was denied without a hearing on the day it was filed. At no time has Osceola or his predecessors ever been accorded an opportunity to be heard in opposition to the claim before the Commission.

On May 8, 1964, the Commission entered an interlocutory order finding that the Seminoles held "Indian title" to all the present State of Florida except for certain lands disposed of before 1823. That order was affirmed by the Court of Claims. *United States v. Seminole Indians*, 180 Ct. Cl. 375 (1967).

At no time did the petitioners before the Commission or the United States assert or litigate the issue whether the remaining Seminoles retained present rights to their lands in Florida. The petitioners based their claim upon the erroneous statement in their petition that all of the Seminole lands had been taken by the United States. The United States never contested this allegation.

On October 22, 1970, the Commission made a final award of $12,262,780.63. On appeal, the Court of Claims remanded the case for more definite findings as to the value of the land. *Seminole Indians v. United States*, 455 F. 2d 539, 197 Ct. Cl. 350 (1972). Finally, a joint motion and stipulation for entry of final judgment in the amount of $16,000,000 were filed on March 17, 1976. The joint motion stipulated that the judgment "shall finally dispose of all rights, claims or demands which plaintiffs asserted or could have asserted with respect to the subject matter of Docket Nos. 73 and 151." On April 27, 1976, the Commission entered its final judgment and award in accordance with the compromise settlement. Action to pay the award is now pending.

On March 26, 1976, Appellant brought this action against the Indian Claims Commissioners in the United States District Court for the District of Columbia. Jurisdiction was invoked uner 28 U.S.C. § 1331 and 28 U.S.C. §§ 2201, 2202. Appellent brought this action in his own behalf and in behalf of the class composed of "those Seminole people who by Seminole law and usage are

entitled to live on and utilize Seminole land and other property and who do not wish to surrender such rights in return for monetary damages or compensation and who have not actually authorized nor consented to the presentation of a claim to the Indian Claims Commission." The complaint sought, among other forms of relief, an injunction against the entry of judgment by the Commission and a declaration that the Indian Claims Commission statute, 25 U.S.C. §§ 70-70v, is unconstitutional on its face and as applied to Appellant and his class because, among other reasons, it deprives them of their property without due process of law.

On April 7, 1976, the District Court granted the application for a three-judge court as then required by 28 U.S.C. § 2282, and denied Appellant's application for a temporary restraining order. On March 11, 1977, the three-judge court granted defendants' motion to dismiss this action for failure to state a claim upon which relief can be granted. In its memorandum opinion, the court found that it had subject matter jurisdiction. The court reasoned that the plaintiff and his class have only bare possession at the sufferance of the United States, that their physical possession was not presently being disturbed and that therefore they were not entitled to any relief. No evidentiary hearing was held at any stage of the proceedings.

THE QUESTION IS SUBSTANTIAL

The question presented is whether the Appellant and his class of Seminole people may maintain a suit for injunctive and declaratory relief against a federal agency which has adjudicated that the Seminoles have no further rights to the lands they claim, and in part possess, without complying with minimum standards of due process. The lower court answered this question in the negative on the ground that Appellant and his class have only a bare possession at sufferance and their possession is not now being disturbed.

The court below has erred in three principal respects. As will be more fully discussed below, the court erred in

determining that the decision of the Indian Claims Commission does not affect the rights of the Appellant and his class, for the Commission did in fact adjudicate that all Seminole rights to the lands in question were extinguished. Secondly, the decision below is contrary to this Court's decision in *Abbott Laboratories v. Gardner*, 387 U.S. 136 (1967), in which final agency action was found ripe for review even in advance of any enforcement or threat of enforcement. Third, the theory of Indian land title relied upon by the lower court utterly denies constitutional and legal protection to Indian persons with respect to their native lands. The theory is without legal or historical foundation and ought to be expressly rejected in light of this Court's decision in *Delaware Tribal Business Committee v. Weeks*, 97 S. Ct. 911 (1977).

The issues raised by this appeal are of national importance because the rulings of the Indian Claims Commission have unlawfully affected the title to and interests in million of acres of land claimed by Indian governments and Indian people. Numerous Indian governments and Indian groups are now attempting to challenge the procedures of the Indian Claims Commission which deny effective participation to interested parties and result in the loss of Indian rights to their lands. A case similar to this, challenging the constitutionality and lawfulness of the Indian Claims Commission's actions, is now pending before the District Court for the District of Columbia. *Six Nations Confederacy v. Andrus, et al.*, No. 77-0515 (D.D.C., filed March 22, 1977). Recently a group of Western Shoshone people claiming present rights to certain lands were denied the right to intervene in an Indian Claims Commission proceeding which purported to adjudicate that these lands had been taken by the United States. *Western Shoshone Legal Defense and Education Association v. United States*, 531 F. 2d 495 (Ct. Cl., 1976), *cert. denied*, 97 S. Ct. 236 (1976). Similar complaints that their lands are being unlawfully disposed of by the Indian Claims Commission are being made publically by the Sioux people in connection with the Black Hills claim (Docket No. 74-B) and by the traditional Hopi elders in connection with a claim prosecuted without their authority or consent (Docket No. 196).

The issues raised by this case are of even greater significance because of their impact on the much publicized land claims by various Indian governments in Maine, Massachusetts, Rhode Island and elsewhere. The theory of Indian land title espoused by the lower court could ultimately determine those claims because, as stated in the opinion below, that theory holds that Congress may extinguish aboriginal Indian land rights without any constitutional limitation.

1. The judgment and award of the Indian Claims Commission does affect the right of the Appellant and his class, because it constitutes an adjucication that their rights to their lands, including their homes and villages, have been extinguished by the United States. In the complaint in this action, Appellant alleged and should have been permitted to prove that he and his class hold a legally protected right and title to their lands as members of the Seminole Nation, not a mere possession at sufferance. The complaint alleged that the Indian Claims Commission was about to deprive the class of its land rights by adjudicating that those rights had been extinguished. The Commission has now done that by entering its final judgment and award. As described in the Statement above, Appellant and his predecessors have never been permitted to be heard or to exclude themselves from the class which the claimants before the Commission purported to represent. The Appellant argued in the court below that the procedures of the Indian Claims Commission are thus in violation of the Constitution because they do not meet the requirements of due process as established by this Court in *Hansberry v. Lee*, 311 U.S. 32 (1940) and *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156 (1974), with respect to class actions where absent parties may be bound by the judgment.

The complaint also alleged that the Indian Claims Commission statute, 25 U.S.C. §§ 70-70v, is unconstitutional on its face and as applied because it denies parties whose rights and property will be affected an opportunity to protect their interests, because the statute delegates unconstitutional authority to the Secretary of the Interior to determine who may appear before the Commission, and

because of other constitutional defects. The complaint also alleged that the Commission had violated the statute in several respects and that the proceedings before the Commission were in violation of the law of nations. The constitutional issues raised by the complaint were found to be sufficiently substantial to warrant convening a three-judge court to hear the case.

The court below did not reach the constitutional issues, but decided the case on a ground not raised or argued below. Contrary to the allegations of the complaint and without any proof, the court stated that the Appellant and his class held no legally protectable right as such but only bare possession.

Regardless of what interest Indian people have in their ancestral lands, it is that interest which the Indian Claims Commission found or assumed to have been extinguished. At this point, it matters not whether that right is a right of absolute title or some lesser right. Whatever the nature of the right, the Commission's judgment and award is for the assumed taking and extinguishment of that interest by the United States.

Appellant and his class alleged in the complaint not merely that they are in fact in possession and that they do in fact utilize the lands, but that they have a legal right to do so protected by the United States Constitution and laws as well as the law of nations. The Commission has taken final action adjudicating that that legal right has been extinguished, without permitting the Appellant and his class an opportunity to defend their right. It is to protect that right that this action was filed.

The final determinations of the Indian Claims Commission by statute have *res judicata* and collateral estoppel effect. Section 70u of the statute provides in part:

> The payment of any claim, after its determination in accordance with this chapter, shall be a full discharge of the United States of all claims and demands touching any of the matters involved in the controversy.

25 U.S.C. § 70u. Furthermore, the terms of the Joint

Motion for entry of final judgment, which were expressly accepted by the Commission in its Final Award of April 27, 1976, included the following:

> Such final judgment shall finally dispose of all rights, claims or demands which plaintiffs asserted or could have asserted with respect to the subject matter of Docket Nos. 73 and 151, consolidated. The entry of final judgment of the Indian Claims Commission pursuant to this motion and the stipulation filed herewith shall constitute a final determination in these cases, from which all parties waive any and all rights to appeal or otherwise seek review thereof.

Thus, the Commission's judgment and award purports to finally dispose of the land rights of Appellant and his class as well as all other Seminoles. *See*, Findings of Fact on Compromise Settlement and Final Award, 38 Ind. Cl. Comm. 62 (Apr. 27, 1976).

One Federal District Court has recently decided that the determinations of the Indian Claims Commission as to extinguishment of Indian title have both collateral estoppel and *res judicata* effect. In *United States v. Dann.*, No. R-74-60 BRT, (D. Nev., Order and Opinion Jan. 4, 1977) (reprinted here as Appendix C) the District Court of Nevada decided that two Western Shoshone Indians who had for years claimed and utilized a portion of their native lands could not contest the determination of the Indian Claims Commission that the Western Shoshone rights to that land had been extinguished. That case arose out of a controversy similar in all relevant respects to this one, where one group of Western Shoshones, over the protest of others, pressed a claim before the Commission for the supposed taking of their lands. In an action by the United States for trespass, the District Court concluded that the defendants, who were part of the group which had attempted to intervene in and oppose the proceedings before the Commission, were barred from asserting rights to the land because the determination of the Commission was deemed to have *res judicata* and collateral estoppel effect as to the question of title, even though the Commission's action was not final.

Therefore, the suggestion of the three-judge court in this case that the Appellant and his class can assert and defend their property rights in some later action is in conflict with *United States v. Dann, supra*, and is probably erroneous. If, as the District Court for Nevada concluded, the issue of title will be *res judicata* or subject to collateral estoppel in any future action, then this controversy must be ripe for determination now. After more than 20 years of legal effort, Appellant and his class have never been permitted a single evidentiary hearing, and this appeal is the only possibility for review of the District Court's decision in this case. It is therefore of particular importance that full consideration of this appeal be granted so that the conflicting opinions by the District Courts may be reconciled.

2. The decision of the District Court below is in conflict with the decision of this Court in *Abbott Laboratories v. Gardner*, 387 U.S. 136 (1967). In *Abbott*, this Court enunciated the standards for determining when final agency action is ripe for judicial review. The court below, acting without the benefit of briefs or argument on this issue, did not discuss in its opinion the impact of this Court's decision in *Abbott*.

In *Abbott Laboratories v. Gardner, supra*, the Commissioner of Food and Drugs, pursuant to the Federal Food, Drug and Cosmetics Act, issued regulations requiring that labels and advertisements for prescription drugs which bear the proprietary names for the drugs or ingredients also carry the corresponding "established name" every time the proprietary or trade name is used. Petitioners challenged the regulations prior to enforcement or any threat of enforcement on the ground that the Commissioner had exceeded his statutory authority in issuing the regulations. This Court held that the issue was ripe for judicial determination and that pre-enforcement review of the action was appropriate.

Where judicial review is not otherwise precluded by law, the considerations established by the Court for determining ripeness in the context of pre-enforcement review are (1) the fitness of the issue for judicial determination, and (2) the hardship to the parties if

review is withheld. *Id.* at 149. In evaluating fitness for judicial determination, the factors to be considered are (a) whether the issue tendered is a purely legal one, and (b) whether further administrative proceedings are contemplated or whether the agency action is final. *Id.* at 149. In evaluating hardship to the parties, a court must consider whether the impact of the agency action is sufficiently direct and immediate to render judicial review appropriate. *Id.* at 152.

Applying these considerations to this case, it is apparent that the case is ripe for judicial determination. The issues raised by the case are legal and constitutional issues which are peculiarly appropriate for federal court determination. The issues raised are whether the Commission's action and particularly the Commission's procedures are in violation of the Constitution and laws of the United States and the law of nations. In this case, there is no further agency action possible. The Commission's decision is absolutely final and has been duly reported to Congress pursuant to statute. 25 U.S.C. §70t. There is no possible method of review available other than an action such as this. This controversy is no longer a merely abstract dispute, and there is no possible agency action which could lessen the harm created by the Commission's judgment. Thus, this case is entirely fit for judicial determination.

Secondly, there will be great hardship to the Appellant and his class if judicial review is not accorded at this time. A federal agency has made a final adjudication that these Seminole people have no right to the homes and villages where they live or to the lands and waters where they hunt and make their living. Unless review is permitted now, these people, who are uniformly poor and many of whom speak no English, must live with the uncertainty and fear that the United States or some person claiming under the United States will evict them from their homes. As a practical matter, this group of Seminole people will be in a very poor position to defend their legal rights, and according to the decision in *United States v. Dann, supra*, (reprinted as Appendix C hereto), they will be barred from litigating the question of title at any later time. The

fact that counsel for the Appellees here has claimed that no action is contemplated to evict the Seminoles is of no legal significance. Thus, the harm and the hardship to Appellant and his class is immediate and direct, and equitable relief is appropriate. *See also, Dunlop v. Bachowski*, 421 U.S. 560 (1975).

3. The theory of Indian land title relied upon by the lower court is without legal or historical foundation, is contrary to the Constitution and ought to be rejected in light of this Court's decision in *Delaware Tribal Business Committee v. Weeks*, 97 S. Ct. 911 (1977). As discussed above, this case is ripe for determination no matter what theory of Indian land title is applied, but the decision below should be reversed as well for the separate and distinct reason that the court below relied upon an erroneous theory of Indian land rights. The opinion below states a theory of Indian land rights which concludes that Indian persons hold no legal interest whatever in their native lands, even when, as here, they are formally recognized by United States treaties, other than bare possession at the will of the United States and a right to compensation when recognized lands are taken. The court below believed that this theory was supported by this Court's opinion in *Tee-Hit-Ton Indians v. United States*, 348 U.S. 272 (1955).

The decision of the court below illustrates the confusion and uncertainty that surround the question of Indian land title under United States law and further demonstrates how inappropriate reliance upon this Court's decision in *Tee-Hit-Ton Indians v. United States, supra*, results in a complete denial of constitutional protection for Indian lands. Whatever the merits of the holding in *Tee-Hit-Ton*, which was decided during a period of national policy to "terminate" the Indian tribes (*See*, American Indian Policy Review Commission, Task Force Ten, *Report on Terminated and Non-Federally Recognized Indians*, 1627-1649 (1976)), it does not support the decision below, and to the extent that *Tee-Hit-Ton* denies constitutional protection to Indian lands its reasoning ought to be rejected as unsound.

EXHIBIT 82g

The *Tee-Hit-Ton* case, which is principally relied on by the court below, was a claim for compensation for the taking by the United States of timber from lands allegedly belonging to the Tee-Hit-Ton clan. The timber had been taken and sold by the Secretary of Agriculture pursuant to a Joint Resolution of Congress (Aug. 8, 1947, 61 Stat. 920). The land from which the timber was taken had been made part of the Tongass National Forest. The petitioners claimed that the taking of timber was compensable, but apparently did not assert that the taking was unlawful, lacking in due process, or otherwise unconstitutional.

The Court found that the Tee-Hit-Tons were not the owners of the lands they had occupied since time immemorial, but rather that they merely occupied the lands by permission of Congress. 348 U.S.C. 272 at 278-279. The Court found that the Tee-Hit-Tons were protected by no treaty with the United States, and that no Act of Congress accorded them legal rights. *Id.* at 278. Without specific reference to the Tee-Hit-Tons and without explaining how or under what circumstances the United States had acquired the title to the Tee-Hit-Tons' land, the Court announced its theory that "discovery and conquest" gave the United States ownership of all Indian land. *Id.* at 279-280. This theory was without foundation as discussed more fully below. Relying upon this theory, the Court concluded that the United States was not obliged by the Constitution to compensate the Tee-Hit-tons for the taking of the timber.

The decision in *Tee-Hit-Ton*, whatever its merit, does not support the conclusion that Indians have no legally protected right to their lands. That case was a claim for compensation for an accomplished taking. Neither the fact of the taking nor the legality of the taking were otherwise contested. The Court was careful to point out that:

> This is not a case that is connected with any phase of the policy of the Congress, continued throughout our history, to extinguish Indian title through negotiation rather than by force, . . .

Id. at 273. Likewise, the Court noted that this was a congressionally approved taking of timber, expressly

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directed by a Joint Resolution of Congress which made specific reference to the Indians' "possessory rights." *Id.* at 276.

In no way does the *Tee-Hit-Ton* decision suggest that Indian rights to land may be taken or impaired through unconstitutional procedures, not does it sanction takings except by express congressional action. *See, United States v. Santa Fe Pacific Ry. Co.*, 314 U.S. 339 (1941). Nothing in *Tee-Hit-Ton* suggests that Congress may, even by express legislation, extinguish or impair Indian rights without adhering to constitutional standards of fairness, reasonableness and procedural due process. These matters were not at issue in *Tee-Hit-Ton*. Thus, the decision in *Tee-Hit-Ton* does not support the conclusion of the District Court below.

It should be added that the *Tee-Hit-Ton* decision dealt with rights not expressly recognized by treaty with the United States. The lands involved in this case, on the contrary, have been held to be acknowledged and protected by the treaties and laws of the United States as belonging to the Seminoles. This was the holding of this court in *Mitchel v. United States*, 34 U.S. 464 (1835) and *Mitchel v. United States*, 40 U.S. 34 (1841).

As stated above, the decision in *Tee-Hit Ton* was legally and historically unsound, and the rule of that case is not good law today. Even if that decision were applicable to this case, the rule of the case ought to be rejected as unsound and regarded as substantially overruled by more recent decisions.

The heart of the decision in *Tee-Hit-Ton* is the theory that the land held and occupied by Indians does not belong to them but rather to the United States. The Court wrote:

> This position of the Indian has long been rationalized by the legal theory that discovery and conquest gave the conquerors sovereignty over and ownership of the lands thus obtained.

348 U.S. at 279. This theory, upon which the rule is based,

is simply incorrect as a matter of law and as a matter of history.

The doctrine of discovery did not operate to convey title to *inhabited* lands. In *Johnson and Graham's Lessee v. McIntosh*, 21 U.S. 240 (1823), and later in *Worcester v. Georgia*, 31 U.S. 350 (1832), Chief Justice Marshall discussed the discovery doctrine as it related to Indian lands and concluded that discovery of an inhabited land did not convey title and could not affect the title of those already in possession. Discovery gave rights only as against other European nations. *See, Johnson and Graham's Lessee v. McIntosh, supra* at 253. Marshall wrote in *Worcester v. Georgia:*

> It was an exclusive principle which shut out the right of competition among those who had agreed to it, . . . but could not affect the rights of those already in possession, either as aboriginal occupants,or as occupants by virtue of a discovery made before the memory of man.

31 U.S. at 369. Thus, the United States could not have acquired any title good as against the Indian inhabitants by virtue of discovery. *See also,* I *Oppenheim's International Law* 554-559 (Lauterpacht, *ed.*,1955).

Furthermore, as a matter of history and a matter of law, the United States has never asserted title to Indian lands by right of conquest. John Marshall explicitly rejected this theory of title in his opinion in *McIntosh, supra*, though *McIntosh* is sometimes mistakenly cited for the opposite proposition. *See, Johnson and Graham's Lessee v. McIntosh, supra* at 260-261. The United States has always flatly denied taking Indian lands by right of conquest. *See, Annual Report of the Commissioner of Indian Affairs for 1890,* xxix (1890). *See also,* C. Thomas, *Indian Land Cessions in the United States, Introduction,* 18th Annual Report of the Bureau of American Ethnology, Part II, p. 640 (1897); W. Washburn, *Red Man's Land—White Man's Law,* 56-57 (1971).

In addition it must be emphasized that the decision in *Johnson and Graham's Lessee v. McIntosh,* relied upon by

the Court in *Tee-Hit-Ton*, was that title derived from a grant by an Indian government was not good as against a grant of the same lands by the United States after the lands had been ceded to the United States by the Indian government. Thus, *McIntosh* provides scant support for the Court's statements in *Tee-Hit-Ton*, though the rambling discussion of Indian title in *McIntosh* is often mistakenly cited for the proposition announced by the Court in *Tee-Hit-Ton*.

Not only was the *Tee-Hit-Ton* decision unsupportable in its own day, but it has since been substantially undermined and, in effect, overruled by more recent decisions of this Court concerning Congress' powers in Indian affairs and the protections of the Fifth Amendment. For example, in *Delaware Tribal Business Committee v. Weeks*, 97 S. Ct. 911 (1977), this Court decided that Congress' power over Indian affairs is subject to constitutional limitation. In *Weeks*, this Court wrote:

> The statement in *Lone Wolf*, at 565, that the power of Congress "has always been deemed a political one, not subject to be controlled by the judicial department of the government," however pertinent to the question then before the Court of congressional power to abrogate treaties, see generally *Antoine v. Washington*, 420 U.S. 194, 201-204 (1975), has not deterred this Court, particularly in this day, from scrutinizing Indian legislation to determine whether it violates the equal protection component of the Fifth Amendment. See *e.g.*, *Morton v. Mancari*, 417 U.S. 535 (1974). "The power of Congress over Indian affairs may be of a plenary nature; but it is not absolute." *United States v. Alcea Band of Tillamooks*, 329 U.S. 40, 54 (1946) (plurality opinion); see also *United States v. Creek Nation*, 295 U.S. 103, 109-110 (1935); cf. *United States v. Jim*, 409 U.S. 80, 82 n. 3.

Id. at 918-919. This decision makes clear that Congress' power to affect Indian rights is not without constitutional limitation, and is subject to judicial scrutiny. Accordingly, any suggestion based upon the *Tee-Hit-Ton* decision that Indian rights to their lands may be affected or impaired without regard to constitutional limitation must be rejected.

Furthermore, since 1955, the Supreme Court has repeatedly held that the Fifth Amendment protections of procedural due process must be accorded where significant rights are at stake. *Dillard v. Industrial Commission of Virginia*, 416 U.S. 783 (1974); *Fuentes v. Shevin*, 407 U.S. 67 (1972); *Goldberg v. Kelly*, 397 U.S. 254 (1970); *Sniadach v. Family Finance Corp.*, 395 U.S. 337 (1969).

It is submitted that the issues raised by the complaint in this action are ripe for judicial determination and that the District Court erred in dismissing the action. The question and the issues raised by this appeal are substantial and they are of considerable public importance.

Respectfully submitted,

ROBERT T. COULTER
Counsel for Appellant

The assistance of Mr. Curtis Berkey of the Institute for the Development of Indian Law and J. Youngblood Henderson, Esq., University of California School of Law, Berkeley, California, is gratefully acknowledged.

On October 31, 1977, the Supreme Court dismissed the appeal for want of jurisdiction. The Court's order reads in full:

> The appeal is dismissed for want of jurisdiction. Mr. Justice Stewart, Mr. Justice White, Mr. Justice Powell and Mr. Justice Rehnquist concur. See MIM Inc. v. Baxley, 420 U.S. 799 (1975) and Gonzalez v. Automatic Employees Credit Union, 419 U.S. 90 (1974). The Chief Justice, Mr. Justice Brennan and Mr. Justice Stevens would affirm the judgment.

INDIAN LAW RESOURCE CENTER
1101 VERMONT AVENUE, N.W., WASHINGTON, D.C. 20005 • (202) 347-7520

April 21, 1978

The Honorable
Cecil Andrus, Secretary
United States
Department of Interior
Washington, D.C. 20240

Re: Plan for the Use and Distribution of Seminole Judgment Funds in Dockets 73 and 151 Before the Indian Claims Commission

Dear Secretary Andrus:

On behalf of the traditional Seminoles, I am writing this letter to request formally that the plan for distribution of Indian Claims Commission judgment funds in the above dockets be immediately withdrawn from Congress for further consideration by your Department. It is our position that this distribution plan is illegal. It has been prepared and submitted in violation of governing statutes and regulations, and it will result in the denial of legal rights which are guaranteed by federal statutes, the United States Constitution, and international law.

The plan was submitted beyond the statutory time limit. Congress has provided that distribution plans must be submitted within one hundred eighty days after the appropriation of funds to pay the Indian Claims Commission judgment. 25 U.S.C. § 1402(a). Since the appropriation was made by Congress on June 1, 1976, that time period had expired long before your submission was made on April 4, 1978. The only permissible extension of the one hundred eighty day period is a possible extension "not to exceed ninety days," which is subject to approval of both the Senate and the House of Representatives Committees on Interior and Insular Affairs. 25 U.S.C. § 1402(b). No such extension was requested or granted, and that additional ninety day period expired over one year before the submission of your plan.

Since the time for submission of a distribution plan to Congress has expired, the only alternative is to continue with the legislative process as provided by 25 U.S.C. § 1402(a). Consideration of distribu-

tion plans for the claim award is lawful only within the context of the proposed legislation (S. 2188 and S. 2000) which has already been submitted for Congressional consideration. Congress has begun consideration of these matters and the Senate Select Committee on Indian Affairs has already held one hearing. Hearings are scheduled to be held before the appropriate House committee within the next few weeks. The Department of Interior has no lawful authority to take any action which would interfere with the continued orderly consideration of these matters by Congress.

The distribution plan submitted for you by Assistant Secretary Forrest J. Gerard was prepared in violation of the laws governing the preparation of such plans. 25 U.S.C. § 1403; 25 C.F.R. § 60. The Congressionally mandated prerequisites to final preparation of the plan were not fulfilled. The most notable objection to the planning process employed by your Department is the total failure to provide any hearing at which testimony of affected Florida Seminoles could have been taken. The statutes and regulations are very specific in their insistence on ample notice of public hearings which must be held in the field at the convenience of the affected Indians. There is an express requirement that all groups, factions and points of view be incorporated into a hearing of record, and that all parties concerned be kept fully informed of all matters under consideration in the planning process.

The plan which you submitted was prepared without compliance with these clear statutory duties and in violation of your Department's own regulations. The preparation of the plan completely circumvented the statutory hearing requirement, a requirement which is of constitutional dimensions.

The distribution plan was also submitted in violation of 25 U.S.C. § 1404 which provides that certain documentary materials be submitted to Congress with the plan. Specifically, the plan you submitted failed to include copies of hearing transcripts and "all other papers and documents considered by you in the preparation of the plan, including any resolution, communication, or suggested use of distribution plan" which you have received.

EXHIBIT 84b

Moreover, submission of the distribution plan was made without any notice to me or to the traditional Seminoles I represent. By chance I learned of the plan on April 18 in a telephone conversation with Senate Select Committee Counsel. For reasons unknown, notice was not provided despite the fact that your Department is fully aware of the protracted litigation in which we have been involved with respect to this award, and despite the fact that a spokesman for the traditional Seminoles and I testified at the Senate Committee hearing of March 2, 1978, concerning S. 2188 and S. 2000. The Solicitor's Office of your Department has been kept informed of our intention to further supplement the legislative hearing record, and we have been in regular communication with that office about legal matters concerning the claim judgment. In the face of all that has transpired over the past months and years, it is completely incomprehensible that we received no notice and that your report to Congress includes this bold misstatement of fact: "The Miccosukee Tribe and the unaffiliated Florida Seminoles have made no response to the Bureau of Indian Affairs' recommendations on the division of the funds or requests for proposals."

Speaking frankly, the surprising submission of the distribution plan in this manner at this late date has every appearance of a bad faith effort to derail the present Congressional hearings and thereby deny a full hearing in the legislative forum to the traditional Seminoles. For the first time in the twenty-eight years of this claim, the traditional Seminoles have been afforded an opportunity to be heard, an opportunity which would be lost under your plan. It is virtually impossible for the traditional Seminoles and other Seminoles without significant financial resources to mount the lobbying effort which would be necessary to obtain a Congressional resolution of disapproval. As you know, the plan will become effective unless such a resolution is obtained within sixty days of submission. 25 U.S.C. § 1405. Foisting a distribution plan upon the Seminoles by default after the sixty day period would simply compound the legal wrongs the traditional Seminoles have already suffered.

The importance of delaying any rush to payment of the Indian Claims Commission awards in Dockets 73 and 151 cannot be overstated, for the payment of these awards threatens the rights of traditional Seminole people to the homes and villages where they reside. It is shocking that

some governmental officials are seemingly unconcerned about the extinguishment of Seminole land rights.

For all of these reasons, I ask that you withdraw the distribution plan which you have submitted. I urge you to instigate a new investigation and reconsideration of the Indian rights issues which this case presents. The manner in which the United States government treats the property rights of the traditional Seminoles is of concern not only to responsible citizens of the United States but also to the international community.

Since there are serious time constraints imposed by the sixty day period of 25 U.S.C. § 1405, I must request an answer to this request within ten days of the date of this letter in order that I might, if necessary, be able to take other protective legal action.

Sincerely,

Robert T. Coulter
Executive Director

enclosures

Xc: Hon. Walter F. Mondale
President, U.S. Senate

Hon. Thomas P. O'Neill
U.S. House of Representatives

Hon. James Abourezk
U.S. Senate

Hon. Dewey Bartlett
U.S. Senate

Hon. Teno Roncalio
U.S. House of Representatives

Hon. Lawton Chiles
U.S. Senate

Hon. S. Dick Stone
U.S. Senate

Hon. Rubin Askew, Governor,
State of Florida

Hon. Forrest Gerard, Asst.Secy.
U.S. Dept. of Interior

Hon. James Joseph, Undersecy.
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Office of the Solicitor
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EXHIBIT 84d

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U.S. Dept. of Justice

EXHIBIT 84e

INDIAN LAW RESOURCE CENTER
1101 VERMONT AVENUE, N.W., WASHINGTON, D.C. 20005 • (202) 347-7520

April 21, 1978

The Honorable
Walter F. Mondale
President of the Senate
United States Senate
Washington, D.C. 20510

Re: Plan for the Use and Distribution of Seminole Judgment Funds in Dockets 73 and 151 Before the Indian Claims Commission

Dear Vice President Mondale:

By letter dated April 4, 1978, Hon. Forrest J. Gerard, Assistant Secretary of Interior, submitted to you in your capacity as President of the Senate a distribution plan for the payment of the Indian Claims Commission award described above.

The payment of these funds jeopardizes the land rights of the traditional Seminoles who have elected to continue living on aboriginal Seminole lands. These proud and independent Seminoles do not want any action taken which will threaten to extinguish their land rights. The payment of these claims monies would as a matter of law serve to extinguish their rights to the homes and villages where they reside. They have asked me to assist them in stopping payment of this claim award and in taking other legal action to protect their rights.

On behalf of the traditional Seminole people I ask that you decline to accept the distribution plan and that you refer the matter back to the Department of the Interior for further consideration of the Indian rights issues involved. I am simultaneously asking Hon. Cecil Andrus, Secretary of the Interior, to withdraw the distribution plan. A copy of my letter to Secretary Andrus is enclosed. I refer you to that letter for a more complete description of our legal position. We believe that the preparation and submission of the plan were in violation of the applicable statutes and were without legal authority. On its face the plan fails to satisfy statutory requirements.

It is a sad fact that some officials of the United States continue to maintain that the unilateral, uncompensated extinguishment of Indian land rights is lawful. We believe that the overwhelming majority of

EXHIBIT 85a

responsible United States citizens would find such a proposition shocking and violative of Constitutional and international law.

In order to prevent the extinguishment of traditional Seminole land rights, we hope that Congress will refuse to accept the distribution plan and will insist that no other action be taken with respect to these Seminole claim matters until Congress has had a full opportunity to inform itself of the effect which such action might have on present Seminole land rights.

Very truly yours,

Robert T. Coulter
Attorney for the
Traditional Seminoles

enclosures

Xc: Hon. Thomas P. O'Neill
U.S. House of Representatives

Hon. James Abourezk
U.S. Senate

Hon. Dewey Bartlett
U.S. Senate

Hon. Teno Roncalio
U.S. House of Representatives

Hon. Lawton Chiles
U.S. Senate

Hon. S. Dick Stone
U.S. Senate

Hon. Rubin Askew, Governor
State of Florida

Hon. Cecil Andrus, Secretary
U.S. Dept. of Interior

Hon. Forrest Gerard
Asst. Secretary
U.S. Dept. of Interior

Hon. James Joseph
Undersecretary
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EXHIBIT 85b

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U.S. Dept. of Justice

Dean K. Dunsmore, Esq.
U.S. Dept. of Justice

EXHIBIT 85c

Proposed Amendment to S. 2000, S. 2188

(For Consideration In Conjunction With Final Congressional Action On Distribution of Indian Claims Commission Judgment Funds Pursuant To 25 U.S.C. §1401 et seq.)

Payment of this award and judgment shall satisfy in full the settlement agreement entered into by the United States and the Petitioner in Seminole Indians of the State of Florida and Seminole Nation v. United States, (I.C.C. Docket Nos. 73 and 151) Provided, that notwithstanding the provisions of 25 U.S.C. §70u or any other law, and notwithstanding any proceedings, findings or determinations of the Indian Claims Commission or the Court of Claims in this matter, payment of the award and judgment as provided herein shall not in any manner affect, impair or diminish any right, title or interest of any of the Seminole people to any land, property or natural resources; nor shall payment of the award and judgment in any manner affect, impair or diminish any claim or right of action, whether or not presently pending or cognizable in any court, of any of the Seminole people for the ownership, return or use of any land, property or natural resources. Provided further, that in no event shall any finding or determination made in this matter by the Indian Claims Commission or the Court of Claims pertaining to the title to or the cession or taking of any land, property or natural resources have any res judicata or collateral estoppel effect.

Submitted by:

Guy Osceola

EXHIBIT 86

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